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§§1401 to 1404. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 1401 to 1404 were omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1401, acts Sept. 1, 1937, ch. 896, §1, 50 Stat. 888; July 15, 1949, 338, title III, §307(a), 63 Stat. 429; Sept. 23, 1959, Pub. L. 86–372, title V, §501, 73 Stat. 679; Aug. 1, 1968, Pub. L. 90–448, title II, §206(a), 82 Stat. 504; Dec. 31, 1970, Pub. L. 91–609, title II, §211, 84 Stat. 1779, set out declaration of

policy. See section 1437 of this title.

Section 1402, acts, Sept. 1, 1937, ch. 896, §2, 50 Stat. 888; July 15, 1949, ch. 338, title III, §§302(b), 304(c), (i), 306, 307(b), 63 Stat. 424, 425, 429; Oct. 26, 1951, ch. 577, §1, 65 Stat. 647; June 30, 1953, 170, §24(c), 67 Stat. 128; Aug. 7, 1956, ch. 1029, title IV, §404(a), 70 Stat. 1104; July 12, 1957, Pub. L. 85–104, title III, §307, title IV, §401(a), 71 Stat. 301; Sept. 23, 1959, Pub. L. 86–372, title V, §§502, 503(a), 504, 73 Stat. 680; June 30, 1961, Pub. L. 87–70, title II, §202, 75 Stat. 163; Sept. 2, 1964, Pub. L. 88–560, title II, §203(d), title IV, §401(a), 78 Stat. 784, 794; Aug. 10, 1965, Pub. L. 89–117, title I, §§103(b), 104, 79 Stat. 457; Aug. 1, 1968, Pub. L. 90–448, title II, §209(a), 82 Stat. 505; Dec. 24, 1969, Pub. L. 91–152, title II, §213(a), title IV, §403(a), 83 Stat. 389, 395; Dec. 31, 1970, Pub. L. 91–609, title II, §208(a), title IX, §903(c), 84 Stat. 1778, 1808; Dec. 22, 1971, Pub. L. 92–213, §9, 85 Stat. 776, defined applicable terms. See section 1437a of this title.

Section 1403, acts Sept. 1, 1937, ch. 896, §3, 50 Stat. 889; May 25, 1967, Pub. L. 90–19, §2(b), 81 Stat. 20; Aug. 1, 1968, Pub. L. 90–448, title XVII, §1719(a), 82 Stat. 610, created the United States Housing Authority in the Department of Housing and Urban Development.

Section 1404, acts Sept. 1, 1937, ch. 896, §4, 50 Stat. 889; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; May 25, 1967, Pub. L. 90–19, §2(a), (c), 81 Stat. 19, 20, provided for assistance of officers, etc., of other agencies and transfer of property to the Authority.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1969 AMENDMENT; APPLICABILITY

Pub. L. 91–152, title II, §213(b), Dec. 24, 1969, 83 Stat. 389, provided that the rents fixed by public housing agencies not exceed one-fourth of a low-rent housing tenant's income be effective not later than ninety days after Dec. 24, 1969, and that the requirements not apply in any case in which the Secretary of Housing and Urban Development determined that limiting the rent of any tenant or class of tenants would have resulted in a deduction in the amount of welfare assistance which would otherwise have been provided to the tenant or class of tenants by a public agency.

§1404a. Secretary of Housing and Urban Development; right to sue; expenses

The Secretary of Housing and Urban Development may sue and be sued only with respect to its functions under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], and title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, as amended [42 U.S.C. 1501 et seq.]. Funds made available for carrying out the functions, powers, and duties of the Secretary of Housing and Urban Development (including appropriations therefor, which are authorized) shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary of Housing and Urban Development. Notwithstanding any other provisions of law except provisions of law enacted after August 10, 1948 expressly in limitation hereof, the Secretary of Housing and Urban Development, or any State or local public agency administering a low-rent housing project assisted pursuant to the United States Housing Act of 1937 or title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to said Acts, the Secretary of Housing and Urban Development is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service.

(Aug. 10, 1948, ch. 832, title V, §502(b), 62 Stat. 1284; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 90–19, §5(d)(4)–(7), May 25, 1967, 81 Stat. 21; Pub. L. 100–242, title V, §570(a)(2), Feb. 5, 1988, 101 Stat. 1949.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Public Law 671, Seventy-sixth Congress, approved June 28, 1940, referred to in text, is act June 28, 1940, ch. 440, 54 Stat. 676. Title II of that Act is classified generally to subchapter I (§1501 et seq.) of chapter 9 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Housing Act of 1948, and not as part of the United States Housing Act of 1937 which comprises this chapter.

Section consists of section 502(b) of act Aug. 10, 1948. Section 502 of act Aug. 10, 1948, is classified generally to section 1701c of Title 12, Banks and Banking.

AMENDMENTS

1988—Pub. L. 100–242 substituted "Secretary of Housing and Urban Development" for "United States Housing Authority" in three places and for "Authority" in two places.

1967—Pub. L. 90–19 substituted "United States Housing Authority" for "Public Housing Administration" wherever appearing in first and fourth sentences, "Authority" for "Administration" wherever appearing in third sentence, and "may sue" for "shall sue" in first sentence, and struck out former second sentence authorizing the Public Housing Commissioner to appoint necessary officers and employees subject to the civil-service and classification laws, to delegate his functions and powers, and to make rules and regulations, respectively.

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

§§1405, 1406. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1405, acts Sept. 1, 1937, ch. 896, §5, 50 Stat. 890; May 25, 1967, Pub. L. 90–19, §2(d), (e), 81 Stat. 20, which enumerated miscellaneous powers and functions of the Authority, was omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1406, acts Sept. 1, 1937, ch. 896, §6, 50 Stat. 890; July 15, 1949, ch. 338, title III, §307(c), 63 Stat. 429; Oct. 31, 1951, ch. 654, §1(112), 65 Stat. 705; May 25, 1967, Pub. L. 90–19, §2(a), 81 Stat. 19, which enumerated financial provisions applicable to the Authority, was omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. Subsec. (b) of this section, which provided that section 5 of former title 41 not apply to contracts for services or to purchases of supplies except when the aggregate amount involved was less than $300, was repealed by act Oct. 31, 1951, ch. 654, §1(112), 65 Stat. 705.

§1406a. Expenses of management and operation of transferred projects as nonadministrative; payment

On and after May 10, 1939 all necessary expenses in connection with the management and operation of projects transferred to the Authority by Executive Order Numbered 7732 of October 27, 1937, as modified by Executive Order Numbered 7839 of March 12, 1938, may be considered as

nonadministrative expenses, notwithstanding the provisions of section 712a of title 15, and be paid from the rents received from each transferred project.

(May 10, 1939, ch. 119, §1, 53 Stat. 690.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1129.

STATUTORY NOTES AND RELATED SUBSIDIARIES; EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

The Authority, meaning the United States Housing Authority, was consolidated with other agencies into the Housing and Home Finance Agency, and name of Authority changed to Public Housing Administration by Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Public Housing Administration and Housing and Home Finance Agency (of which Public Housing Administration was a constituent agency) and of heads thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency and Public Housing Administration have lapsed.

Executive Order No. 7732, Oct. 27, 1937, 2 F.R. 2324, 44 C.F.R. 201.11, effective Nov. 1, 1937, transferred to the United States Housing Authority all right, interest, and title held by the Federal Emergency Administration of Public Works in any housing or slum-clearance projects constructed or in the process of construction on Sept. 1, 1937.

§1406b. Expenses of uncompensated advisers serving United States Housing Authority away from home

On and after May 10, 1939, the funds made available for administrative expenses of the United States Housing Authority shall be available for the payment, when specifically authorized by the Administrator, of actual transportation expenses and not to exceed $10 per diem in lieu of subsistence and other expenses to persons serving, while away from their homes, without other compensation from the United States, in an advisory capacity to the Authority.

(May 10, 1939, ch. 119, §1, 53 Stat. 690.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act June 25, 1938, ch. 681, title I, 52 Stat. 1128.

STATUTORY NOTES AND RELATED SUBSIDIARIES; EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency, and name of Authority changed to Public Housing Administration by Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government

Organization and Employees. Functions of Public Housing Administration and Housing and Home Finance Agency (of which Public Housing Administration was a constituent agency) and of heads thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency and Public Housing Administration have lapsed.

§§1406c to 1411a. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1406c, act June 27, 1942, ch. 450, §1, 56 Stat. 410, which related to expenses for construction advisers on non-Federal projects, was from the Independent Offices Appropriation Act, 1943, and was not repeated in subsequent appropriation acts. Prior similar provisions were contained in acts Apr. 5, 1941, ch. 40, §1, 55 Stat. 111; Apr. 18, 1940, ch. 107, §1, 54 Stat. 130.

Section 1407, acts Sept. 1, 1937, ch. 896, §7, 50 Stat. 891; Aug. 2, 1954, ch. 649, title VIII, §802(d), 68 Stat. 643; May 25, 1967, Pub. L. 90–19, §2(f), 81 Stat. 20, provided for publication of information and submission of annual report by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1408, act Sept. 1, 1937, ch. 896, §8, 50 Stat. 891, authorized promulgation of rules and regulations by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1409, acts Sept. 1, 1937, ch. 896, §9, 50 Stat. 891; July 15, 1949, ch. 338, title III, §304(c), (d), 63 Stat. 425; Dec. 24, 1969, Pub. L. 91–152, title II, §211, 83 Stat. 388, authorized loans for low-rent-housing and slum clearance projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437b of this title.

Section 1410, acts Sept. 1, 1937, ch. 896, §10, 50 Stat. 891; June 21, 1938, ch. 554, title VI, §601, 52 Stat. 820; July 15, 1949, ch. 338, title III, §§302(a), 304(a), (c), (e), (f), 305, 307(d), 63 Stat. 423 to 427, 430; Aug. 2, 1954, ch. 649, title IV, §§401(1), (2), 402, 403, 405, 406, 68 Stat. 630; June 30, 1955, ch. 251, §3, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, §108(b), 69 Stat. 638; Aug. 7, 1956, ch. 1029, title IV, §§401(a), 404(b), 70 Stat. 1103, 1104; Sept. 23, 1959, Pub. L. 86–372, title V, §§505(a), 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87–70, title II, §§203, 204(a), (b), 205, 206(b), (c), 75 Stat. 163 to 165; Sept. 2, 1964, Pub. L. 88–560, title IV, §§401(b), 402 to 404, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89–117, title V, §§501 to 504, 507(b)(1), (2); 79 Stat. 486 to 488; May 25, 1967, Pub. L. 90–19, §2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90–448, title II, §§203(a), 206(b), 209(b), 82 Stat. 503, 505; Dec. 24, 1969, Pub. L. 91–152, title II, §§212, 214, 217(b), 83 Stat. 388–390; Dec. 31, 1970, Pub. L. 91–609, title II, §§202, 203, 204(a)(2), 210, 84 Stat. 1776 to 1778; Oct. 18, 1972, Pub. L. 92–503, §3 (1) to (3), 86 Stat. 906; Oct. 2, 1973, Pub. L. 93–117, §2, 87 Stat. 422, authorized annual contributions in assistance of low rentals for housing projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437c of this title. Subsec. (j) of this section, which related to self-liquidation of projects, was repealed by Pub. L. 87–70, title II, §206(c), June 30, 1961, 75 Stat. 164.

Section 1411, acts Sept. 1, 1937, ch. 896, §11, 50 Stat. 893; July 15, 1949, ch. 338, title III, §307(d), 63 Stat. 430, authorized capital grants to public housing agencies in assistance of low rentals, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1411a, act July 31, 1953, ch. 302, title I, §101, 67 Stat. 306, which related to prohibition of projects in localities where rejected by public vote or governing body, was from the Independent Offices Appropriation Act, 1954, and was not repeated in subsequent appropriation acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RETROACTIVE EFFECT OF REPEAL OF RIGHTS OF UNITED STATES RELATING TO SELF-LIQUIDATION OF PROJECTS

Pub. L. 87–70, title II, §206(c), June 30, 1961, 75 Stat. 165, as amended by Pub. L. 93–383, title II, §205, Aug. 22, 1974, 88 Stat. 668, provided in part that: "The Secretary of Housing and Urban Development is authorized to agree with a public housing agency to the amendment of any annual contributions contract containing the provision prescribed in section 10(j) of the United States Housing Act of 1937 [subsec. (j) of section 1410 of this title] (as in effect prior to the enactment of the Housing and Community Development Act of 1974) so as to delete such provision and waive any rights of the United States that are accrued or may accrue under such provision."

§1411b. Repealed. Aug. 7, 1956, ch. 1029, title IV, §401(b), 70 Stat. 1103

Section, acts July 5, 1952, ch. 578, title I, §101, 66 Stat. 403; July 31, 1953 ch. 302 title I, §101, 67 Stat. 307, limited number of housing units to be constructed during fiscal year.

§1411c. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 31, 1953, ch. 302, title I, §101, 67 Stat. 307, which barred subversives from occupancy of housing units and which provided for enforcement of such prohibition and affect of such prohibition on loans and contributions by the Public Housing Administration, was from the Independent Offices Appropriation Act, 1954, and was not repeated in subsequent appropriation acts.

§1411d. Repealed. Pub. L. 93–383, title II, §204, Aug. 22, 1974, 88 Stat. 668

Section, act Aug. 2, 1954, ch. 649, title VIII, §815, 68 Stat. 647, required submission of specifications by applicants prior to award of any contract for construction of a project and submission of data with respect to acquisition of land prior to authorization to purchase such land.

§§1412 to 1416. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1412, acts Sept. 1, 1937, ch. 896, §12, 50 Stat. 894; Apr. 20, 1950, ch. 94, title II, §205(b), 64 Stat. 73; Aug. 7, 1956, ch. 1029, title IV, §405, 70 Stat. 1104; Aug. 10, 1965, Pub. L. 89–117, title V, §505, 79 Stat. 487, authorized disposal of low-rent-housing projects transferred to or acquired by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1413, acts Sept. 1, 1937, ch. 896, §13, 50 Stat. 894; July 15, 1949, ch. 338, title III, §307(e), 63 Stat. 430; May 25, 1967, Pub. L. 90–19, §2(g), 81 Stat. 20, enumerated powers of the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1413a, acts July 31, 1947, ch. 418, §2, 61 Stat. 705; Feb. 27, 1948, ch. 77, §3, 62 Stat. 37; Mar. 30, 1948, ch. 161, title III, §304, 62 Stat. 100, postponed until April 1, 1949, the institution of any eviction actions or proceedings in connection with publicly operated housing accommodations.

Section 1414, acts Sept. 1, 1937, ch. 896, §14, 50 Stat. 895; July 15, 1949, 338, title III, §304(g), 63 Stat. 426; Dec. 24, 1969, Pub. L. 91–152, title II, §213(c), 83 Stat. 389, authorized modification, amendment, or supersedure of contracts by the Authority, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437c of this title.

Section 1415, acts Sept. 1, 1937, ch. 896, §15, 50 Stat. 895; July 31, 1947, ch. 418, §1, 61 Stat. 704; July 15, 1949, ch. 338, title III, §§301, 303, 304(j), 63 Stat. 422, 424, 427; Aug. 2, 1954, ch. 649, title IV, §401(3),

(4), 68 Stat. 631; Aug. 7, 1956, ch. 1029, title IV, §404(c), 70 Stat. 1104; July 12, 1957, Pub. L. 85–104, title IV, §401(b), (c), 71 Stat. 302; Sept. 23, 1959. Pub. L. 86–372, title V, §§503(b), 506, 507, 73 Stat. 680, 681; June 30, 1961, Pub. L. 87–70, title II, §§204(b), 205(b), 206(a), 75 Stat. 164; Sept. 2, 1964, Pub. L. 88–560, title IV, §§401(c), 405(a), 406, 78 Stat. 794, 795; Aug. 10, 1965, Pub. L. 89–117, title IV, §404(c)(2), title V, §§506, 507(a), (b)(3), 79 Stat. 486–488; May 25, 1967, Pub. L. 90–19, §2(a), 81 Stat. 19; Aug. 1, 1968, Pub. L. 90–448, title II, §§204, 205, 207, 82 Stat. 503, 504; Dec. 24, 1969, Pub. L. 91–152, title II, §§215, 216, 83 Stat. 389, 390; Dec. 31, 1970, Pub. L. 91–609, title II, §§207, 209(a), title IX, §903(d), 84 Stat. 1777, 1778, 1809; Jan. 2, 1971, Pub. L. 91–646, title II, §220(a)(6), 84 Stat. 1903, set forth provisions relating to preservation of low rents in housing projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See sections 1437c, 1437d, and 1437f of this title.

Section 1416, acts Sept. 1, 1937, ch. 896, §16, 50 Stat. 896; July 15, 1949, 338, title III, §307(f) 63 Stat. 430; Aug. 2, 1954, ch. 649, title IV, §404, 68 Stat. 633; Nov. 3, 1966, Pub. L. 89–754, title X, §1003, 80 Stat. 1284; May 25, 1967, Pub. L. 90–19, §2(h), (i), 81 Stat. 20, provided for application of labor standards to contracts, etc., involving Federal projects, prior to the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. See section 1437 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION FOR PRELIMINARY LOANS APPROVED PRIOR TO SEPTEMBER 2, 1964

Pub. L. 88–560, title IV, §405(b), Sept. 2, 1964, 78 Stat. 795, provided that the amendments made by subsection (a) to subsec. (b)(7) of section 1415 of this title were not to be applicable to any project for which an application for a preliminary loan had been approved by the local governing body prior to Sept. 2, 1964.

TRANSFERRED FUNDS; AVAILABILITY FOR EXPENDITURE

Act Apr. 20, 1950, ch. 94, title II, §205(c), 64 Stat. 73, provided that all unexpended receipts, notwithstanding any limitations contained in the second proviso of act May 26, 1947, ch. 82, title I, 61 Stat. 109, derived from the sale of labor supply centers, labor homes, labor camps, and facilities, and all other unexpended balances of funds available for the maintenance, operation, and liquidation of the properties transferred and for the administrative expenses of transfer were transferred to the Public Housing Administration, to be available until expended, in accordance with the provisions of this chapter.

§1417. Repealed. Pub. L. 90–448, title XVII, §1719(b), Aug. 1, 1968, 82 Stat. 610

Section, act Sept. 1, 1937, ch. 896, §17, 50 Stat. 897, related to capital stock of the Authority.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RETIREMENT OF CAPITAL STOCK

Pub. L. 90–448, title XVII, §1719(b), Aug. 1, 1968, 82 Stat. 610, provided in part that the capital stock referred to in this section be retired and the sum of $1,000,000 represented by such stock returned to the Treasury of the United States.

§§1417a to 1422. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 1417a to 1422 were omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1417a, act Sept. 1, 1937, ch. 896, §17, as added Aug. 1, 1968, Pub. L. 90–448, title XVII, §1719(c), 82 Stat. 610, set forth additional functions, powers, and duties of the Secretary. See section 1437h of this title.

Section 1418, act Sept. 1, 1937, ch. 896, §18, 50 Stat. 897, authorized all assets and receipts of the Authority to remain available until expended. See section 1437h of this title.

Section 1419, act Sept. 1, 1937, ch. 896, §19, 50 Stat. 897, authorized the allocation of funds available for similar purposes to the Authority.

Section 1420, acts Sept. 1, 1937, ch. 896, §20, 50 Stat. 898; June 21, 1938, ch. 554, title VI, §602, 52 Stat. 820; Oct. 30, 1941, ch. 467, 55 Stat. 759; July 15, 1949, ch. 338, title III, §304(h), 63 Stat. 427; Aug. 1, 1968, Pub. L. 90–448, title II, §203(b), 82 Stat. 503, authorized the Authority to issue obligations for purchase and sale by the Secretary of the Treasury. See section 1437b of this title.

Section 1421, acts Sept. 1, 1937, ch. 896, §21, 50 Stat. 898; July 15, 1949, ch. 338, title III, §307(g), 63 Stat. 431; Aug. 7, 1956, ch. 1029, title IV, §403, 70 Stat. 1103; June 30, 1961, Pub. L. 87–70, title II, §204(c), 75 Stat. 164, set forth depository and other banking requirements applicable to the Authority. See section 1437h of this title.

Section 1421a, act Sept. 1, 1937, ch. 896, §22, as added July 15, 1949, ch. 338, title III, §304(b), 63 Stat. 424; amended June 30, 1961, Pub. L. 87–70, title III, §302(b), 75 Stat. 166; Aug. 10, 1965, Pub. L. 89–117, title V, §507(b)(4), 79 Stat. 489; May 25, 1967, Pub. L. 90–19, §2(j), 81 Stat. 20, set forth provisions for private financing of low-rent-housing projects. See sections 1437d and 1437i of this title.

Section 1421b, act Sept. 1, 1937, ch. 896, §23, as added Aug. 10, 1965, Pub. L. 89–117, title I, §103(a), 79 Stat. 455; amended Nov. 3, 1966, Pub. L. 89–754, title X, §1002, 80 Stat. 1284; Aug. 1, 1968, Pub. L. 90–448, title II, §§208, 210, 82 Stat. 504, 505; Dec. 24, 1969, Pub. L. 91–152, title II, §217(c), 83 Stat. 390; Dec. 31, 1970, Pub. L. 91–609, title II, §204(a)(1), (b), 84 Stat. 1777, set forth provisions authorizing low-rent housing in private accommodations. See section 1437f of this title.

Section 1422, acts Sept. 1, 1937, ch. 896, §24, formerly §22, 50 Stat. 899; renumbered, §23, July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431; renumbered §24, Aug. 10, 1965, Pub. L. 87–117, title I, §103(a), 79 Stat. 455, provided for applicability of all general penal statutes relating to larceny etc., of moneys and properties of the Authority.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RETROACTIVE APPLICATION OF POLICIES OR PROCEDURES ESTABLISHED BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT TO RIGHTS OF OWNERS OF LEASED HOUSING, INCLUDING RIGHT OF RENEWAL

Pub. L. 93–383, title II, §208, Aug. 22, 1974, 88 Stat. 669, as amended by Pub. L. 95–128, title II, §201(h), Oct. 12, 1977, 91 Stat. 1129, provided that: "Nothing in this title [see Tables for classification] or any other provision of law authorizes the Secretary of Housing and Urban Development to apply any policy or procedure established by him with respect to the rights of an owner under a lease entered into under section 23 of the United States Housing Act of 1937 [section 1421b of this title], including the right to renewal of such lease to the maximum term permitted by law, if such lease was entered into prior to the effective date of such policy or procedure."

§§1423 to 1426. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862

Section 1423, act Sept. 1, 1937, ch. 896, §24, formerly §23, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, related to penalties for false entries and reports.

Section 1424, act Sept. 1, 1937, ch. 896, §25, formerly §24, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, related to penalties for defrauding or hindering the Authority.

Section 1425, act Sept. 1, 1937, ch. 896, §26, formerly §25, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, related to penalties for concealment of interest in property.

Section 1426, act Sept. 1, 1937, ch. 896, §27, formerly §26, 50 Stat. 899, renumbered July 15, 1949, ch. 388, title III, §307(h), 63 Stat. 431, related to penalties for unlawful use of the name "United States Housing Authority".

Sections 1423 to 1426 of this title are covered by section 1012 of Title 18, Crimes and Criminal Procedure.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see section 20 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 18, Crimes and Criminal Procedure.

§§1427 to 1431. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 1427 to 1431 were omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Section 1427, act Sept. 1, 1937, ch. 896, §28, formerly §27, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, provided for application of provisions when conflicting with other laws relating to housing or slum clearance.

Section 1428, act Sept. 1, 1937, ch. 896, §29, formerly §28, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, made available funds for the District of Columbia.

Section 1429, act Sept. 1, 1937, ch. 896, §30, formerly §29, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, provided for separability of provisions.

Section 1430, act Sept. 1, 1937, ch. 896, §31, formerly §30, 50 Stat. 899, renumbered July 15, 1949, ch. 338, title III, §307(h), 63 Stat. 431, set forth short title of provisions as "United States Housing Act of 1937". See section 1 of act Sept. 1, 1937, as added by section 201(a) of Pub. L. 93–383, set out as a Short Title note under section 1437 of this title.

Section 1431, Pub. L. 91–556, title IV, Dec. 17, 1970, 84 Stat. 1463, which provided that the necessary expenses of providing representatives at sites of non-Federal projects in connection with construction of these projects by public housing agencies with aid under this chapter, be compensated by these agencies by payments of fixed fees, was from the Independent Offices and Department of Housing and Urban Development Appropriations Act, 1971, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Nov. 26, 1969, Pub. L. 91–126, title III, 83 Stat. 242.
Oct. 4, 1968, Pub. L. 90–550, title III, 82 Stat. 956.
Nov. 3, 1967, Pub. L. 90–121, title II, 81 Stat. 360.
Sept. 6, 1966, Pub. L. 89–555, title II, 80 Stat. 688.
Aug. 16, 1965, Pub. L. 89–128, title II, 79 Stat. 542.
Aug. 30, 1964, Pub. L. 88–507, title II, 78 Stat. 665.
Dec. 19, 1963, Pub. L. 88–215, title II, 77 Stat. 447.
Oct. 3, 1962, Pub. L. 87–741, title II, 76 Stat. 739.
Aug. 17, 1961, Pub. L. 87–141, title II, 75 Stat. 363.
July 12, 1960, Pub. L. 86–626, title II, 74 Stat. 444.
Sept. 14, 1959, Pub. L. 86–255, title II, 73 Stat. 517.
Aug. 28, 1958, Pub. L. 85–844, title II, 72 Stat. 1081.
June 29, 1957, Pub. L. 85–69, title II, 71 Stat. 241.
June 27, 1956, ch. 452, title II, 70 Stat. 355.
June 30, 1955, ch. 244, title II, 69 Stat. 215.
June 24, 1954, ch. 359, title II, 68 Stat. 297.
July 31, 1953, ch. 302, title II, 67 Stat. 315.
July 5, 1952, ch. 578, title III, 66 Stat. 417.
Aug. 31, 1951, ch. 376, title IV, 65 Stat. 299.
Sept. 6, 1950, ch. 896, Ch. VIII, title II, 64 Stat. 723.
Aug. 24, 1949, ch. 506, title II, 63 Stat. 659.
June 30, 1948, ch. 773, title II, 62 Stat. 1190.
July 30, 1947, ch. 358, title II, 61 Stat. 579.
July 20, 1946, ch. 589, title II, 60 Stat. 592.
May 3, 1945, ch. 106, title I, 59 Stat. 124.

§1432. Repealed. July 15, 1949, ch. 338, title VI, §606, 63 Stat. 441

Section, act Aug. 10, 1948, ch. 832, title V, §503, 62 Stat. 1285, related to State low-rent or veterans' housing projects.

§1433. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 15, 1949, ch. 338, title VI, §606, 63 Stat. 440, provided for conversion of State and local low-rent or veterans' housing projects to Federal projects if the contract for State financial assistance for such project was entered into on or after Jan. 1, 1948, and prior to Jan. 1, 1950.

§1434. Records; contents; examination and audit

Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.], or any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and the disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 1715r of title 12) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961.

(Aug. 2, 1954, ch. 649, title VIII, §814, 68 Stat. 647; Pub. L. 87–70, title IX, §908, June 30, 1961, 75 Stat. 191; Pub. L. 90–19, §10(h), May 25, 1967, 81 Stat. 23.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing Act of 1949, as amended, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to chapter 8A (§1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The first day after the first full calendar month following the date of approval of the Housing Act of 1961, referred to in text, probably means Aug. 1, 1961, which is the first day after the first full calendar month following approval of Pub. L. 87–70, which was approved on June 30, 1961.

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

Section was formerly classified to sections 1446 of this title and 1715s of Title 12, Banks and Banking.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in second sentence and "Department of Housing and Urban Development" for "Housing and Home Finance Agency (or any official or constituent thereof)" and "Housing and Home Finance Agency (or

such official or constituent thereof)" in first sentence and for "Housing and Home Finance Agency or any official or constituent agency thereof" in third sentence, respectively.

1961—Pub. L. 87–70 required record keeping provisions in contracts under the Housing Act of 1949 and in contracts under any other act, prohibited insurance of mortgages covering new or rehabilitated multifamily housing unless the mortgagor certifies that he will keep records, and empowered the Comptroller General to examine and audit records, and substituted "Housing Act of 1961" for "Housing Act of 1954".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

The fourth sentence of section 814 of act Aug. 2, 1954, ch. 649, 68 Stat. 647 (prior to the amendment by section 908 of Pub. L. 87–70), provided that this section is effective on first day after first calendar month following the date of approval of the act (Aug. 2, 1954).

§1435. Access to books, documents, etc., for purpose of audit

Every contract for loans or annual contributions under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under the United States Housing Act of 1937, as amended.

(Aug. 2, 1954, ch. 649, title VIII, §816, 68 Stat. 647; Pub. L. 90–19, §10(i), May 25, 1967, 81 Stat. 23.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Public Housing Commissioner".

§1436. Repealed. Pub. L. 91–609, title V, §503(4), Dec. 31, 1970, 84 Stat. 1786

Section, Pub. L. 87–70, title II, §207, June 30, 1961, 75 Stat. 165; Pub. L. 88–560, title II, §203(e), title IV, §407, Sept. 2, 1964, 78 Stat. 784, 796; Pub. L. 89–117, title XI, §1105, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, §18(a), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title XVII, §1714(a), Aug. 1, 1968, 82 Stat. 607, provided for low-rent housing demonstration programs and development grants. See section 1701z–1 et seq. of Title 12, Banks and Banking.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL: SAVINGS PROVISION

Pub. L. 91–609, title V, §503, Dec. 31, 1970, 84 Stat. 1785, provided in part for repeal of sections 1701d–3, 1701e, 1701e note, and 1701f of Title 12, Banks and Banking, this section, note below, section 1452a, section

1456 note, and sections 3372, 3373 of this title, effective July 1, 1971, except that the repeal shall not affect contracts, commitments, reservations, or other obligations entered pursuant to such provisions prior to July 1, 1971.

REPORT OF SELF-HELP STUDIES AND DEMONSTRATIONS

Pub. L. 90–448, title XVII, §1714(b), Aug. 1, 1968, 82 Stat. 607, providing for report to Congress within one year after Aug. 1, 1968, respecting self-help studies and demonstrations, was repealed by Pub. L. 91–609, title V, §503(7), Dec. 31, 1970, 84 Stat. 1786.

§1436a. Restriction on use of assisted housing by non-resident aliens

(a) Conditions for assistance

Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8;

(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8;

(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 1231(b)(3) of title 8;

(6) an alien lawfully admitted for temporary or permanent residence under section 1255a of title 8; or

(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: *Provided*, That, within Guam any any [1] citizen or national of the United States shall be entitled to a preference or priority in receiving financial assistance before any such alien who is otherwise eligible for assistance.

(b) "Financial assistance" defined

(1) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], section 1715z or 1715z–1 of title 12, the direct loan program under section 1472 of this title or section 1472(c)(5)(D), 1474, 1490a(a)(2)(A), or 1490r of this title, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12851 et seq.], or section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s].

(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated,

based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.

(c) Preservation of families; students

(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on February 5, 1988, is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]) or the applicable Secretary (in the case of any other financial assistance) shall take one of the following actions:

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term "family" means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse. Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section.

(B)(i) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing.

(ii) Except as provided in clause (iii), any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 18-months. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 1157 of title 8 or an individual seeking asylum under section 1158 of title 8.

(2) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of—

(A) any alien who—

(i) has a residence in a foreign country that such alien has no intention of abandoning;

(ii) is a bona fide student qualified to pursue a full course of study; and

(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.

(d) Conditions for provision of financial assistance for individuals

The following conditions apply with respect to financial assistance being or to be provided for the benefit of an individual:

(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status. If the declaration states that the individual is not a citizen or national of the United States and that the

individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the applicable Secretary, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the applicable Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance.

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on September 30, 1996, or applying for financial assistance on or after September 30, 1996, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the applicable Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

In the case of an individual applying for financial assistance on or after September 30, 1996, the applicable Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).

(3) If the documentation described in paragraph (2)(A) is presented, the applicable Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on September 30, 1996, or applying for financial assistance on or after September 30, 1996, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the applicable Secretary—

(i) shall provide a reasonable opportunity, not to exceed 30 days, to submit to the applicable Secretary evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),

(ii) in the case of any individual receiving assistance on September 30, 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(iii) in the case of any individual applying for financial assistance on or after September 30, 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

(i) the applicable Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the applicable Secretary may not—

(I) in the case of any individual receiving assistance on September 30, 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

(II) in the case of any individual applying for financial assistance on or after September 30, 1996, deny the application for such assistance on the basis of the immigration status of that individual; and

(iii) the applicable Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the applicable Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status, the applicable Secretary shall—

(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable;

(B) provide that the individual may request a fair hearing during the 30-day period beginning upon receipt of the notice under subparagraph (C); and

(C) provide to the individual written notice of the determination under this paragraph, the right to a fair hearing process, and the time limitation for requesting a hearing under subparagraph (C).

(6) The applicable Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

For purposes of this subsection, the term "applicable Secretary" means the applicable Secretary, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) Regulatory actions against entities for erroneous determinations regarding eligibility based upon citizenship or immigration status

The applicable Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the entity, under subsection (d)(4)(A)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)), was required to provide a reasonable opportunity to submit documentation, or

(3) because the entity, under subsection (d)(4)(B)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)), was required to wait for the response of the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or the response from the Immigration and Naturalization Service to the appeal of that individual.

(f) Verification system; liability of State or local government agencies or officials; prior consent agreements, court decrees or court orders unaffected

(1) Notwithstanding any other provision of law, no agency or official of a State or local

government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to February 5, 1988.

(g) Reimbursement for costs of implementation

The applicable Secretary is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603)).

(h) "Applicable Secretary" defined

For purposes of this section, the term "applicable Secretary" means—

(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12851 et seq.]; and

(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.

(i) Verification of eligibility

(1) In general

No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least the individual or one family member under subsection (d) by the applicable Secretary or other appropriate entity.

(2) Rules applicable to public housing agencies

A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937 [42 U.S.C. 1437a])—

(A) may, notwithstanding paragraph (1) of this subsection, elect not to affirmatively establish and verify eligibility before providing financial assistance [2]

(B) in carrying out subsection (d)—

(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 1324a(b)(1) of title 8; and

(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

(3) Eligibility of families

For purposes of this subsection, with respect to a family, the term "eligibility" means the eligibility of each family member.

(Pub. L. 96–399, title II, §214, Oct. 8, 1980, 94 Stat. 1637; Pub. L. 97–35, title III, §329(a), Aug. 13, 1981, 95 Stat. 408; Pub. L. 99–603, title I, §121(a)(2), Nov. 6, 1986, 100 Stat. 3386; Pub. L. 100–242, title I, §164(a)–(f)(1), Feb. 5, 1988, 101 Stat. 1860–1863; Pub. L. 104–193, title IV, §441(a), Aug. 22, 1996, 110 Stat. 2276; Pub. L. 104–208, div. C, title III, §308(g)(7)(D)(ii), title V, §§572–576, Sept. 30, 1996, 110 Stat. 3009–624, 3009–684, 3009–685, 3009–687; Pub. L. 105–276, title V, §592(a), Oct. 21, 1998, 112 Stat. 2653; Pub. L. 106–504, §3(b), Nov. 13, 2000, 114 Stat. 2312; Pub. L. 114–201, title I, §113, July 29, 2016, 130 Stat. 804.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (b), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (b)(1) and (h)(1), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Subtitle A of title III of the Act, known as the National Homeownership Trust Act, is classified generally to subchapter III (§12851 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (b), is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

The Immigration Reform and Control Act of 1986, referred to in subsecs. (e)(2), (3) and (g), is Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3359. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1101 of Title 8, Aliens and Nationality, and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1980, and not as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

2016—Subsec. (a)(7). Pub. L. 114–201 substituted "any citizen or national of the United States shall be entitled to a preference or priority in receiving financial assistance before any such alien who is otherwise eligible for assistance." for "such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance."

2000—Subsec. (a)(7). Pub. L. 106–504 added par. (7).

1998—Subsec. (b)(2). Pub. L. 105–276, §592(a)(1), substituted "applicable Secretary" for "Secretary of Housing and Urban Development".

Subsec. (c)(1)(B). Pub. L. 105–276, §592(a)(2), aligned cls. (ii) and (iii) with cl. (i).

Subsec. (d)(1)(A). Pub. L. 105–276, §592(a)(3)(A), in last sentence, substituted "applicable Secretary, or" for "Secretary of Housing and Urban Development, or" and "applicable Secretary considers" for "Secretary considers".

Subsec. (d)(2). Pub. L. 105–276, §592(a)(3)(B), aligned concluding provisions with par. (2) and inserted "applicable" before "Secretary" in concluding provisions.

Subsec. (d)(4)(B)(ii). Pub. L. 105–276, §592(a)(3)(C), inserted "applicable" before "Secretary" in introductory provisions.

Subsec. (d)(5). Pub. L. 105–276, §592(a)(3)(D), substituted "the applicable Secretary shall" for "the Secretary shall" in introductory provisions.

Subsec. (d)(6). Pub. L. 105–276, §592(a)(3)(E), inserted "applicable" before "Secretary".

Subsec. (h). Pub. L. 105–276, §592(a)(5), redesignated subsec. (h), relating to verification of eligibility, as (i).

Subsec. (h)(1). Pub. L. 105–276, §592(a)(4)(A), substituted "No" for "Except in the case of an election under paragraph (2)(A), no" and "subsection (d)" for "this section" and inserted "applicable" before "Secretary".

Subsec. (h)(2)(A). Pub. L. 105–276, §592(a)(4)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: "may elect not to comply with this section; and".

Subsec. (h)(2)(B). Pub. L. 105–276, §592(a)(4)(B)(ii), substituted "in carrying out subsection (d)" for "in complying with this section" in introductory provisions.

Subsec. (i). Pub. L. 105–276, §592(a)(5), redesignated subsec. (h), relating to verification of eligibility, as (i).

1996—Subsec. (a). Pub. L. 104–193, §441(a)(1), substituted "applicable Secretary" for "Secretary of Housing and Urban Development" in introductory provisions.

Subsec. (a)(5). Pub. L. 104–208, §308(g)(7)(D)(ii), substituted "section 1231(b)(3)" for "section 1253(h)".

Subsec. (b). Pub. L. 104–208, §572, designated existing provisions as par. (1) and added par. (2).

Pub. L. 104–193, §441(a)(2), inserted "the direct loan program under section 1472 of this title or section 1472(c)(5)(D), 1474, 1490a(a)(2)(A), or 1490r of this title, subtitle A of title III of the Cranston-Gonzalez

National Affordable Housing Act," after "1715z–1 of title 12,".

Subsec. (c). Pub. L. 104–193, §441(a)(1), substituted "applicable Secretary" for "Secretary of Housing and Urban Development" in two places.

Subsec. (c)(1). Pub. L. 104–208, §573(1), substituted "shall" for "may, in its discretion," in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 104–208, §573(2), inserted at end "Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section."

Subsec. (c)(1)(B). Pub. L. 104–208, §573(3), designated first sentence of existing provisions as cl. (i), designated second and third sentences of existing provisions as cl. (ii) and substituted "Except as provided in clause (iii), any deferral" for "Any deferral" and "18-months" for "3 years", and added cl. (iii).

Subsec. (d). Pub. L. 104–208, §574(1), inserted "or to be" after "being" in introductory provisions.

Pub. L. 104–193, §441(a)(3), substituted "applicable Secretary" for "Secretary" wherever appearing in pars. (2) to (6).

Pub. L. 104–193, §441(a)(1), (4), substituted "the term 'applicable Secretary' " for "the term 'Secretary' " and "applicable Secretary" for "Secretary of Housing and Urban Development" in closing provisions.

Subsec. (d)(1)(A). Pub. L. 104–208, §574(2), inserted at end "If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary of Housing and Urban Development, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation."

Subsec. (d)(2). Pub. L. 104–208, §574(3), substituted "on September 30, 1996, or applying for financial assistance on or after September 30, 1996" for "on February 5, 1988" in introductory provisions and added concluding provisions.

Subsec. (d)(4). Pub. L. 104–208, §574(4)(A), substituted "on September 30, 1996, or applying for financial assistance on or after September 30, 1996" for "on February 5, 1988" in introductory provisions.

Subsec. (d)(4)(A)(i). Pub. L. 104–208, §574(4)(B)(i)(I), inserted ", not to exceed 30 days," after "reasonable opportunity".

Subsec. (d)(4)(A)(ii), (iii). Pub. L. 104–208, §574(4)(B)(i)(II), (ii), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows: "may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and".

Subsec. (d)(4)(B)(ii). Pub. L. 104–208, §574(4)(C), added cl. (ii) and struck out former cl. (ii) which read as follows: "pending such verification or appeal, the applicable Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and".

Subsec. (d)(5). Pub. L. 104–208, §574(5), inserted ", the Secretary shall" after "status" in introductory provisions, added subpars. (A) to (C), and struck out former subpars. (A) and (B) which read as follows:

"(A) the applicable Secretary shall deny or terminate the individual's eligibility for financial assistance, and

"(B) the applicable fair hearing process shall be made available with respect to the individual."

Subsec. (d)(6). Pub. L. 104–208, §574(6), added par. (6) and struck out former par. (6) which read as follows: "For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

"(A) The applicable Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

"(B) Upon timely request by the individual, the applicable Secretary shall provide a hearing before an impartial hearing officer designated by the applicable Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

"(C) The applicable Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

"(D) Financial assistance may not be denied or terminated until the completion of the hearing process."

Subsec. (e). Pub. L. 104–193, §441(a)(1), substituted "applicable Secretary" for "Secretary of Housing and Urban Development" in introductory provisions.

Subsec. (e)(3). Pub. L. 104–208, §575(2), inserted at end "the response from the Immigration and Naturalization Service to the appeal of that individual."

Subsec. (e)(4). Pub. L. 104–208, §575(1), (3), struck out par. (4) which read as follows: "because of a fair hearing process described in subsection (d)(5)(B) of this section (or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603))."

Subsec. (g). Pub. L. 104–193, §441(a)(1), substituted "applicable Secretary" for "Secretary of Housing and Urban Development".

Subsec. (h). Pub. L. 104–208, §576, added subsec. (h) relating to verification of eligibility.

Pub. L. 104–193, §441(a)(5), added subsec. (h) defining "applicable Secretary".

1988—Subsec. (a)(6). Pub. L. 100–242, §164(a), added par. (6).

Subsec. (c). Pub. L. 100–242, §164(b), added subsec. (c).

Subsec. (d). Pub. L. 100–242, §164(c)(8), amended last sentence generally. Prior to amendment, last sentence read as follows: "In this subsection and subsection (e) of this section, the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available."

Subsec. (d)(2). Pub. L. 100–242, §164(c)(1), inserted ", is not 62 years of age or older, and is receiving financial assistance on February 5, 1988" after "States".

Subsec. (d)(4). Pub. L. 100–242, §164(c)(2), in introductory provisions, inserted ", is not 62 years of age or older, and is receiving financial assistance on February 5, 1988" after "States", and "or recertification" after "application".

Subsec. (d)(4)(A)(i). Pub. L. 100–242, §164(c)(3), inserted after comma "or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),".

Subsec. (d)(4)(B). Pub. L. 100–242, §164(c)(4), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "if there are submitted documents which the Secretary determines constitutes reasonable evidence indicating such status—".

Subsec. (d)(4)(B)(i), (ii). Pub. L. 100–242, §164(c)(5), (6), inserted "or additional information" after "documents" in cl. (i), and "or appeal" after "verification" in cl. (ii).

Subsec. (d)(6). Pub. L. 100–242, §164(c)(7), added par. (6).

Subsec. (e). Pub. L. 100–242, §164(d)(1), in introductory provisions, inserted "of Housing and Urban Development" after "Secretary".

Subsec. (e)(2), (3). Pub. L. 100–242, §164(d)(2), (3), inserted "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603))".

Subsec. (e)(4). Pub. L. 100–242, §164(d)(4), inserted "(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99–603))".

Subsec. (f). Pub. L. 100–242, §164(e), added subsec. (f).

Subsec. (g). Pub. L. 100–242, §164(f)(1), added subsec. (g).

1986—Subsecs. (d), (e). Pub. L. 99–603 added subsecs. (d) and (e).

1981—Subsec. (a). Pub. L. 97–35 substituted provisions relating to restrictions on use of assisted housing by resident aliens meeting further conditions for provisions relating to prohibition on financial assistance to nonimmigrant student-aliens.

Subsec. (b). Pub. L. 97–35 struck out "(1)" after "(b)" and par. (2) which defined "nonimmigrant student-alien".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §592(b), Oct. 21, 1998, 112 Stat. 2654, provided that: "The amendments made by this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(g)(7)(D)(ii) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Amendment by sections 572–576 of Pub. L. 104–208 effective Sept. 30, 1996, see section 591 of Pub. L. 104–208, set out as a note under section 1101 of Title 8.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title I, §164(h), Feb. 5, 1988, 101 Stat. 1863, provided that:

"(1) The provisions of, and amendments made by, subsections (a), (b), (e), (f), and (g) [amending this section, repealing section 1437r of this title, and enacting provisions set out below] shall take effect on the date of the enactment of this Act [Feb. 5, 1988].

"(2) The amendments made by subsections (c) and (d) [amending this section] shall take effect on October 1, 1988."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective on Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99–603, set out as a note under section 1320b–7 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. C, title V, §571, Sept. 30, 1996, 110 Stat. 3009–684, provided that: "This subtitle [subtitle E (§§571–577) of title V of div. C of Pub. L. 104–208, amending this section and enacting provisions set out as a note below] may be cited as the 'Use of Assisted Housing by Aliens Act of 1996'."

REGULATIONS

Pub. L. 104–208, div. C, title V, §577, Sept. 30, 1996, 110 Stat. 3009–688, provided that:

"(a) ISSUANCE.—Not later than the 60 days after the date of enactment of this Act [Sept. 30, 1996], the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part [probably means this subtitle, subtitle E (§§571–577) of title V of div. C of Pub. L. 104–208, see Short Title of 1996 Amendment note above]. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or opportunity for comment.

"(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN–2501–AA63 (Docket No. R–95–1409; FR–2383–F–050), published in the Federal Register on March 20, 1995 (Vol. 60, No. 53; pp. 14824–14861), shall not apply after that date."

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS

Pub. L. 100–242, title I, §164(g), Feb. 5, 1988, 101 Stat. 1863, provided that: "In carrying out section 214 of the Housing and Community Development Act of 1980 [this section] during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

"(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

"(2) if not a citizen or national—

"(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age 'and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987' [Feb. 5, 1988]; or

"(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation."

DELAYED IMPLEMENTATION OF 1981 AMENDMENT

Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239, provided in part that: "The Secretary may not implement the amendment to section 214 of the Housing and Community Development Act

of 1980 [this section], made by section 329(a) of the Housing and Community Development Amendments of 1981 [Pub. L. 97–35], before the expiration of the one-year period following the date of the enactment of this Act [Nov. 30, 1983]."

ALIENS GRANTED CONDITIONAL ENTRY ELIGIBLE FOR ASSISTED HOUSING

Pub. L. 97–35, title III, §329(b), Aug. 13, 1981, 95 Stat. 408, provided that: "An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 214 of the Housing and Community Development Act of 1980 [this section], to be an alien described in section 214(a)(3) of such Act [subsec. (a)(3) of this section]."

[1] So in original.

[2] So in original. Probably should be followed by "; and".

§1436b. Financial assistance in impacted areas

The Secretary of Housing and Urban Development shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. For the purposes of this section, the term "federally assisted housing programs" means any program authorized by the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], sections 1715z and 1715z–1 of title 12, section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or section 1701q of title 12.

(Pub. L. 96–399, title II, §216, Oct. 8, 1980, 94 Stat. 1638.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in text, is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1980, and not as part of the United States Housing Act of 1937 which comprises this chapter.

§1436c. Insurance for public housing agencies and Indian housing authorities

On and after October 28, 1991, notwithstanding any other provision of State or Federal law, regulation or other requirement, any public housing agency or Indian housing authority that purchases any line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary, may purchase such insurance without regard to competitive procurement.

On and after October 28, 1991, the Secretary shall establish standards as set forth herein, by regulation, adopted after notice and comment rulemaking pursuant to subchapter II of chapter 5 of title 5, which will become effective not later than one year from October 28, 1991.

On and after October 28, 1991, in establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet

reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary shall establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

On and after October 28, 1991, the Secretary shall not approve additional nonprofit insurance entities until such standards have become final, nor shall the Secretary revoke the approval of any nonprofit insurance entity previously approved by the Department unless for cause and after a due process hearing.

On and after October 28, 1991, until the Department of Housing and Urban Development has adopted regulations specifying the nature and quality of insurance covering the potential personal injury liability exposure of public housing authorities and Indian housing authorities (and their contractors, including architectural and engineering services) as a result of testing and abatement of lead-based paint in federally subsidized public and Indian housing units, said authorities shall be permitted to purchase insurance for such risk, as an allowable expense against amounts available for capital improvements (modernization): *Provided*, That such insurance is competitively selected and that coverage provided under such policies, as certified by the authority, provides reasonable coverage for the risk of liability exposure, taking into consideration the potential liability concerns inherent in the testing and abatement of lead-based paint, and the managerial and quality assurance responsibilities associated with the conduct of such activities.

(Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 758.)

EDITORIAL NOTES

REFERENCES IN TEXT

Herein, referred to in text, probably means Pub. L. 102–139, Oct. 28, 1991, 105 Stat. 736, known as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In the second undesignated par., "subchapter II of chapter 5 of title 5" was substituted for "the Administrative Procedures Act" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, and not as part of the United States Housing Act of 1937 which comprises this chapter.

§1436d. Consultation with affected areas in settlement of litigation

In negotiating any settlement of, or consent decree for, significant litigation regarding public housing or section 8 [42 U.S.C. 1437f] tenant-based assistance that involves the Secretary and any public housing agency or any unit of general local government, the Secretary shall seek the views of any units of general local government and public housing agencies having jurisdictions that are adjacent to the jurisdiction of the public housing agency involved, if the resolution of such litigation would involve the acquisition or development of public housing dwelling units or the use of vouchers under section 1437f of this title in jurisdictions that are adjacent to the jurisdiction of the public housing agency involved in the litigation.

(Pub. L. 105–276, title V, §599H(b), Oct. 21, 1998, 112 Stat. 2668.)

EDITORIAL NOTES

REFERENCES IN TEXT

Secretary, referred to in text, means the Secretary of Housing and Urban Development.

CODIFICATION

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of the United States Housing Act of 1937 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–276, title V, §599H(m), Oct. 21, 1998, 112 Stat. 2670, provided that: "This section [enacting this section and amending section 1490 of this title] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

SUBCHAPTER I—GENERAL PROGRAM OF ASSISTED HOUSING

EDITORIAL NOTES

CODIFICATION

Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681, added subchapter heading.

§1437. Declaration of policy and public housing agency organization

(a) Declaration of policy

It is the policy of the United States—

(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this chapter—

(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

(C) consistent with the objectives of this subchapter, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(3) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and

(4) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

(b) Public housing agency organization

(1) Required membership

Except as provided in paragraphs (2) and (3), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—

(A) who is directly assisted by the public housing agency; and

(B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

(2) Exception

Paragraph (1) shall not apply to any public housing agency—

(A) that is located in a State that requires the members of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or

(B) with less than 300 public housing units, if—

(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and

(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 1437c–1(e) of this title of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

(3) Exception for certain jurisdictions

(A) Exception

A covered agency (as such term is defined in subparagraph (C) of this paragraph) shall not be required to include on the board of directors or a similar governing board of such agency a member described in paragraph (1).

(B) Advisory board requirement

Each covered agency that administers Federal housing assistance under section 1437f of this title that chooses not to include a member described in paragraph (1) on the board of directors or a similar governing board of the agency shall establish an advisory board of not less than 6 residents of public housing or recipients of assistance under section 1437f of this title to provide advice and comment to the agency or other administering entity on issues related to public housing and section 1437f of this title. Such advisory board shall meet not less than quarterly.

(C) Covered agency or entity

For purposes of this paragraph, the term "covered agency" means a public housing agency or such other entity that administers Federal housing assistance for—

(I) [1] the Housing Authority of the county of Los Angeles, California; or

(ii) any of the States of Alaska, Iowa, and Mississippi.

(4) Nondiscrimination

No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project or status as assisted under section 1437f of this title.

(Sept. 1, 1937, ch. 896, title I, §2, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653; amended Pub. L. 97–35, title III, §322(c), Aug. 13, 1981, 95 Stat. 402; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, §572(2), Nov. 28, 1990, 104 Stat. 4236; Pub. L. 105–276, title V, §505, Oct. 21, 1998, 112 Stat. 2522; Pub. L. 114–201, title I, §114, July 29, 2016, 130 Stat. 804.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, related to definitions and was classified to section 1402 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Prior similar provisions were contained in section 1 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1401 of this title prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114–201, §114(1), substituted "paragraphs (2) and (3)" for "paragraph (2)" in

introductory provisions.

Subsec. (b)(3), (4). Pub. L. 114–201, §114(2), (3), added par. (3) and redesignated former par. (3) as (4).

1998—Pub. L. 105–276 amended section catchline and text generally. Prior to amendment, text read as follows: "It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this chapter, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project."

1990—Pub. L. 101–625 substituted "low-income housing" for "lower income housing".

1981—Pub. L. 97–35 substituted reference to lower income for reference to low income in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §503, Oct. 21, 1998, 112 Stat. 2521, provided that:

"(a) IN GENERAL.—The amendments under this title [see Tables for classification] are made on the date of the enactment of this Act [Oct. 21, 1998], but this title shall take effect, and the amendments made by this title shall apply beginning upon, October 1, 1999, except—

"(1) as otherwise specifically provided in this title; or

"(2) as otherwise specifically provided in any amendment made by this title.

The Secretary may, by notice, implement any provision of this title or any amendment made by this title before such date, except to the extent that such provision or amendment specifically provides otherwise.

"(b) SAVINGS PROVISION.—Notwithstanding any amendment under this title that is made (in accordance with subsection (a)) on the date of the enactment of this Act [Oct. 21, 1998] but applies beginning on October 1, 1999, the provisions of law amended by such amendment, as such provisions were in effect immediately before the making of such amendment, shall continue to apply during the period beginning on the date of the enactment of this Act and ending upon October 1, 1999, unless otherwise specifically provided by this title.

"(c) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this title and the amendments made by this title.

"(d) LIST OF OBSOLETE DOCUMENTS.—Not later than October 1, 1999, the Secretary of Housing and Urban Development shall cause to be published in the Federal Register a list of all rules, regulations, and orders (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 [42 U.S.C. 1437f] tenant-based programs issued or promulgated under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] before the date of the enactment of this Act [Oct. 21, 1998] that are or will be obsolete because of the enactment of this Act or are otherwise obsolete.

"(e) PROTECTION OF CERTAIN REGULATIONS.—No provision of this title may be construed to repeal the regulations of the Secretary regarding tenant participation and tenant opportunities in public housing (24 C.F.R. 964).

"(g)[(f)] EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE

Pub. L. 93–383, title II, §201(b), Aug. 22, 1974, 88 Stat. 667, provided that: "The provisions of subsection (a) of this section [enacting sections 1437 to 1437j of this title] shall be effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after the date of the enactment of this Act [Aug. 22, 1974]; except that (1) all of the provisions of section 3(1) of the United States Housing Act of 1937, as amended by subsection (a) of this section [section 1437a(1) of this title], shall become effective on the same date, (2) all of the provisions of sections 5 and 9(c) of such Act as so amended

[sections 1437c and 1437g(c) of this title] shall become effective on the same date, and (3) section 8 of such Act [section 1437f of this title] as so amended shall be effective not later than January 1, 1975."

Section 3(1) of the United States Housing Act of 1937, as amended, effective Sept. 26, 1975, see Effective Date note set out under section 1437a of this title.

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–201, §1(a), July 29, 2016, 130 Stat. 782, provided that: "This Act [enacting sections 1437z–9, 3536a, and 11386f of this title, amending this section, sections 1436a, 1437a, 1437f, 1437g, 1437n, 1472, 3533, 11373, 11387, 11388, 12902, and 12903 of this title, and section 1709 of Title 12, Banks and Banking, enacting provisions set out as notes under sections 1437a, 1437f, 1437z–9, 3533, 3544, and 11313 of this title, and amending provisions set out as a note under section 12805 of this title] may be cited as the 'Housing Opportunity Through Modernization Act of 2016'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–289, div. B, title VII, §2701, July 30, 2008, 122 Stat. 2863, provided that: "This title [amending section 1437c–1 of this title] may be cited as the 'Small Public Housing Authorities Paperwork Reduction Act'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–186, title IV, §401, Dec. 16, 2003, 117 Stat. 2693, provided that: "This title [amending section 1437v of this title and enacting provisions set out as a note under section 1437v of this title] may be cited as the 'HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–116, title VI, §601(a), Jan. 10, 2002, 115 Stat. 2220, provided that: "This title [amending sections 1437f and 5305 of this title and section 1715n of Title 12, Banks and Banking, enacting provisions set out as notes under sections 1437f and 11301 of this title and sections 1701q and 1715n of Title 12, and amending provisions set out as notes under sections 1437f and 11301 of this title and section 1701q of Title 12] may be cited as the 'Mark-to-Market Extension Act of 2001'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §501(a), Oct. 21, 1998, 112 Stat. 2518, provided that: "This title [see Tables for classification] may be cited as the 'Quality Housing and Work Responsibility Act of 1998'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–358, §1, June 29, 1988, 102 Stat. 676, provided that: "This Act [enacting sections 1437aa to 1437ee of this title, amending sections 1437a and 1437c of this title, and enacting provisions set out as a note under section 1437a of this title] may be cited as the 'Indian Housing Act of 1988'."

SHORT TITLE

Act Sept. 1, 1937, ch. 896, title I, §1, as added by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653; renumbered title I by Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681, provided that: "This Act [enacting this chapter] may be cited as the 'United States Housing Act of 1937'."

APPLICABILITY OF 1996 AMENDMENTS; INDIAN HOUSING

Pub. L. 104–204, title II, §201(d), Sept. 26, 1996, 110 Stat. 2893, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by subsections (a), (b), and (c) [amending provisions set out as notes under sections 1437a, 1437c, and 1437l of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

Pub. L. 104–134, title I, §101(e) [title II, §201(a)(3)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendment made by this subsection [amending section 1437l of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

Pub. L. 104–134, title I, §101(e) [title II, §201(b)(3)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments

made by this subsection [amending section 1437p of this title and provisions set out as a note under section 1437c of this title] and by sections 1002(a), (b), and (c) of Public Law 104–19 [amending sections 1437c, 1437p, and 1437aaa–3 of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

Pub. L. 104–99, title IV, §402(e), Jan. 26, 1996, 110 Stat. 43, which provided that amendments made by section 402(a) to (d) and (f) of Pub. L. 104–99 were also to apply to public housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and an Indian housing authority, was repealed by Pub. L. 105–276, title V, §595(e)(16), Oct. 21, 1998, 112 Stat. 2659.

APPLICABILITY OF 1990 AMENDMENTS; INDIAN HOUSING

Pub. L. 102–550, title I, §103(b), Oct. 28, 1992, 106 Stat. 3684, provided that:

"(1) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 ([former] 42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section and sections 1437a, 1437b to 1437d, 1437f, 1437g, 1437i, 1437j, 1437l, 1437n, 1437p, 1437r, 1437s, and 1437aa to 1437dd of this title, repealing section 1437o of this title, and enacting provisions set out as notes under section 1437a of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

"(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990]."

Pub. L. 101–625, title IV, §419, Nov. 28, 1990, 104 Stat. 4161, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by this subtitle [subtitle A (§§411–419) of title IV of Pub. L. 101–625, enacting subchapter II–A of this chapter and amending sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title [see Short Title note set out under section 1437aaa of this title] affects the program under section 202 of such Act [former 42 U.S.C. 1437bb]."

Pub. L. 101–625, title V, §527, Nov. 28, 1990, 104 Stat. 4216, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 ([former] 42 U.S.C. 1437aa(b)(2)), the provisions of this subtitle [subtitle A (§§501–527) of title V of Pub. L. 101–625, see Tables for classification] that modify the public housing program under title I of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that sections 502 and 510 [amending sections 1437d and 1437l of this title and enacting provisions set out as notes under section 1437d of this title] shall not apply."

APPLICABILITY OF 1989 AMENDMENTS; INDIAN HOUSING

Pub. L. 101–235, title I, §101(d), Dec. 15, 1989, 103 Stat. 1990, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by subsections (a), (b), and (c) of this section [amending section 1439 of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

Pub. L. 101–235, title I, §104(c), Dec. 15, 1989, 103 Stat. 1998, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendment made by subsection (a) [amending section 1439 of this title] and the provisions of subsection (b) of this section [set out as an Effective Date of 1989 Amendment note under section 1439 of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

REPORTS ON NUMBER AND COST OF FEDERALLY ASSISTED UNITS

Pub. L. 110–161, div. K, title II, §211, Dec. 26, 2007, 121 Stat. 2433, which directed the Secretary of Housing and Urban Development to submit an annual report to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under lease and the per unit cost of such units, was repealed by Pub. L. 115–31, div. K, title II, §238, May 5, 2017, 131 Stat. 789.

FUNDING OF CERTAIN PUBLIC HOUSING

Pub. L. 105–276, title II, §226, Oct. 21, 1998, 112 Stat. 2490, which provided that no funds in this Act or any other Act may hereafter be used by the Secretary of Housing and Urban Development to determine

allocations or provide assistance for operating subsidies or modernization for certain State and city funded and locally developed public housing units unless such unit was so assisted before Oct. 1, 1998, was repealed by Pub. L. 108–7, div. K, title II, §212(b), Feb. 20, 2003, 117 Stat. 504.

[Pub. L. 108–7, div. K, title II, §212(d), Feb. 20, 2003, 117 Stat. 504, provided that: "The amendment made by subsection (b) [repealing section 226 of Pub. L. 105–276, set out above] shall be deemed to have taken effect on October 21, 1998."]

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Pub. L. 105–276, title V, §502, Oct. 21, 1998, 112 Stat. 2520, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

"(2) the inventory of public housing units owned, assisted, or operated by public housing agencies, an asset in which the Federal Government has invested over $90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

"(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

"(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations has aggravated the problem and has placed excessive administrative burdens on public housing agencies; and

"(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

"(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

"(B) streamlines program requirements;

"(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to public housing residents, localities, and the general public; and

"(D) rewards employment and economic self-sufficiency of public housing residents.

"(b) PURPOSES.—The purpose of this title [see Tables for classification] is to promote homes that are affordable to low-income families in safe and healthy environments, and thereby contribute to the supply of affordable housing, by—

"(1) deregulating and decontrolling public housing agencies, thereby enabling them to perform as property and asset managers;

"(2) providing for more flexible use of Federal assistance to public housing agencies, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

"(3) facilitating mixed income communities and decreasing concentrations of poverty in public housing;

"(4) increasing accountability and rewarding effective management of public housing agencies;

"(5) creating incentives and economic opportunities for residents of dwelling units assisted by public housing agencies to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

"(6) consolidating the voucher and certificate programs for rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families; and

"(7) remedying the problems of troubled public housing agencies and replacing or revitalizing severely distressed public housing projects."

MENTAL HEALTH ACTION PLAN

Pub. L. 105–276, title V, §517, Oct. 21, 1998, 112 Stat. 2550, provided that: "The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and appropriate State and local officials and representatives, shall—

"(1) develop an action plan and list of recommendations for the improvement of means of providing severe mental illness treatment to families and individuals receiving housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], including public housing residents, residents of multifamily housing assisted with project-based assistance under section 8 of such Act [42 U.S.C. 1437f], and recipients of tenant-based assistance under such section; and

"(2) develop and disseminate a list of current practices among public housing agencies and owners of

assisted housing that serve to benefit persons in need of mental health care."

ANNUAL REPORT

Pub. L. 105–276, title V, §581, Oct. 21, 1998, 112 Stat. 2643, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998], and annually thereafter, the Secretary shall submit a report to the Congress on—

"(1) the impact of the amendments made by this Act [Pub. L. 105–276, see Tables for classification] on—

"(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]; and

"(B) the economic viability of public housing agencies; and

"(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

"(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

USE OF AMERICAN PRODUCTS

Pub. L. 105–276, title V, §584, Oct. 21, 1998, 112 Stat. 2645, provided that:

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act [Pub. L. 105–276, see Tables for classification] should be American made.

"(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

"(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

GAO STUDY ON HOUSING ASSISTANCE PROGRAM COSTS

Pub. L. 105–276, title V, §585, Oct. 21, 1998, 112 Stat. 2645, provided that:

"(a) STUDY.—The Comptroller General of the United States shall conduct a study that provides an objective and independent accounting and analysis of the full cost to the Federal Government, public housing agencies, State and local governments, and other entities, per assisted household, of the Federal assisted housing programs, taking into account the qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

"(b) CONTENTS.—The study under this section shall—

"(1) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, in accordance with generally accepted accounting principles, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs, including grants, direct subsidies, tax concessions, Federal mortgage insurance liability, periodic renovation and rehabilitation, and modernization costs, demolition costs, and other ancillary costs such as security; and

"(2) measure and evaluate qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

"(c) PROHIBITION OF RECOMMENDATIONS.—In conducting the study under this section and reporting under subsection (e), the Comptroller General may not make any recommendations regarding Federal housing policy.

"(d) FEDERAL ASSISTED HOUSING PROGRAMS.—For purposes of this section, the term 'Federal assisted housing programs' means—

"(1) the public housing program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], except that the study under this section shall differentiate between and compare the development and construction of new public housing and the assistance of existing public housing structures;

"(2) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)];

"(3) the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)];

"(4) the programs for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

"(5) the rental assistance payments program under section 521(a)(2)(A) of the Housing Act of 1949 [42 U.S.C. 1490a(a)(2)(A)];

"(6) the program for housing for the elderly under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q];

"(7) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013];

"(8) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715l(d)(3)] that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act [12 U.S.C. 1715l(d)(5)];

"(9) the program under section 236 of the National Housing Act [12 U.S.C. 1715z–1];

"(10) the program for construction or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as in effect before October 1, 1983; and

"(11) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Comptroller General may determine.

"(e) REPORT.—Not later than 12 months after the date of the enactment of this Act [Oct. 21, 1998], the Comptroller General shall submit to the Congress a final report which shall contain the results of the study under this section, including the analysis and estimates required under subsection (b).

"(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], National Housing Act [12 U.S.C. 1701 et seq.], United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], Housing Act of 1949 [see Short Title note set out under section 1441 of this title], Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note set out under section 3331 of this title], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of this title.

[1] *So in original. Probably should be "(i)".*

§1437a. Rental payments

(a) Families included; rent options; minimum amount; occupancy by police officers and over-income families

(1) Dwelling units assisted under this chapter shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made pursuant to paragraph (6); except that, in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years. Except as provided in paragraph (2) and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this chapter (other than a family assisted under section 1437f(o) or (y) of this title or paying rent under section 1437f(c)(3)(B) [1] of this title) the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the family's monthly adjusted income;

(B) 10 per centum of the family's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of

such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which—

(I) shall not be lower than 80 percent of—

(aa) the applicable fair market rental established under section 1437f(c) of this title; or

(bb) at the discretion of the Secretary, such other applicable fair market rental established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable fair market rental under section 1437f(c) of this title;

except that a public housing agency may apply to the Secretary for exception allowing for a flat rental amount for a property that is lower than the amount otherwise determined pursuant to item (aa) or (bb) and the Secretary may grant such exception if the Secretary determines that the fair market rental for the applicable market area pursuant to item (aa) or (bb) does not reflect the market value of the property and the proposed lower flat rental amount is based on a market analysis of the applicable market and complies with subclause (II) and

(II) shall be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

If a new flat rental amount for a dwelling unit will increase a family's existing rental payment by more than 35 percent, the new flat rental amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. The preceding sentence shall not be construed to require establishment of rental amounts equal to 80 percent of the fair market rental in years when the fair market rental falls from the prior year.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in subsection (b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of [2] reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 1437f(o)(2) of this title, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than $50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 1437f of this title; and

(III) each family who is assisted under the voucher program under section 1437f of this title, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 1437f of this title to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the

Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.]; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.—In this paragraph, the term "police officer" means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days

before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.—For purposes of this paragraph, the term "over-income family" means an individual or family that is not a low-income family at the time of initial occupancy.

(6) REVIEWS OF FAMILY INCOME.—

(A) FREQUENCY.—Reviews of family income for purposes of this section shall be made—

(i) in the case of all families, upon the initial provision of housing assistance for the family;

(ii) annually thereafter, except as provided in paragraph (1) with respect to fixed-income families;

(iii) upon the request of the family, at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in a decrease of 10 percent (or such lower amount as the Secretary may, by notice, establish, or permit the public housing agency or owner to establish) or more in annual adjusted income; and

(iv) at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in an increase of 10 percent or more in annual adjusted income, or such other amount as the Secretary may by notice establish, except that any increase in the earned income of a family shall not be considered for purposes of this clause (except that earned income may be considered if the increase corresponds to previous decreases under clause (iii)), except that a public housing agency or owner may elect not to conduct such review in the last three months of a certification period.

(B) IN GENERAL.—Reviews of family income for purposes of this section shall be subject to the provisions of section 3544 of this title.

(7) CALCULATION OF INCOME.—

(A) USE OF CURRENT YEAR INCOME.—In determining family income for initial occupancy or provision of housing assistance pursuant to clause (i) of paragraph (6)(A) or pursuant to reviews pursuant to clause (iii) or (iv) of such paragraph, a public housing agency or owner shall use the income of the family as estimated by the agency or owner for the upcoming year.

(B) USE OF PRIOR YEAR INCOME.—In determining family income for annual reviews pursuant to paragraph (6)(A)(ii), a public housing agency or owner shall, except as otherwise provided in this paragraph and paragraph (1), use the income of the family as determined by the agency or owner for the preceding year, taking into consideration any redetermination of income during such prior year pursuant to clause (iii) or (iv) of paragraph (6)(A).

(C) OTHER INCOME.—In determining the income for any family based on the prior year's income, with respect to prior year calculations of income not subject to subparagraph (B), a public housing agency or owner may make other adjustments as it considers appropriate to reflect current income.

(D) SAFE HARBOR.—A public housing agency or owner may, to the extent such information is available to the public housing agency or owner, determine the family's income prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and the supplemental nutrition assistance program (as such term is defined in section 2012 of title 7)). The Secretary shall, in consultation with other appropriate Federal agencies, develop electronic procedures to enable public housing agencies and owners to have access to such benefit determinations made by other means-tested

Federal programs that the Secretary determines to have comparable reliability. Exchanges of such information shall be subject to the same limitations and tenant protections provided under section 3544 of this title with respect to information obtained under the requirements of section 303(i) of the Social Security Act (42 U.S.C. 503(i)).

(E) ELECTRONIC INCOME VERIFICATION.—The Secretary shall develop a mechanism for disclosing information to a public housing agency for the purpose of verifying the employment and income of individuals and families in accordance with section 453(j)(7)(E) of the Social Security Act (42 U.S.C. 653(j)(7)(E)), and shall ensure public housing agencies have access to information contained in the "Do Not Pay" system established by section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (Public Law 112–248; 126 Stat. 2392).[1]

(F) PHA AND OWNER COMPLIANCE.—A public housing agency or owner may not be considered to fail to comply with this paragraph or paragraph (6) due solely to any de minimis errors made by the agency or owner in calculating family incomes.

(8) CARBON MONOXIDE ALARMS.—Each public housing agency shall ensure that carbon monoxide alarms or detectors are installed in each dwelling unit in public housing owned or operated by the public housing agency in a manner that meets or exceeds—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(9) Qualifying smoke alarms

(A) In general

Each public housing agency shall ensure that a qualifying smoke alarm is installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in any dwelling unit in public housing owned or operated by the public housing agency, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Smoke alarm defined

The term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15.

(ii) Qualifying smoke alarm defined

The term "qualifying smoke alarm" means a smoke alarm that—

(I) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

(b) Definition of terms under this chapter

When used in this chapter:

(1) The term "low-income housing" means decent, safe, and sanitary dwellings assisted under this chapter. The term "public housing" means low-income housing, and all necessary appurtenances thereto, assisted under this chapter other than under section 1437f of this title. The term "public housing" includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public housing, the term "low-income housing project" or "project" means (A) housing developed, acquired, or assisted by a public housing agency under this chapter, and (B) the improvement of any such housing.

(2)(A) The term "low-income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(B) The term "very low-income families" means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(C) The term extremely low-income families [3] means very low-income families whose incomes do not exceed the higher of—

(i) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 9902(2) of this title applicable to a family of the size involved (except that this clause shall not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States); or

(ii) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families (except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes).

(D) Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this chapter, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties. In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.—The term "families" includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, (v) a youth described in section 1437f(x)(2)(B) of this title, and (vi) any other single persons. In no event may any single person under clause (v) or (vi) of the first sentence be provided a housing unit assisted under this chapter of 2 or more bedrooms.

(B) FAMILIES.—The term "families" includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living

together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—

(i) has a disability as defined in section 423 of this title,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 15002 of this title.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(F) DISPLACED PERSON.—The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 50 years of age but below the age of 62.

(4) INCOME.—The term "income" means, with respect to a family, income received from all sources by each member of the household who is 18 years of age or older or is the head of household or spouse of the head of the household, plus unearned income by or on behalf of each dependent who is less than 18 years of age, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, subject to the following requirements:

(A) INCLUDED AMOUNTS.—Such term includes recurring gifts and receipts, actual income from assets, and profit or loss from a business.

(B) EXCLUDED AMOUNTS.—Such term does not include—

(i) any imputed return on assets, except to the extent that net family assets exceed $50,000, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation annually by the Secretary in accordance with an inflationary index selected by the Secretary;

(ii) any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(iii) deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts;

(iv) any expenses related to aid and attendance under section 1521 of title 38 to veterans who are in need of regular aid and attendance; and

(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income.

(C) EARNED INCOME OF STUDENTS.—Such term does not include—

(i) earned income, up to an amount as the Secretary may by regulation establish, of any dependent earned during any period that such dependent is attending school or vocational training on a full-time basis; or

(ii) any grant-in-aid or scholarship amounts related to such attendance used—
(I) for the cost of tuition or books; or
(II) in such amounts as the Secretary may allow, for the cost of room and board.

(D) EDUCATIONAL SAVINGS ACCOUNTS.—Income shall be determined without regard to any amounts in or from, or any benefits from, any Coverdell education savings account under section 530 of title 26 or any qualified tuition program under section 529 of such title.

(E) RECORDKEEPING.—The Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income pursuant to this subparagraph.

(5) ADJUSTED INCOME.—The term "adjusted income" means, with respect to a family, the amount (as determined by the public housing agency or owner) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any deductions from income as follows:

(A) ELDERLY AND DISABLED FAMILIES.—$525 in the case of any family that is an elderly family or a disabled family.

(B) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(C) CHILD CARE.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(D) HEALTH AND MEDICAL EXPENSES.—The amount, if any, by which 10 percent of annual family income is exceeded by the sum of—

(i) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

(ii) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, if determined necessary by the public housing agency or owner to enable any member of such family to be employed.

The Secretary shall, by regulation, provide hardship exemptions to the requirements of this subparagraph and subparagraph (C) for impacted families who demonstrate an inability to pay calculated rents because of financial hardship. Such regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income pursuant to such subparagraphs based on the determination of the family's claim of financial hardship exemptions required by the preceding sentence. Such regulations shall be promulgated in consultation with tenant organizations, industry participants, and the Secretary of Health and Human Services, with an adequate comment period provided for interested parties.

(E) PERMISSIVE DEDUCTIONS.—Such additional deductions as a public housing agency may, at its discretion, establish, except that the Secretary shall establish procedures to ensure that such deductions do not materially increase Federal expenditures.

The Secretary shall annually calculate the amounts of the deductions under subparagraphs (A) and (B), as such amounts may have been previously calculated, by applying an inflationary factor as the Secretary shall, by regulation, establish, except that the actual deduction determined for each year shall be established by rounding such amount to the next lowest multiple of $25.

(6) PUBLIC HOUSING AGENCY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing, or a consortium of such entities or bodies as approved by the Secretary.

(B) SECTION 1437f PROGRAM.—For purposes of the program for tenant-based assistance

under section 1437f of this title, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 1437f of this title (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance [4] section 1437f of this title, or is not performing effectively—

(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 1437f of this title and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 1437f of this title; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 1437f of this title, without regard to any otherwise applicable limitations on its area of operation.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 802 of title 21).

(10) MIXED-FINANCE PROJECT.—The term "mixed-finance project" means a public housing project that meets the requirements of section 1437z–7 of this title.

(11) PUBLIC HOUSING AGENCY PLAN.—The term "public housing agency plan" means the plan of a public housing agency prepared in accordance with section 1437c–1 of this title.

(12) CAPITAL FUND.—The term "Capital Fund" means the fund established under section 1437g(d) of this title.

(13) OPERATING FUND.—The term "Operating Fund" means the fund established under section 1437g(e) of this title.

(c) Definition of terms used in reference to public housing

When used in reference to public housing:

(1) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and

services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.

(4) The term "congregate housing" means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

(5) The terms "group home" and "independent living facility" have the meanings given such terms in section 8013(k) of this title.

(d) Availability of income matching information

(1) Disclosure to PHA

A public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this chapter on behalf of such family, as applicable, or to the owner responsible for determining the participant's eligibility or level of benefits.

(2) Families covered

A family described in this paragraph is a family that resides in a dwelling unit—

(A) that is a public housing dwelling unit;

(B) for which tenant-based assistance is provided under section 1437f of this title,[5] or

(C) for which project-based assistance is provided under section 1437f of this title, section 1437bb [1] of this title, or section 811.[1]

(Sept. 1, 1937, ch. 896, title I, §3, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 654; amended Pub. L. 94–375, §2(f), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95–557, title II, §206(c), Oct. 31, 1978, 92 Stat. 2091; Pub. L. 96–153, title II, §202(a), Dec. 21, 1979, 93 Stat. 1106; Pub. L. 97–35, title III, §322(a), Aug. 13, 1981, 95 Stat. 400; Pub. L. 98–181, title I [title II, §§202, 206(a)–(c)], Nov. 30, 1983, 97 Stat. 1178, 1179; Pub. L. 98–479, title I, §102(b)(1)–(3), Oct. 17, 1984, 98 Stat. 2221; Pub. L. 100–242, title I, §§102(a), 111, 170(c), Feb. 5, 1988, 101 Stat. 1821, 1823, 1867; renumbered title I and amended Pub. L. 100–358, §§4, 5, June 29, 1988, 102 Stat. 680, 681; Pub. L. 101–235, title III, §302, Dec. 15, 1989, 103 Stat. 2043; Pub. L. 101–625, title V, §§515(b), 572, 573(a)–(d), 574, Nov. 28, 1990, 104 Stat. 4199, 4236–4238; Pub. L. 102–550, title I, §§102–103(a)(2), 185(c)(4), title VI, §§621, 622(c), 625(a)(1), Oct. 28, 1992, 106 Stat. 3683, 3748, 3812, 3817, 3820; Pub. L. 103–233, title III, §301, Apr. 11, 1994, 108 Stat. 369; Pub. L. 104–99, title IV, §402(b)(1), (c), Jan. 26, 1996, 110 Stat. 40, 41; Pub. L. 104–330, title V, §501(b)(1), Oct. 26, 1996, 110 Stat. 4041; Pub. L. 105–276, title V, §§506, 507(a), (c), 508(a), (b)(1), (c)(1), (d)(1), 520(a), 523, 524(a), 546, Oct. 21, 1998, 112 Stat. 2523–2529, 2562, 2565–2567, 2604; Pub. L. 106–74, title II, §214(a), Oct. 20, 1999, 113 Stat. 1074; Pub. L. 106–402, title IV, §401(b)(7), Oct. 30, 2000, 114 Stat. 1738; Pub. L. 110–289, div. B, title VI, §2608, July 30, 2008, 122 Stat. 2862;

Pub. L. 113–76, div. L, title II, §§210, 212, 238(a), Jan. 17, 2014, 128 Stat. 625, 626, 635; Pub. L. 113–235, div. K, title II, §238, Dec. 16, 2014, 128 Stat. 2758; Pub. L. 114–94, div. G, title LXXVIII, §78001(a), Dec. 4, 2015, 129 Stat. 1791; Pub. L. 114–201, title I, §102(a), (c), July 29, 2016, 130 Stat. 786, 788; Pub. L. 116–260, div. Q, title I, §§101(b)(1), 103(a), Dec. 27, 2020, 134 Stat. 2163, 2166; Pub. L. 117–328, div. AA, title VI, §601(a)(1), Dec. 29, 2022, 136 Stat. 5542.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437f(c)(3)(B) of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105–276, title V, §550(a)(3)(A)(ii), Oct. 21, 1998, 112 Stat. 2609.

Section 519(d) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (a)(2)(A)(ii), is section 519(d) of Pub. L. 105–276 which is set out as a note below.

The effective day of such Act and the effective date of such Act, referred to in subsecs. (a)(2)(A)(ii) and (b)(6)(B)(ii), probably means the general effective date for the Quality Housing and Work Responsibility Act of 1998, Pub. L. 105–276, title V, included in section 503 of the Act which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section 206(d) of the Housing and Urban-Rural Recovery Act of 1983, referred to in subsec. (a)(3)(A), is section 206(d) of Pub. L. 98–181, which is set out as a note below.

The Immigration and Nationality Act, referred to in subsec. (a)(3)(B)(i)(I), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (a)(3)(B)(i)(I), is Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

The Social Security Act, referred to in subsec. (a)(7)(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (Public Law 112–248; 126 Stat. 2392), referred to in subsec. (a)(7)(E), is section 5 of Pub. L. 112–248, which was formerly set out in a note under section 3321 of Title 31, Money and Finance, prior to repeal by Pub. L. 116–117, §3(a)(3), Mar. 2, 2020, 134 Stat. 133. See section 3354 of Title 31.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(6)(B)(ii), is section 503(a) of Pub. L. 105–276 which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section 1437bb of this title, referred to in subsec. (d)(2)(C), was repealed by Pub. L. 104–330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041.

Section 811, referred to in subsec. (d)(2)(C), means section 811 of the United States Housing Act of 1937, but that Act does not contain a section 811.

PRIOR PROVISIONS

A prior section 3 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, established the United States Housing Authority and was classified to section 1403 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Prior similar provisions were contained in section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1402 of this title prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2022—Subsec. (a)(9). Pub. L. 117–328 added par. (9).

2020—Subsec. (a)(8). Pub. L. 116–260, §101(b)(1), added par. (8).

Subsec. (b)(3)(A). Pub. L. 116–260, §103(a), in first sentence, added cl. (v) after "tenant family," and redesignated former cl. (v) as (vi) and, in second sentence, inserted "or (vi)" after "clause (v)".

2016—Subsec. (a)(1). Pub. L. 114–201, §102(a)(1)(A), substituted "pursuant to paragraph (6)" for "at least annually" in introductory provisions.

Subsec. (a)(6), (7). Pub. L. 114–201, §102(a)(1)(B), added pars. (6) and (7).

Subsec. (b)(4), (5). Pub. L. 114–201, §102(c), added pars. (4) and (5) and struck out former pars. (4) and (5) which defined the terms "income" and "adjusted income", respectively.

Subsecs. (d) to (f). Pub. L. 114–201, §102(a)(2), (3), redesignated subsec. (f) as (d) and struck out former subsecs. (d) and (e) which related to disallowance of earned income from rent determinations and individual savings accounts, respectively.

2015—Subsec. (a)(1). Pub. L. 114–94 inserted before period at end of second sentence "; except that, in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years".

2014—Subsec. (a)(2)(B)(i). Pub. L. 113–235, §238(3), substituted "If" for "Public housing agencies must comply by June 1, 2014, with the requirement of this clause, except that if" in concluding provisions.

Pub. L. 113–235, §238(1), substituted "which—" for "which shall not be lower than 80 percent of the applicable fair market rental established under section 1437f(c) of this title and which shall—" in introductory provisions, added subcl. (I), and struck out former subcl. (I) which read as follows: "be based on the rental value of the unit, as determined by the public housing agency; and".

Pub. L. 113–76, §210(2), inserted concluding provisions and struck out former concluding provisions, which read as follows: "The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause."

Pub. L. 113–76, §210(1), in introductory provisions, substituted "Each" for "Except as otherwise provided under this clause, each" and inserted "not be lower than 80 percent of the applicable fair market rental established under section 1437f(c) of this title and which shall" after "which shall".

Subsec. (a)(2)(B)(i)(II). Pub. L. 113–235, §238(2), inserted "shall" before "be designed".

Subsec. (b)(2). Pub. L. 113–76, §238(a), designated first sentence as subpar. (A), second sentence as subpar. (B), and remaining sentences as subpar. (D), and added subpar. (C).

Subsec. (b)(6)(A). Pub. L. 113–76, §212, inserted ", or a consortium of such entities or bodies as approved by the Secretary" before period at end.

2008—Subsec. (b)(4). Pub. L. 110–289 inserted "or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts" before "may not be considered".

2000—Subsec. (b)(3)(E)(iii). Pub. L. 106–402 substituted "section 15002 of this title" for "section 6001 of this title".

1999—Subsec. (f)(1). Pub. L. 106–74, §214(a)(1), inserted ", or the owner responsible for determining the participant's eligibility or level of benefits," after "A public housing agency" and ", or to the owner responsible for determining the participant's eligibility or level of benefits" before period at end.

Subsec. (f)(2)(C). Pub. L. 106–74, §214(a)(2), added subpar. (C).

1998—Subsec. (a)(1). Pub. L. 105–276, §507(c), inserted "and subject to the requirement under paragraph (3)" after "paragraph (2)" in third sentence.

Subsec. (a)(2). Pub. L. 105–276, §523, amended par. (2) generally. For prior text, see 1996 Amendment note below.

Subsec. (a)(3). Pub. L. 105–276, §507(a), added par. (3).

Subsec. (a)(4), (5). Pub. L. 105–276, §524(a), added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 105–276, §506(1), inserted after second sentence "The term 'public housing' includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance."

Subsec. (b)(2). Pub. L. 105–276, §508(c)(1), substituted "limits for Westchester and Rockland Counties" for "limits for Westchester County", inserted "each" before "such county", substituted "include Westchester or Rockland Counties" for "include Westchester County" and "included Westchester and Rockland Counties" for

"included Westchester County", and inserted at end "In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area."

Subsec. (b)(3)(A). Pub. L. 105–276, §506(2)(A), struck out at end "In determining priority for admission to housing under this chapter, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence."

Subsec. (b)(3)(B). Pub. L. 105–276, §506(2)(B), substituted "public housing agency plan" for "regulations of the Secretary" in second sentence.

Subsec. (b)(3)(E). Pub. L. 105–276, §506(3), inserted at end "Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence."

Subsec. (b)(5). Pub. L. 105–276, §508(a), amended par. (5) generally, substituting present provisions for provisions which had defined "adjusted income" as income which remained after excluding $550 for each member of family in household under 18 years of age, disabled, or a student, $400 for any elderly or disabled family, the amount by which medical and related expenses exceeded 3 percent of income, child care expenses, 10 percent of earned income, and any payment made for support and maintenance of nonresident child, spouse, or former spouse.

Subsec. (b)(6). Pub. L. 105–276, §546, amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing."

Subsec. (b)(9) to (13). Pub. L. 105–276, §506(4), added pars. (9) to (13).

Subsec. (c). Pub. L. 105–276, §508(b)(1)(A), which directed the amendment of subsec. (c) by striking out the undesignated par. after par. (3), was executed by striking out concluding provisions after par. (5), to reflect the probable intent of Congress. Concluding provisions read as follows: "The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 1437t of this title, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

"(1) the period that the resident participates in such program; and

"(2) the period that—

"(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this chapter; and

"(B) ends on the earlier of—

"(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

"(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A)."

Subsec. (c)(1). Pub. L. 105–276, §520(a), inserted before period at end of second sentence ", but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary".

Subsecs. (d), (e). Pub. L. 105–276, §508(b)(1)(B), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 105–276, §508(d)(1), added subsec. (f).

1996—Subsec. (a)(2). Pub. L. 104–99, §402(b)(1), (f), temporarily amended par. (2) generally, substituting "(2) Notwithstanding paragraph (1), a public housing agency may—

"(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—

"(i) to operate the housing of the agency; and

"(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

"(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1)." for

"(2)(A) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency (or in low-income housing assisted under section 1437f of this title that contains more than 2,000 dwelling units) shall pay as monthly rent an amount determined by such agency to

be appropriate that does not exceed a maximum amount that—

"(i) is established by such agency and approved by the Secretary;

"(ii) is not more than the amount payable as rent by such family under paragraph (1); and

"(iii) is not less than the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency.

"(B) The terms of all ceiling rents established prior to December 15, 1989, shall be extended without time limitation." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (b)(5)(F). Pub. L. 104–330, §501(b)(1)(A)(i), inserted "and" after semicolon.

Subsec. (b)(5)(G). Pub. L. 104–330, §501(b)(1)(A)(ii), (iii), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: "excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities; and".

Subsec. (b)(5)(H). Pub. L. 104–330, §501(b)(1)(A)(iii), redesignated subpar. (H) as (G).

Pub. L. 104–99, §402(c), (f), temporarily added subpar. (H) which read "for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 1437g of this title for the public housing agency for the operation of the public housing." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (b)(6). Pub. L. 104–330, §501(b)(1)(B), struck out at end "The term includes any Indian housing authority."

Subsec. (b)(7). Pub. L. 104–330, §501(b)(1)(C), inserted "and" before "the Trust" and struck out ", and Indian tribes" after "Pacific Islands".

Subsec. (b)(9) to (12). Pub. L. 104–330, §501(b)(1)(D), struck out pars. (9) to (12) which read as follows:

"(9) The term 'Indian' means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

"(10) The term 'Indian area' means the area within which an Indian housing authority is authorized to provide low-income housing.

"(11) The term 'Indian housing authority' means any entity that—

"(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

"(B) is established—

"(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

"(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

"(12) The term 'Indian tribe' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives."

1994—Subsec. (b)(3)(B). Pub. L. 103–233 substituted "includes families with children and" for "means families with children".

1992—Subsec. (a)(1). Pub. L. 102–550, §185(c)(4), substituted "section 1437f(o) or (y) of this title or paying rent under section 1437f(c)(3)(B) of this title" for "section 1437f(o) of this title".

Subsec. (a)(2)(A). Pub. L. 102–550, §102(a), struck out "for not more than a 5-year period" after "monthly rent".

Subsec. (a)(2)(B). Pub. L. 102–550, §102(b), struck out first sentence which read as follows: "The 5-year limitation established in subparagraph (A) shall not apply to any family residing in a public housing project administered by an Indian public housing agency." and substituted "without time limitation" for "for the 5-year period beginning on December 15, 1989".

Subsec. (b)(3). Pub. L. 102–550, §621, amended par. (3) generally, substituting present provisions for provisions relating to families consisting of single persons, elderly families, handicapped persons, displaced persons, and families with household heads 50 years old or older and the priorities for admission of such families and persons to housing under this chapter.

Subsec. (b)(4). Pub. L. 102–550, §103(a)(1), inserted "and any amounts which would be eligible for exclusion under section 1382b(a)(7) of this title" after "family".

Subsec. (b)(5)(B). Pub. L. 102–550, §625(a)(1), inserted "or disabled" after "elderly".

Subsec. (b)(5)(D). Pub. L. 102–550, §103(a)(2)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: "(i) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education; or (ii) excessive travel expenses, not to exceed $25 per

family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities;".

Subsec. (b)(5)(G). Pub. L. 102–550, §103(a)(2)(B)–(D), added subpar. (G).

Subsec. (c)(4), (5). Pub. L. 102–550, §622(c), which directed the amendment of subsec. (c) by inserting pars. (4) and (5) after "project.", was executed by making the insertion after "project." at the end of par. (3), to reflect the probable intent of Congress.

1990—Pub. L. 101–625, §515(b), added concluding undesignated par. directing that earnings and benefits to public housing residents resulting from participation in programs providing employment training and supportive services not be considered as income.

Subsec. (a)(1). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families" in introductory provisions.

Subsecs. (a)(2)(A), (b)(1). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Subsec. (b)(2). Pub. L. 101–625, §573(d), inserted sentences at end relating to determination or establishment of median incomes and income ceilings and limits for Westchester County and for metropolitan statistical areas outside Westchester County.

Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families" wherever appearing.

Subsec. (b)(3). Pub. L. 101–625, §574, inserted sentence at end relating to effect of temporary absence of child from the home due to placement in foster care on considerations of family composition and size.

Pub. L. 101–625, §573(a), substituted "(D) and any other single persons. In no event may any single person under clause (D) be provided a housing unit assisted under this chapter of 2 bedrooms or more." for "(D) other single persons in circumstances described in regulations of the Secretary." in first sentence, struck out after first sentence "In no event shall more than 15 per centum of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D).", and struck out third from last sentence which was executed (to reflect the probable intent of Congress) by striking out third sentence from end which read as follows: "The Secretary may increase the limitation described in the second sentence of this paragraph to not more than 30 per centum if, following consultation with the public housing agency involved, the Secretary determines that the dwelling units involved are neither being occupied, nor are likely to be occupied within the next 12 months, by families or persons described in clauses (A), (B), and (C), due to the condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D)."

Subsec. (b)(4). Pub. L. 101–625, §573(b), inserted before period at end ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

Subsec. (b)(5)(A). Pub. L. 101–625, §573(c)(1), substituted "$550" for "$480".

Subsec. (b)(5)(C). Pub. L. 101–625, §573(c)(2), struck out "elderly" before "family" in cl. (i) and struck out "and" at end.

Subsec. (b)(5)(E), (F). Pub. L. 101–625, §573(c)(3), added subpars. (E) and (F).

Subsecs. (b)(6), (10), (11)(A), (c). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

1989—Subsec. (a)(2)(A). Pub. L. 101–235, §302(1), substituted "5-year period" for "3-year period".

Subsec. (a)(2)(B). Pub. L. 101–235, §302(2), substituted "5-year limitation" for "3-year limitation" and inserted at end "The terms of all ceiling rents established prior to December 15, 1989, shall be extended for the 5-year period beginning on December 15, 1989."

1988—Subsec. (a). Pub. L. 100–242, §102(a), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), a" for "A", redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (b)(3). Pub. L. 100–242, §170(c), in cl. (A), substituted "sixty-two years of age," for "sixty-two years of age or", and ", has a developmental disability as defined in section 6001(7) of this title" for "or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970".

Pub. L. 100–242, §111, inserted provisions relating to determination of priority admission to public housing projects designed for elderly families.

Subsec. (b)(5)(D). Pub. L. 100–358, §4(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(6). Pub. L. 100–358, §4(b), inserted at end "The term includes any Indian housing authority."

Subsec. (b)(7). Pub. L. 100–358, §4(c), struck out ", bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States" after "and Indian tribes".

Subsec. (b)(9) to (12). Pub. L. 100–358, §4(d)–(g), added pars. (9) to (12).

1984—Subsec. (b)(2). Pub. L. 98–479, §102(b)(1), inserted provision at end that such ceilings shall be

established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply.

Subsec. (b)(4). Pub. L. 98–479, §102(b)(2), inserted ", in consultation with the Secretary of Agriculture" at end.

Subsec. (b)(5)(C). Pub. L. 98–479, §102(b)(3), designated existing provision as cl. (i), added cl. (ii), and inserted "the amount by which the aggregate of the following expenses of the family" in provisions preceding cl. (i).

1983—Subsec. (a). Pub. L. 98–181, §206(a), in provisions preceding par. (1), inserted provision requiring annual review of family income, and inserted "(other than a family assisted under section 1437f(o) of this title)".

Subsec. (b)(2). Pub. L. 98–181, §206(b), qualified the term "very low-income families" in authorizing the Secretary to establish, where necessary, variations in income ceilings higher or lower than 50 per centum of the median for the area.

Subsec. (b)(3). Pub. L. 98–181, §202, inserted provision at end of par. (3) authorizing increase from 15 to 30 per centum in the single person occupancy limitation for nonoccupancy of the involved dwelling units.

Subsec. (b)(5). Pub. L. 98–181, §206(c), amended par. (5) generally, substituting provisions designating cls. (A) to (D) for prior exclusion from "adjusted income" of such amounts or types of income as the Secretary might prescribe, taking into account the number of minor children and other appropriate factors.

1981—Pub. L. 97–35 added subsecs. (a) and (c) and designated provisions constituting former section as subsec. (b), and in subsec. (b) as so designated, substituted provisions defining "lower income housing", "lower income families", "families", "income", "adjusted income", "public housing agency", "State", and "Secretary" for provisions defining "low-income housing", "low-income families", "development", "operation", "acquisition cost", "public housing agency", "State", "Secretary", and "low-income housing project".

1979—Par. (1). Pub. L. 96–153 substituted provisions that the rental for a dwelling shall not exceed certain portion of the resident family's income to be established by the Secretary, and that in the case of a very low income family 25 per centum and in other cases 30 per centum of family income for provisions that such rental shall not exceed one-fourth of the family's income as defined by the Secretary.

1978—Par. (2)(D). Pub. L. 95–557 substituted "15 per cent" for "10 per cent".

1976—Par. (2). Pub. L. 94–375 struck out "and" before cl. (C), added cl. (D), and two provisos relating to the percentage of units to be occupied by single persons and the priority to be given to single persons who are elderly, handicapped, or displaced, following cl. (D).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 effective 2 years after Dec. 29, 2022, see section 601(h) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 101(b)(1) of div. Q of Pub. L. 116–260 effective 2 years after Dec. 27, 2020, see section 101(h) of div. Q of Pub. L. 116–260, set out as a note under section 1701q of Title 12, Banks and Banking.

Pub. L. 116–260, div. Q, title I, §103(d), Dec. 27, 2020, 134 Stat. 2170, provided that: "The amendments made by this section [amending this section and section 1437f of this title] shall not apply to housing choice voucher assistance made available pursuant to section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)) that is in use on behalf of an assisted family as of the date of the enactment of this Act [Dec. 27, 2020]."

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–201, title I, §102(h), July 29, 2016, 130 Stat. 791, provided that: "The Secretary of Housing and Urban Development shall issue notice or regulations to implement this section [amending this section and section 1437f of this title and enacting provisions set out as a note below] and this section shall take effect after such issuance, except that this section may only take effect upon the commencement of a calendar year." [Amendment by section 102 effective Jan. 1, 2024, based on notice issued Feb. 14, 2023, see 88 F.R. 9600, as corrected Feb. 28, 2023, 88 F.R. 12559.]

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, §507(d), Oct. 21, 1998, 112 Stat. 2526, provided that: "The amendments under this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

Pub. L. 105–276, title V, §508(c)(2), Oct. 21, 1998, 112 Stat. 2529, provided that: "The amendments made by this paragraph [probably means this subsection, amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

Pub. L. 105–276, title V, §524(b), Oct. 21, 1998, 112 Stat. 2568, provided that: "The amendment made by this paragraph [probably means this section, amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Pub. L. 105–276, title V, §514(f), Oct. 21, 1998, 112 Stat. 2548, provided that: "Section 402 of The Balanced Budget Downpayment Act, I [Pub. L. 104–99, see note below], and the amendments made by such section shall cease to be effective on the date of the enactment of this Act [Oct. 21, 1998]. Notwithstanding the inclusion in this Act [see Tables for classification] of any provision extending the effectiveness of such section or such amendments, such provision included in this Act shall not take effect."

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Pub. L. 104–99, title IV, §402(f), Jan. 26, 1996, 110 Stat. 43, as amended by Pub. L. 104–204, title II, §201(c)(2), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105–65, title II, §201(d)(2), Oct. 27, 1997, 111 Stat. 1364, provided that: "This section [amending this section, sections 1437d to 1437f, 1437n, 1437v, and 13615 of this title, and section 1701s of Title 12, Banks and Banking, enacting provisions set out as notes under this section and sections 1437 and 1437d of this title, and amending provisions set out as a note under section 1437f of this title] shall be effective upon the enactment of this Act [Jan. 26, 1996] and only for fiscal years 1996, 1997, and 1998."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–550, title I, §103(a)(3), Oct. 28, 1992, 106 Stat. 3684, provided that: "To the extent that the amendments made by paragraphs (1) and (2) [amending this section] result in additional costs under this title [see Tables for classification], such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts."

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title V, §573(f), Nov. 28, 1990, 104 Stat. 4237, provided that: "The Secretary shall issue regulations implementing subsections (a) and (d) [sic] the amendments made by this section [amending this section] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 28, 1990]. The regulations may not take effect until after September 30, 1991."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–358, §6, June 29, 1988, 102 Stat. 681, provided that: "The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act [enacting sections 1437aa to 1437ee of this title, amending this section and section 1437c of this title, and enacting provisions set out as a note under section 1437 of this title], commencing on whichever of the following occurs earlier:

"(1) EFFECTIVE DATE OF REGULATIONS.—The effective date of regulations issued under section 205 of the United States Housing Act of 1937 [former section 1437ee of this title].

"(2) 90 DAYS.—The expiration of the 90-day period beginning on the date of the enactment of this Act [June 29, 1988]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–153, title II, §202(c), Dec. 21, 1979, 93 Stat. 1106, which provided that amendment by section 202(a) of Pub. L. 96–153 (amending this section and section 1437f of this title) shall become effective on Jan. 1, 1980, except that the amount of the tenant contribution required of families whose occupancy of housing units assisted under this chapter commenced prior to that date shall be determined in accordance with the provisions of this chapter in effect on Dec. 31, 1979, so long as such occupancy was continuous thereafter, was repealed by Pub. L. 97–35, title III, §322(h)(1), Aug. 13, 1981, 95 Stat. 404.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of par. (1) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

The Department of Housing and Urban Development adopted an interim rule, 24 C.F.R. 860.409, Sept. 26, 1975, 40 F.R. 44326, which provided: "The effective date of section 3(1) of the United States Housing Act of 1937, as amended [par. (1) of this section], shall be the date that these regulations [sections 860.401 to 860.409 of Title 24, C.F.R.] are published in the Federal Register (September 26, 1975)."

REGULATIONS

Pub. L. 115–31, div. K, title II, §240, May 5, 2017, 131 Stat. 789, provided that: "The Secretary shall establish by notice such requirements as may be necessary to implement section 78001 of title LXXVIII of the Fixing America's Surface Transportation Act (Public Law 114–94) [amending this section and section 1437f of this title], and the notice shall take effect upon issuance: *Provided*, That the Secretary shall commence rulemaking based on the initial notice no later than the expiration of the 6-month period following issuance of the notice and the rulemaking shall allow for the opportunity for public comment."

Pub. L. 113–76, div. L, title II, §243, Jan. 17, 2014, 128 Stat. 637, provided that: "The Secretary shall establish by notice such requirements as may be necessary to implement sections 210, 212, 220, 238, and 242 [amending this section and sections 1437f and 1437n of this title and enacting provisions set out as a note under section 1437f of this title] under this title and the notice shall take effect upon issuance: *Provided*, That the Secretary shall commence rulemaking based on the initial notice no later than the expiration of the 6-month period following issuance of the notice and the rulemaking shall allow for the opportunity for public comment."

Pub. L. 104–99, title IV, §402(b)(2), Jan. 26, 1996, 110 Stat. 41, provided that:

"(A) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)(2)(A)], as amended by paragraph (1).

"(B) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

"(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act [Jan. 26, 1996];

"(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

"(iii) equal to the fair market rent for the area in which the unit is located."

[Section 402(b)(2) of Pub. L. 104–99, set out above, effective Jan. 26, 1996, and only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see Effective and Termination Dates of 1996 Amendments notes above.]

Pub. L. 102–550, title I, §191, Oct. 28, 1992, 106 Stat. 3750, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [see Tables for classification] and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section)."

SAVINGS PROVISION

Pub. L. 105–276, title V, §508(b)(2), Oct. 21, 1998, 112 Stat. 2528, provided that: "Notwithstanding the amendment made by paragraph (1) [amending this section], the provisions of the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 [see 1998 and 1992 Amendment notes above], as such section was in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply until the effective date under section 503 of this Act [set out as a note under section 1437 of this title]. Notwithstanding the amendment made by subsection (a) of this section [amending this section], nor the applicability under section 402(f) of The Balanced Budget Downpayment Act, I [Pub. L. 104–99] (42 U.S.C. 1437a note) of the amendments made by such section 402 [see Effective and Termination Dates of 1996 Amendments note set out above], nor any repeal of such section 402(f), the provisions of section 3(b)(5)(G) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(G)), as such section was in effect immediately before the date of the enactment of this Act, shall continue to apply until the effective date under section 503 of this Act."

CONSTRUCTION OF 2022 AMENDMENT

Nothing in amendment made by Pub. L. 117–328 to be construed to preempt or limit applicability of certain State or local laws relating to smoke alarms, see section 601(i) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

CONSTRUCTION OF 2020 AMENDMENT

Pub. L. 116–260, div. Q, title I, §101(j), Dec. 27, 2020, 134 Stat. 2165, provided that: "Nothing in the amendments made by this section [amending this section, sections 1437f, 1484, 1485, 8013, and 12905 of this title, and section 1701q of Title 12, Banks and Banking] shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section."

CARBON MONOXIDE ALARMS OR DETECTORS IN FEDERALLY ASSISTED HOUSING

Pub. L. 116–260, div. Q, title I, §101(a), Dec. 27, 2020, 134 Stat. 2162, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) carbon monoxide alarms are not required by federally assisted housing programs, when not required by State or local codes;

"(2) numerous federally assisted housing residents have lost their lives due to carbon monoxide poisoning;

"(3) the effects of carbon monoxide poisoning occur immediately and can result in death in a matter of minutes;

"(4) carbon monoxide exposure can cause permanent brain damage, life-threatening cardiac complications, fetal death or miscarriage, and death, among other harmful health conditions;

"(5) carbon monoxide poisoning is especially dangerous for unborn babies, children, elderly individuals, and individuals with cardiovascular disease, among others with chronic health conditions;

"(6) the majority of the 4,600,000 families receiving Federal housing assistance are families with young children, elderly individuals, or individuals with disabilities, making them especially vulnerable to carbon monoxide poisoning;

"(7) more than 400 people die and 50,000 additional people visit the emergency room annually as a result of carbon monoxide poisoning;

"(8) carbon monoxide poisoning is entirely preventable and early detection is possible with the use of carbon monoxide alarms;

"(9) the Centers for Disease Control and Prevention warns that carbon monoxide poisoning is entirely preventable and recommends the installation of carbon monoxide alarms;

"(10) the Office of Lead Hazard Control and Healthy Homes of the Department of Housing and Urban Development recommends the installation of carbon monoxide alarms as a best practice to keep families and individuals safe and to protect health; and

"(11) in order to safeguard the health and well-being of tenants in federally assisted housing, the Federal Government should consider best practices for primary prevention of carbon monoxide-related incidents."

GUIDANCE ON HOME HEALTH HAZARD EDUCATION

Pub. L. 116–260, div. Q, title I, §101(g), Dec. 27, 2020, 134 Stat. 2165, provided that: "The Secretary of Housing and Urban Development shall provide guidance to public housing agencies (as defined in section

3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)) on how to educate tenants on health hazards in the home, including to carbon monoxide poisoning, lead poisoning, asthma induced by housing-related allergens, and other housing-related preventable outcomes, to help advance primary prevention and prevent future deaths and other harms."

ADJUSTMENTS TO OPERATING FORMULA DUE TO IMPACT ON PUBLIC HOUSING REVENUES

Pub. L. 114–201, title I, §102(g)(1), July 29, 2016, 130 Stat. 791, provided that: "If the Secretary of Housing and Urban Development determines that the application of subsections (a) through (e) of this section [amending this section and section 1437f of this title] results in a material and disproportionate reduction in the rental income of certain public housing agencies during the first year in which such subsections are implemented, the Secretary may make appropriate adjustments in the formula income for such year of those agencies experiencing such a reduction."

TRANSITIONAL CEILING RENTS

Pub. L. 105–276, title V, §519(d), Oct. 21, 1998, 112 Stat. 2561, provided that: "Notwithstanding section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a[(a)](1)), during the period ending upon the later of the implementation of the formulas established pursuant to subsections (d)(2) and (e)(2) of [section 9 of] such Act [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:

"(1) NEW PROVISIONS.—An agency may—

"(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

"(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

"(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

"(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

"(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).

"(2) CEILING RENTS FROM BALANCED BUDGET ACT, I.—An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act [Oct. 21, 1998], notwithstanding any amendment to such section made by this Act.

"(3) TRANSITIONAL CEILING RENTS FOR BALANCED BUDGET ACT, I.—An agency may utilize the authority with respect to ceiling rents under section 402(b)(2) of The Balanced Budget Downpayment Act, I [Pub. L. 104–99] (42 U.S.C. 1437a note), notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section)."

CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION DISREGARDED IN DETERMINING ELIGIBILITY FOR AND AMOUNT OF NEED-BASED BENEFITS AND SERVICES

Pub. L. 103–286, §1, Aug. 1, 1994, 108 Stat. 1450, provided that:

"(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

"(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act [Aug. 1, 1994] with respect to payments referred to in subsection (a) made before, on, or after such date.

"(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act [Aug. 1, 1994] under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

"(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS

OR SERVICES DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

"(e) REPAYMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REPARATION PAYMENTS.—

"(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make payments to qualified individuals in the amount determined under paragraph (3).

"(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term 'qualified individual' means an individual who—

"(A) has received any payment because of the individual's status as a victim of Nazi persecution;

"(B) at any time during the period beginning on February 1, 1993 and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupant of the unit;

"(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

"(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

"(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

"(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

"(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

"(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such individual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

"(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 6-month period beginning on the date of receipt of such notice; and

"(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act [Aug. 1, 1994]."

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Pub. L. 102–550, title VI, §626, Oct. 28, 1992, 106 Stat. 3820, provided that: "The amendments made by this subtitle [subtitle B (§§621–626) of title VI of Pub. L. 102–550, amending this section and sections 1437c to 1437f, 1437l, 1437o, 1438, and 8013 of this title] shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

BUDGET COMPLIANCE

Pub. L. 101–625, title V, §573(e), Nov. 28, 1990, 104 Stat. 4237, provided that: "The amendments made by subsections (b) and (c) [amending this section] shall apply only to the extent approved in appropriations Acts."

MEDIAN AREA INCOME

Pub. L. 100–242, title V, §567, Feb. 5, 1988, 101 Stat. 1948, provided that: "For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

"(1) the median income of the county in which the area is located; or

"(2) the median income of the entire nonmetropolitan area of the State."

DETERMINATION OF RENT PAYABLE BY TENANTS OCCUPYING ASSISTED HOUSING; DELAYED APPLICATION OR STAGED IMPLEMENTATION OF AMENDED PROVISIONS

Pub. L. 98–181, title I [title II, §206(d)], Nov. 30, 1983, 97 Stat. 1180, provided that:

"(1) The following provisions of this paragraph apply to determinations of the rent to be paid by or the contribution required of a tenant occupying housing assisted under the authorities amended by this section [amending this section] or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 [amending sections 1437 to 1437d, 1437f, 1437g, 1437i, 1437j, and 1437l of this title and sections 1701s and 1715z–1 of Title 12, Banks and Banking, and repealing provisions set out as notes under this section and section 1701s of Title 12] (hereinafter referred to as 'assisted housing') on or before the effective date of regulations implementing this section:

"(A) Notwithstanding any other provision of this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, the Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') may provide for delayed applicability, or for staged implementation, of the procedures for determining rents or contributions, as appropriate, required by such provisions if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants.

"(B) The Secretary shall provide that the rent or contribution, as appropriate, required to be paid by a tenant shall not increase as a result of the amendments made by this section and subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, and as a result of any other provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such amendments, law, or regulation.

"(2) Tenants of assisted housing other than those referred to in paragraph (1) shall be subject to immediate rent payment or contribution determinations in accordance with applicable law and without regard to the provisions of paragraph (1), but the Secretary shall provide that the rent or contribution payable by any such tenant who is occupying assisted housing on the effective date of any provision of Federal law or regulation shall not increase, as a result of any such provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such law or regulation.

"(3) In the case of tenants receiving rental assistance under section 521(a)(1) of the Housing Act of 1949 [section 1490a(a)(1) of this title] on the effective date of this section [Nov. 30, 1983] whose assistance is converted to assistance under section 8 of the United States Housing Act of 1937 [section 1437f of this title] on or after such date, the Secretary shall provide that the rent or contribution payable by any such tenant shall not increase, as a result of such conversion, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such conversion or to any provision of Federal law or regulation.

"(4)(A) Notwithstanding any other provision of law, in the case of the conversion of any assistance under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z–1(f)(2)], or section 23 of the United States Housing Act of 1937 [section 1421b of this title] (as in effect before the date of the enactment of the Housing and Community Development Act of 1974 [Aug. 22, 1974]) to assistance under section 8 of the United States Housing Act of 1937, any increase in rent payments or contributions resulting from such conversion, and from the amendments made by this section of any tenant benefiting from such assistance who is sixty-two years of age or older may not exceed 10 per centum per annum.

"(B) In the case of any such conversion of assistance occurring on or after October 1, 1981, and before the date of the enactment of this section [Nov. 30, 1983], the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older on the date of such conversion shall be computed as if the tenant's rental payment or contribution had, on the date of conversion, been the lesser of the actual rental payment or contribution required, or 25 per centum of the tenant's income.

"(5) The limitations on increases in rent contained in paragraphs (1)(B), (2), (3), and (4) shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection.

"(6) As used in this subsection, the term 'contribution' means an amount representing 30 per centum of a tenant's monthly adjusted income, 10 per centum of the tenant's monthly income, or the designated amount of

welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant under section 3(a) of the United States Housing Act of 1937 [subsec. (a) of this section].

"(7) The provisions of subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of such amendments [Aug. 13, 1981], except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants."

Prior provisions for determining rent payable by tenants occupying assisted housing under and authorizing delayed application or staged implementation of provisions amended by section 322 of Pub. L. 97–35 were contained in Pub. L. 97–35, title III, §322(i), Aug. 13, 1981, 95 Stat. 404, which was repealed by Pub. L. 98–181, title I [title II, §206(e)], Nov. 30, 1983, 97 Stat. 1181.

ESTABLISHMENT OF INCREASED MONTHLY RENTAL CHARGE FOR FAMILY OCCUPYING LOW-INCOME HOUSING UNIT; ADJUSTMENT FACTORS

Pub. L. 93–383, title II, §202, Aug. 22, 1974, 88 Stat. 667, provided that: "To the extent that section 3(1) of the United States Housing Act of 1937, as amended by section 201(a) of this Act [par. (1) of this section], would require the establishment of an increased monthly rental charge for any family which occupies a low-income housing unit as of the effective date of such section 3(1) (other than by reason of the provisions relating to welfare assistance payments) [see Effective Date note set out above], the required adjustment shall be made, in accordance with regulations of the Secretary, as follows: (A) the first adjustment shall not exceed $5 and shall become effective as of the month following the month of the first review of the family's income pursuant to section 6(c)(2) of such Act [section 1437d(c)(2) of this title] which occurs at least six months after the effective date of such section 3(1), and (B) subsequent adjustments, each of which shall not exceed $5, shall be made at six-month intervals over whatever period is necessary to effect the full required increase in the family's rental charge."

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] See References in Text note below.

[2] So in original. Probably should be "or".

[3] So in original. Probably should be " 'extremely low-income families' ".

[4] So in original. Probably should be "assistance under".

[5] So in original. The comma probably should be a semicolon.

§1437a–1. Repealed. Pub. L. 105–276, title V, §582(a)(1), Oct. 21, 1998, 112 Stat. 2643

Section, Pub. L. 101–625, title V, §519, Nov. 28, 1990, 104 Stat. 4202, authorized public housing rent waiver for police officers. See section 1437a(a)(4) of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1437b. Loans and commitments to make loans for low-income housing projects

(a) Authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency

The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) Issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of the Treasury

The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(c) Public and Indian housing financing reforms

(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

(2)(A) On April 7, 1986, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(B) On September 30, 1986, and on any subsequent September 30, each such note or other

obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

(Sept. 1, 1937, ch. 896, title I, §4, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 656; amended Pub. L. 97–35, title III, §322(c), Aug. 13, 1981, 95 Stat. 402; Pub. L. 98–479, title II, §203(b)(1), Oct. 17, 1984, 98 Stat. 2229; Pub. L. 99–272, title III, §3004, Apr. 7, 1986, 100 Stat. 102; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, §572(2), Nov. 28, 1990, 104 Stat. 4236.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 4 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, provided for assistance of officers, etc., of other agencies and transfer of property to the Authority and was classified to section 1404 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–625 substituted "low-income housing" for "lower income housing" wherever appearing.

1986—Subsec. (c). Pub. L. 99–272 added subsec. (c).

1984—Subsec. (b). Pub. L. 98–479 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended" and "such chapter" for "such Act".

1981—Subsec. (a). Pub. L. 97–35 substituted reference to lower income for reference to low-income in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

CARRYOVER OF AMOUNTS OF BUDGET AUTHORITY; AVAILABILITY AS APPROPRIATION OF FUNDS FOR GRANTS

Pub. L. 99–500, §101(g) [H.R. 5313, title I], Oct. 18, 1986, 100 Stat. 1783–242, and Pub. L. 99–591, §101(g) [H.R. 5313, title I], Oct. 30, 1986, 100 Stat. 3341–242; Pub. L. 100–202, §106, Dec. 22, 1987, 101 Stat. 1329–433, provided in part: "That the budget authority obligated under contracts for annual contributions shall be increased above amounts heretofore provided in appropriations Acts by $7,805,668,000: *Provided further*, That any part of the amount of the increase in budget authority provided for in the immediately foregoing proviso that is available under this Act for public housing development and acquisition costs or which is to be used for amendments for such costs, shall be available as an appropriation of funds, to remain available until expended, for grants, which are hereby authorized in lieu of loans under section 4(a) of the United States Housing Act of 1937 (42 U.S.C. 1437b), and which the Secretary may make on substantially the same terms (except for repayment unless repayment is a properly imposed sanction) as those heretofore set forth in annual contributions contracts for loans and annual contributions: *Provided further*, That during 1987 and thereafter, any amounts of budget authority which are carried over from a prior year, or which are otherwise available for obligation, and which are available for public housing development and acquisition costs, together with any amounts of budget authority which are to be used for amendments for such costs, in accordance with any Act, shall also be made available as an appropriation of funds for grants, under the same terms as those applying under the immediately preceding proviso".

§1437c. Contributions for low-income housing projects

(a) Contract authorization; amounts; use as security for obligations of public housing agency; use of existing structures

(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for low-income housing use and obtained in the local market.

(b) Maximum amount of contributions; regulations; criteria for rates of contribution

The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c) Limitation on aggregate contractual contributions; contracts for preliminary loans; payments of annual contributions; limitations on specific authorities

(1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980, and by $906,985,000 on October 1, 1981. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, and $18,087,370,000 with respect to the additional authority provided on October 1, 1981.

(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this chapter when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 1437b(b) of this title (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of public housing development authority for use under section 1437g of this title or for use for the acquisition and rehabilitation of property to be used in public housing, if the public housing agency, after consultation with the unit of local government, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

(6) The aggregate amount of budget authority which may be obligated for contracts for annual contributions and for grants under section 1437o of this title is increased by $9,912,928,000 on October 1, 1983, and by such sums as may be approved in appropriation Acts on October 1, 1984. The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 1437f of this title, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $7,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.

(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

(ii) for assistance under section 1437f of this title, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 1437f(i)(2) of this title; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 1437f(o) of this title;

(iii) for comprehensive improvement assistance grants under section 1437l(k) of this title, not more than $3,100,000,000;

(iv) for assistance under section 1437f of this title for property disposition, not more than $93,032,000;

(v) for assistance under section 1437f of this title for loan management, not more than $202,000,000;

(vi) for extensions of contracts expiring under section 1437f of this title, not more than $6,746,135,000, which shall be for 5-year contracts for assistance under section 1437f of this title and for loan management assistance under such section;

(vii) for amendments to contracts under section 1437f of this title, not more than $1,350,000,000;

(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

(ix) for conversions from leased housing contracts under section 1421b of this title (as in effect immediately before August 22, 1974) to assistance under section 1437f of this title, not more than $12,767,000; and

(x) for grants under section 1437v of this title for revitalization of severely distressed public housing, not more than $300,000,000.

(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

(ii) for assistance under section 1437f of this title, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 1437f(i)(2) of this title; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 1437f(o) of this title;

(iii) for comprehensive improvement assistance grants under section 1437l(k) of this title, not more than $3,230,200,000;

(iv) for assistance under section 1437f of this title for property disposition, not more than $96,939,344;

(v) for assistance under section 1437f of this title for loan management, not more than $210,484,000;

(vi) for extensions of contracts expiring under section 1437f of this title, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 1437f of this title and for loan management assistance under such section;

(vii) for amendments to contracts under section 1437f of this title, not more than $1,406,700,000;

(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

(ix) for conversions from leased housing contracts under section 1421b of this title (as in effect immediately before August 22, 1974) to assistance under section 1437f of this title, not more than $13,303,214; and

(x) for grants under section 1437v of this title for revitalization of severely distressed public housing, not more than $312,600,000.

(C)(i) Any amount available for the conversion of a project to assistance under section 1437f(b)(1) of this title, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title.

(ii) Any amount available for assistance under section 1437f of this title for property disposition, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title.

(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.

(d) Scope of contracts for loans or annual contributions

Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this chapter and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions; notice

In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this chapter unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this chapter; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this subchapter available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law).

(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or supersedure of contracts for annual contributions or loans

Subject to the specific limitations or standards in this chapter governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception

In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h) Audits

(1) By Secretary and Comptroller General

Each contract for contributions for any assistance under this chapter to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this chapter and to its operations with respect to financial assistance under the this [1] chapter.

(2) Withholding of amounts for audits under Single Audit Act

The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of an audit required under chapter 75 of title 31. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this chapter, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the

reasonable costs of accounting services necessary to place the agency's books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.

(i) Prohibition on use of funds

None of the funds made available to the Department of Housing and Urban Development to carry out this chapter, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

(Sept. 1, 1937, ch. 896, title I, §5, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 656; amended Pub. L. 94–375, §2(a), (b), Aug. 3, 1976, 90 Stat. 1067; Pub. L. 95–24, title I, §101(a), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, §201(a), (b), Oct. 12, 1977, 91 Stat. 1128; Pub. L. 95–557, title II, §206(a), (b), Oct. 31, 1978, 92 Stat. 2091; Pub. L. 95–619, title II, §251(a), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96–153, title II, §201(a), (b), Dec. 21, 1979, 93 Stat. 1105; Pub. L. 96–399, title II, §§201(a), 210, Oct. 8, 1980, 94 Stat. 1624, 1636; Pub. L. 97–35, title III, §§321(a)–(c), 322(c), Aug. 13, 1981, 95 Stat. 398, 402; Pub. L. 98–181, title I [title II, §201(b)], Nov. 30, 1983, 97 Stat. 1176; Pub. L. 100–242, title I, §§101, 112(a), (b)(1), 113–115, Feb. 5, 1988, 101 Stat. 1820, 1823–1825; renumbered title I and amended Pub. L. 100–358, §§3, 5, June 29, 1988, 102 Stat. 680, 681; Pub. L. 101–625, title IV, §417(a), title V, §§571, 572(2), Nov. 28, 1990, 104 Stat. 4161, 4235, 4236; Pub. L. 102–550, title I, §§101, 111(a), title VI, §624, Oct. 28, 1992, 106 Stat. 3681, 3687, 3819; Pub. L. 104–19, title I, §1002(c), July 27, 1995, 109 Stat. 236; Pub. L. 104–330, title V, §501(b)(2), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §§510, 518(a)(1), (b), 522(b)(1), 566, Oct. 21, 1998, 112 Stat. 2531, 2551, 2564, 2632.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437o of this title, referred to in subsec. (c)(6), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 1437l of this title, referred to in subsec. (c)(7)(A)(iii), (B)(iii), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 1421b of this title, referred to in subsec. (c)(7)(A)(ix), (B)(ix), was omitted in the general revision of this chapter by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

The Single Audit Act, referred to in subsec. (h)(2) heading, probably means the Single Audit Act of 1984, Pub. L. 98–502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§7501 et seq.) of Title 31, Money and Finance, and provisions set out as notes under section 7501 of Title 31. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 5 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, enumerated miscellaneous powers and functions of the Authority and was classified to section 1405 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Subsec. (c)(5). Pub. L. 105–276, §522(b)(1), substituted "for use under section 1437g of this title" for "for use under section 1437l of this title".

Subsec. (e)(2). Pub. L. 105–276, §518(b), inserted before period at end "; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this subchapter available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit

of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law)".

Subsec. (h). Pub. L. 105–276, §566, added subsec. (h).

Pub. L. 105–276, §518(a)(1)(A), struck out subsec. (h) which read as follows: "Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its lower income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section."

Subsec. (i). Pub. L. 105–276, §518(a)(1), redesignated subsec. (l) as (i) and struck out former subsec. (i) which read as follows: "In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 1437f of this title), the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system."

Subsecs. (j), (k). Pub. L. 105–276, §518(a)(1)(A), struck out subsecs. (j) and (k), which had: in subsec. (j), placed conditions upon reservation of funds for development of public housing after Sept. 30, 1987, and placed limitations on amounts used for redesign, reconstruction, redevelopment, or operational improvement of existing projects, but directed that not less than 5 percent of certain amounts appropriated in fiscal years 1993 and 1994 be reserved for public housing projects designated for elderly or disabled families; and in subsec. (k), prohibited recapture of amounts of public housing development funds reserved to a public housing agency for failure to begin construction or rehabilitation, or to complete acquisition, during 30-month period following date of reservation.

Subsec. (l). Pub. L. 105–276, §518(a)(1)(B), redesignated subsec. (l) as (i).

Pub. L. 105–276, §510, added subsec. (l).

1996—Subsec. (j)(1). Pub. L. 104–330, §501(b)(2)(A), struck out "(other than for Indian families)" after "for public housing" in introductory provisions.

Subsec. (l). Pub. L. 104–330, §501(b)(2)(B), struck out subsec. (l) which read as follows: "The Secretary may not use as a criterion for distributing assistance under this section the progress made by an Indian public housing agency in collecting rents owed by tenants unless—

"(1) such criterion is used as 1 of several criteria that are weighted proportionally and is established by regulations issued after public notice and opportunity to comment in accordance with section 553 of title 5; or

"(2) the Secretary determines that the Indian public housing agency has demonstrated a pattern of substantial noncompliance with requirements governing the collection of rents."

1995—Subsec. (h). Pub. L. 104–19 struck out at end "Any such sale shall be subject to the restrictions contained in section 1437aaa–3(g) of this title."

1992—Subsec. (c)(6). Pub. L. 102–550, §101(a), inserted at end "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993."

Subsec. (c)(7)(A), (B). Pub. L. 102–550, §101(b), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which directed Secretary to reserve authority to enter into certain obligations aggregating specified amounts using par. (6) budget authority and balances of such authority available in fiscal years 1991 and 1992.

Subsec. (j)(1)(D). Pub. L. 102–550, §624(c)(1), which directed the striking of "and" at end, was executed by striking "or" at end to reflect the probable intent of Congress.

Subsec. (j)(1)(E). Pub. L. 102–550, §624(c)(3), which directed amendment of subsec. (j)(1) by adding at the end a new subpar. (E), was executed by adding subsec. (E) after subpar. (D) to reflect the probable intent of Congress. Former subpar. (E) redesignated (F).

Subsec. (j)(1)(F). Pub. L. 102–550, §624(c)(2), redesignated subpar. (E) as (F).

Subsec. (j)(2). Pub. L. 102–550, §624(a), added subpar. (G).

Pub. L. 102–550, §111(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Notwithstanding any other provision of law, not more than 20 percent of the funds appropriated for development of public housing also may be committed by the Secretary for the substantial redesign, reconstruction, or redevelopment of existing public housing projects or units, which work shall be carried out pursuant to the rules and regulations applicable to the development of public housing."

Subsec. (j)(3). Pub. L. 102–550, §624(b), added par. (3).

1990—Subsec. (a)(3). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income

housing".

Subsec. (c)(6). Pub. L. 101–625, §571(a), inserted at end "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991."

Subsec. (c)(7)(A), (B). Pub. L. 101–625, §571(b), amended subpars. (A) and (B) generally, substituting present provisions for provisions directing Secretary to reserve authority to enter into certain obligations aggregating specified amounts using par. (6) budget authority and balances of such authority available in fiscal years 1988 and 1989.

Subsecs. (d), (e). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Subsec. (h). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing".

Pub. L. 101–625, §417(a), inserted at end "Any such sale shall be subject to the restrictions contained in section 1437aaa–3(g) of this title."

1988—Pub. L. 100–242, §112(b)(1)(A), substituted "Contributions" for "Annual contributions" in section catchline.

Subsec. (a). Pub. L. 100–242, §112(a), amended subsec. (a) generally, revising and restating as pars. (1) to (3) provisions formerly contained in a single unnumbered par.

Subsec. (c)(6). Pub. L. 100–242, §101(a), inserted sentence at end providing for increases on Oct. 1, 1987, and Oct. 1, 1988, of aggregate amount of budget authority that may be obligated for specified purposes.

Subsec. (c)(7). Pub. L. 100–242, §101(b), amended par. (7) generally, substituting provisions relating to Secretary's authority to enter into obligations under this section for fiscal years 1988 and 1989, for provisions relating to Secretary's authority for fiscal years 1984 and 1985 and substituting provisions whereby amounts available for conversion of project to assistance under section 1437f(b)(1) of this title and amounts available for assistance under section 1437f for property disposition, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title, for provisions wherein specific authorities under this paragraph would be subject to adjustments under par. (5) of this subsection.

Subsec. (c)(8). Pub. L. 100–358, §3, added par. (8).

Subsec. (e)(2). Pub. L. 100–242, §112(b)(1)(B), struck out "annual" before "contributions".

Subsecs. (j) to (l). Pub. L. 100–242, §§113–115, added subsecs. (j) to (l).

1983—Subsec. (c)(1). Pub. L. 98–181, §201(b)(1), struck out concluding provision requiring the Secretary, in utilizing the additional authority to enter into contracts on and after Oct. 1, 1980, to administer the authorized programs to provide assistance, to the maximum extent practicable, consistent with section 1439(d) of this title.

Subsec. (c)(2). Pub. L. 98–181, §201(b)(2), redesignated par. (4) as (2), and struck out former par. (2) which from funds made available on Oct. 1, 1980, had required at least $100,000,000 be available for section 1437l projects, and from remaining difference limited use of funds to 37.5 and 62.5 per centum for existing section 1437f projects and for newly constructed and substantially rehabilitated units.

Subsec. (c)(3). Pub. L. 98–181, §201(b)(2), redesignated par. (5) as (3), and struck out former par. (3) which from funds made available on Oct. 1, 1981, had required at least $75,000,000 be available for section 1437l projects, from remaining difference allocated sums as provided in section 1439(d) for different community and area uses, and from remaining difference required the accommodation of preferences of units of local government based on stated factors.

Subsec. (c)(4). Pub. L. 98–181, §201(b)(2), redesignated par. (6) as (4). Former par. (4) redesignated (2).

Subsec. (c)(5) to (7). Pub. L. 98–181, §201(b)(3), added pars. (5) to (7). Former pars. (5) and (6) redesignated (3) and (4), respectively.

1981—Subsec. (a). Pub. L. 97–35, §322(c), substituted references to lower income for references to low-income wherever appearing.

Subsec. (c). Pub. L. 97–35, §321(a)–(c), in par. (1) inserted provisions relating to increases on Oct. 1, 1981, and amount respecting additional authority as of Oct. 1, 1981, added par. (3), and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsecs. (d) to (f), (h). Pub. L. 97–35, §322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (c). Pub. L. 96–399, §201(a), redesignated existing provisions as par. (1), among other changes, substituted provisions relating to the discretionary power of the Secretary to enter into contracts for annual contributions for provisions authorizing the Secretary to enter into such contracts, deleted references to contributions for assistance to Indian tribes, and added pars. (2) to (5).

Subsec. (i). Pub. L. 96–399, §210, added subsec. (i).

1979—Subsec. (c). Pub. L. 96–153 authorized increase in aggregate contractual contributions by

$1,140,661,000 on Oct. 1, 1979, and inserted requirements that out of such additional authority not more than $195,053,000 be authorized to be approved in appropriation acts for units assisted under this chapter other than under section 1437f of this title and that not less than $50,000,000 of the later amount be authorized to be approved for modernization of the units.

1978—Subsec. (c). Pub. L. 95–619 authorized the Secretary to enter into annual contribution contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvement in existing low-income housing projects which the Secretary determined had the greatest need for such improvements.

Pub. L. 95–557 inserted "and by $1,195,043,000 on October 1, 1978" after "October 1, 1977", "and on and after October 1, 1978" after "October 1, 1976" and "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects" after "pursuant to section 5304(a)(4) of this title", and struck out provisions after "only such amounts as may be approved in appropriations Acts" mandating that of the additional authority to enter into contracts provided on October 1, 1976, at least $60,000,000 be made available for modernization of low-income housing projects and at least $140,000,000 to assist in financing low-income housing projects for ownership by public housing agencies other than under section 1437f, of which not less than $100,000,000 shall be available only for the purpose of financing the construction or rehabilitation of low-income housing projects, and provision after "plans prepared pursuant to section 5304(a)(4) of this title" mandating that of the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1977, not less than $42,500,000 shall be made available for low-income housing projects, not less than $197,139,200 for low-income housing projects permanently financed by loans from State housing finance or State development agencies, and not less than $120,000,000 for low-income housing projects permanently financed by loans pursuant to section 1701q of title 12.

1977—Subsec. (c). Pub. L. 95–128 authorized increase in aggregate contractual contributions by $1,159,995,000 on Oct. 1, 1977, and required the Secretary to make available therefrom minimum amounts of $42,500,000 for modernization of low-income housing projects, $197,139,200 for such projects financed by loans from State housing finance or State development agencies, and $120,000,000 for such projects financed by loans pursuant to section 1701q of title 12.

Pub. L. 95–24 substituted "and by $1,228,050,000 on October 1, 1976" for "and by $850,000,000 on October 1, 1976".

1976—Subsec. (c). Pub. L. 94–375 substituted "$1,524,000,000 per annum, which limit shall be increased by $965,000,000 on July 1, 1974, by $662,300,000 on July 1, 1975, and by $850,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts" for "$1,199,250,000 per annum, which limit shall be increased by $225,000,000 on July 1, 1971, by $150,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $965,000,000 on July 1, 1974", provision requiring the Secretary make available a total of at least $200,000,000 for modernization and financing of low-income housing projects under the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1976, for provision which required the Secretary to enter into contracts for annual contributions of at least $150,000,000 to assist in financing the development or acquisition cost of low-income housing projects, inserted "and by not less than $17,000,000 per annum on October 1, 1976," after "not less than $15,000,000 per annum, on July 1, 1975", and struck out "to the amounts of contracts for annual contributions required to be entered into by the Secretary under the second sentence of this subsection" after "In addition".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104–19, title I, §1002(d), July 27, 1995, 109 Stat. 236, as amended by Pub. L. 104–134, title I,

§101(e) [title II, §201(b)(1)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–204, title II, §201(b), Sept. 26, 1996, 110 Stat. 2892; Pub. L. 105–65, title II, §201(a), Oct. 27, 1997, 111 Stat. 1364, provided that: Subsections (a), (b), and (c) [amending this section and sections 1437p and 1437aaa–3 of this title] shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and on or before September 30, 1998."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title IV, §417(b), Nov. 28, 1990, 104 Stat. 4161, provided that: "The amendment made by subsection (a) [amending this section] shall not apply to applications submitted under section 5(h) of the United States Housing Act of 1937 [subsec. (h) of this section] prior to October 1, 1990."

EFFECTIVE DATE OF 1988 AMENDMENT

For date on which Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with amendment by Pub. L. 100–358, see section 6 of Pub. L. 100–358, set out as a note under section 1437a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–557, title II, §206(h), Oct. 31, 1978, 92 Stat. 2093, provided that: "The amendments made by this section [amending this section and sections 1437a, 1437f, and 1437g of this title], except the amendment made by subsection (d) [amending section 1437f of this title], shall become effective on October 1, 1978."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–375, §2(b)(1), (2), Aug. 3, 1976, 90 Stat. 1067, provided that the amendment of subsec. (c), which required the Secretary to make available a total of $200,000,000 for modernization and financing of low-income housing and which struck out reference to the amount of contracts the Secretary was required to enter into under the second sentence of this subsection, is effective Oct. 1, 1976.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of this section shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

REGULATIONS

Pub. L. 102–550, title I, §111(c), Oct. 28, 1992, 106 Stat. 3689, provided that: "The Secretary shall issue regulations necessary to carry out the amendments made by this section [amending this section and sections 1437l and 1437p of this title] as provided under section 191 of this Act [42 U.S.C. 1437a note]."

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 624 of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

INCREASE IN BUDGET AUTHORITY FOR CERTIFICATE AND VOUCHER PROGRAMS FOR DISASTER RELIEF

Pub. L. 101–625, title IX, §931, Nov. 28, 1990, 104 Stat. 4403, as amended by Pub. L. 105–276, title V, §550(c), Oct. 21, 1998, 112 Stat. 2609, provided that: "The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for tenant-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] is authorized to be increased in any fiscal year in which

a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards."

INCREASE IN BUDGET AUTHORITY FOR MODERATE REHABILITATION PROGRAM FOR DISASTER RELIEF

Pub. L. 101–625, title IX, §932, Nov. 28, 1990, 104 Stat. 4403, provided that: "The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act [42 U.S.C. 1437f(e)(2)] is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards."

[1] *So in original.*

§1437c–1. Public housing agency plans

(a) 5-year plan

(1) In general

Subject to paragraph (3), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

(2) Statement of goals

The 5-year plan shall include a statement by any public housing agency of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

(3) Initial plan

The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this chapter.

(b) Annual plan

(1) In general

Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 1437f(o) or 1437g of this title.

(2) Updates

For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

(3) Exemption of certain PHAs from filing requirement

(A) In general

Notwithstanding paragraph (1) or any other provision of this chapter—

(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a "public housing agency" shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

(B) Civil rights certification

Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting "the public housing program of the agency" for "the public housing agency plan".

(C) Definition

For purposes of this section, the term "qualified public housing agency" means a public housing agency that meets the following requirements:

(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 1437f(o) of this title administered by the agency, is 550 or fewer.

(ii) The agency is not designated under section 1437d(j)(2) of this title as a troubled public housing agency, and does not have a failing score under the section 8 [42 U.S.C. 1437f] Management Assessment Program during the prior 12 months.

(c) Procedures

(1) In general

The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

(2) Contents

The procedures established under paragraph (1) shall provide that a public housing agency shall—

(A) in developing the plan consult with the resident advisory board established under subsection (e); and

(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.], and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) Contents

An annual public housing agency plan under subsection (b) for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this chapter is to be made available:

(1) Needs

A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled

families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

(2) Financial resources

A statement of financial resources available to the agency and the planned uses of those resources.

(3) Eligibility, selection, and admissions policies

A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 1437f(o) of this title, including—

(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 1437d(r) of this title; and

(B) the admissions policy under section 1437n(a)(3)(B) of this title for deconcentration of lower-income families.

(4) Rent determination

A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 1437f(o) of this title.

(5) Operation and management

A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

(6) Grievance procedure

A statement of the grievance procedures of the public housing agency.

(7) Capital improvements

With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

(8) Demolition and disposition

With respect to public housing projects owned by the public housing agency—

(A) a description of any housing for which the PHA will apply for demolition or disposition under section 1437p of this title; and

(B) a timetable for the demolition or disposition.

(9) Designation of housing for elderly and disabled families

With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 1437e of this title.

(10) Conversion of public housing

With respect to public housing owned by a public housing agency—

(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 1437z–5 of this title or that the public housing agency plans to voluntarily convert under section 1437t of this title;

(B) an analysis of the projects or buildings required to be converted under section 1437z–5 of this title; and

(C) a statement of the amount of assistance received under this chapter to be used for rental

assistance or other housing assistance in connection with such conversion.

(11) Homeownership

A description of any homeownership programs of the agency under section 1437f(y) of this title or for which the public housing agency has applied or will apply for approval under section 1437z–4 of this title.

(12) Community service and self-sufficiency

A description of—

(A) any programs relating to services and amenities provided or offered to assisted families;

(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;

(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 1437j of this title (relating to community service and treatment of income changes resulting from welfare program requirements).

(13) Domestic violence, dating violence, sexual assault, or stalking programs

A description of—

(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

(B) any activities, services, or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

(14) Safety and crime prevention

A plan established by the public housing agency, which shall be subject to the following requirements:

(A) Safety measures

The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.

(B) Establishment

The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.

(C) Content

The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.

(D) Secretarial action

If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

(15) Pets

The requirements of the agency, pursuant to section 1437z–3 of this title, relating to pet ownership in public housing.

(16) Civil rights certification

A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and title II of the Americans with Disabilities Act of 1990 [42 U.S.C. 12131 et seq.], and will affirmatively further fair housing.

(17) Annual audit

The results of the most recent fiscal year audit of the public housing agency under section 1437c(h)(2) of this title.

(18) Asset management

A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(19) Other

Any other information required by law to be included in a public housing agency plan.

(e) Resident advisory board

(1) In general

Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

(2) Functions

Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

(3) Waiver

The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—

(A) adequately represent the interests of the residents of the public housing agency; and

(B) have the ability to perform the functions described in paragraph (2).

(4) Qualified public housing agencies

(A) In general

Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

(B) Applicability of waiver authority

Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting "the functions described in the second sentence of paragraph (4)(A)" for "the

functions described in paragraph (2)".

(f) Public hearings

(1) In general

In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

(2) Availability of information and notice

Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(B) publish a notice informing the public that—

(i) that [1] the information is available as required under subparagraph (A); and

(ii) that [1] a public hearing under paragraph (1) will be conducted.

(3) Adoption of plan

A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

(A) conducting a public hearing under paragraph (1);

(B) considering all public comments received; and

(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

(4) Advisory board consultation enforcement

Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4), the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

(5) Qualified public housing agencies

(A) Requirement

Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

(i) to discuss any changes to the goals, objectives, and policies of the agency; and

(ii) to invite public comment regarding such changes.

(B) Availability of information and notice

Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(ii) publish a notice informing the public that—

(I) the information is available as required under clause (i); and

(II) a public hearing under subparagraph (A) will be conducted.

(g) Amendments and modifications to plans

(1) In general

Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not—

(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i).

(2) Consistency and notice

Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

(A) meet the requirements under subsection (c)(2) (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

(B) be subject to the notice and public hearing requirements of subsection (f).

(h) Submission of plans

(1) Initial submission

Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

(2) Annual submission

Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

(i) Review and determination of compliance

(1) Review

Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

(A) set forth the information required by this section and this chapter to be contained in a public housing agency plan;

(B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.] for the jurisdiction in which the public housing agency is located; and

(C) are not prohibited by or inconsistent with any provision of this subchapter or other applicable law.

(2) Elements exempted from review

The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d).

(3) Disapproval

The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification)

do not comply with the requirements under subparagraph (A) through (C) of paragraph (1).

(4) Determination of compliance

(A) In general

Except as provided in subsection (j)(2), not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

(B) Failure to provide notice of disapproval

In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this chapter, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5 or an action regarding such compliance under section 1983 of this title.

(5) Public availability

A public housing agency shall make the approved plan of the agency available to the general public.

(j) Troubled and at-risk PHAs

(1) In general

The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 1437d(j)(2) of this title or is designated as troubled under section 1437d(j)(2) of this title, that the public housing agency plan for such agency include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis.

(2) Troubled agencies

The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 1437d(j)(2) of this title.

(k) Streamlined plan

In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 1437d(j)(2) of this title; and

(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

(l) Compliance with plan

(1) In general

In providing assistance under this subchapter, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

(2) Investigation and enforcement

In carrying out this subchapter, the Secretary shall—

(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

(Sept. 1, 1937, ch. 896, title I, §5A, as added Pub. L. 105–276, title V, §511(a), Oct. 21, 1998, 112 Stat. 2531; amended Pub. L. 109–162, title VI, §603, Jan. 5, 2006, 119 Stat. 3040; Pub. L. 110–289, div. B, title VII, §2702, July 30, 2008, 122 Stat. 2863.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (c)(2)(B) and (i)(1)(B), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title I of the Act is classified generally to subchapter I (§12701 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(16), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (d)(16), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (d)(16), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title II of the Act is classified generally to subchapter II (§12131 et seq.) of chapter 126 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–289, §2702(a), added par. (3).

Subsec. (e)(4). Pub. L. 110–289, §2702(b)(1), added par. (4).

Subsec. (f). Pub. L. 110–289, §2702(b)(1), inserted subsec. designation and heading.

Subsec. (f)(5). Pub. L. 110–289, §2702(b)(2), added par. (5).

2006—Subsec. (a)(1). Pub. L. 109–162, §603(1)(A), substituted "paragraph (3)" for "paragraph (2)".

Subsec. (a)(2), (3). Pub. L. 109–162, §603(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(13) to (19). Pub. L. 109–162, §603(2), (3), added par. (13) and redesignated former pars. (13) to (18) as (14) to (19), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–276, title V, §511(e), Oct. 21, 1998, 112 Stat. 2539, provided that: "This section [enacting this section, amending section 1437d of this title, and enacting provisions set out as notes under this section] shall take effect, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

REGULATIONS

Pub. L. 105–276, title V, §511(b), Oct. 21, 1998, 112 Stat. 2538, provided that:

"(1) INTERIM RULE.—Not later than 120 days after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall issue an interim rule to require the submission of an interim public housing agency plan by each public housing agency, as required by section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section). The interim rule shall provide for a public comment period of not less than 60 days.

"(2) FINAL REGULATIONS.—Not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall issue final regulations implementing section 5A of the United States Housing Act of

1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section).

"(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

"(A) seek recommendations on the implementation of section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by this [sic] subsection (a) of this section) from organizations representing—

"(i) State or local public housing agencies;

"(ii) residents, including resident management corporations; and

"(iii) other appropriate parties; and

"(B) convene not less than 2 public forums at which the persons or organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

The Secretary shall publish in the final rule a summary of the recommendations made and public comments received and the Department of Housing and Urban Development's response to such recommendations and comments."

AUDIT AND REVIEW; REPORT

Pub. L. 105–276, title V, §511(c), Oct. 21, 1998, 112 Stat. 2538, provided that:

"(1) AUDIT AND REVIEW.—Not later than 1 year after the effective date of final regulations issued under subsection (b)(2) [set out as a note above], in order to determine the degree of compliance, by public housing agencies, with public housing agency plans approved under section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section), the Comptroller General of the United States shall conduct—

"(A) a review of a representative sample of the public housing agency plans approved under such section 5A before such date; and

"(B) an audit and review of the public housing agencies submitting such plans.

"(2) REPORT.—Not later than 2 years after the date on which public housing agency plans are initially required to be submitted under section 5A of the United States Housing Act of 1937 [42 U.S.C. 1437c–1] (as added by subsection (a) of this section) the Comptroller General of the United States shall submit to the Congress a report, which shall include—

"(A) a description of the results of each audit and review under paragraph (1); and

"(B) any recommendations for increasing compliance by public housing agencies with their public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section)."

[1] *So in original. The word "that" probably should not appear.*

§1437d. Contract provisions and requirements; loans and annual contributions

(a) Conditions; elevators

The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, in a manner consistent with the public housing agency plan. Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b) Limitation on development costs

(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this chapter may be based may not

exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.6; and

(B) in the case of nonelevator type structures, 1.75.

(3) In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are [1] authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.]; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders' overhead and profit, utilities from the street, and finish landscaping.

(c) Revision of maximum income limits; certification of compliance with requirements; notification of eligibility; informal hearing; compliance with procedures for sound management

Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this chapter;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and

collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

(E) for each agency that receives assistance under this subchapter, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and

(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(d) Exemption from personal and real property taxes; payments in lieu of taxes; cash contribution or tax remission

Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this chapter) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 1437c(e)(2) of this title, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

(e) Repealed. Pub. L. 105–276, title V, §529(2), Oct. 21, 1998, 112 Stat. 2569

(f) Housing quality requirements

(1) In general

Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

(2) Federal standards

The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 1437f(o)(8)(B)(i) of this title. The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

(3) Annual inspections

Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 1437c(h) of this title, shall make such results available.

(g) Substantial default; conveyance of title and delivery of possession; reconveyance and redelivery; payments for outstanding obligations

Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this chapter, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this chapter, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1) upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this chapter) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) New construction contracts

On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i), would be.

(i) Reserve fund; major repairs

The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j) Performance indicators for public housing agencies

(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indicators shall be established by rule under section 553 of title 5. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators for public housing agencies, to the extent practicable:

(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 1437g(d) of this title which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

(D) The utility consumption (with appropriate adjustments to reflect different regions and unit sizes).

(E) The average period of time that an agency requires to repair and turn-around vacant units.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

(H) The extent to which the public housing agency—

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I) [2] The extent to which the public housing agency—

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

(K) Any other factors as the Secretary deems appropriate which shall not exceed the seven factors in the statute, plus an additional five.

(I) [3] The Secretary shall:

(1) administer the system of evaluating public housing agencies flexibly to ensure that such agencies are not penalized as result of circumstances beyond their control;

(2) reflect in the weights assigned to the various indicators the differences in the difficulty of managing individual projects that result from their physical condition and their neighborhood environment; and

(3) determine a public housing agency's status as "troubled with respect to the program under section 1437l [4] of this title" based upon factors solely related to its ability to carry out that program.

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5,

establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units. The Secretary shall also designate, by rule under section 553 of title 5, agencies that are troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title.

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program for assistance from the Capital Fund under section 1437g(d) of this title), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any comparable and recent review, the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 1437l [4] of this title adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 1437v of this title.

(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the "assessment team") with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies.

(C) The Secretary shall seek to enter into an agreement with each troubled public housing agency, after reviewing the report submitted pursuant to subparagraph (B) (if applicable) and consulting with the agency's assessment team. Such agreement shall set forth—

(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency. The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D) The Secretary shall apply the provisions of this paragraph to resident management

corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection;

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available from the Capital Fund under section 1437g(d) of this title for the housing; and [5]

(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this subchapter; and

(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 1437f of this title for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and October 21, 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and October 21, 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or

entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 1437p of this title, including disposition by transfer of properties to resident-supported nonprofit entities;

(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 1437p of this title, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver

to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 1437f of this title. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this chapter and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.

(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this chapter, if the Secretary finds that a public housing agency receiving assistance amounts under section 1437g of this title for public housing has failed to comply substantially with any provision of this chapter relating to the public housing program, the Secretary may—

(i) terminate assistance payments under this [6] section 1437g of this title to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 1437g of this title;

(iii) reduce the amount of future assistance payments under section 1437g of this title to the agency by an amount equal to the amount of such payments that were not expended in accordance with this chapter;

(iv) limit the availability of assistance amounts provided to the agency under section 1437g of this title to programs, projects, or activities not affected by such failure to comply;

(v) withhold from the agency amounts allocated for the agency under section 1437f of this title; or

(vi) order other corrective action with respect to the agency.

(B) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—

(i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 1437g of this title to the agency in the full amount of the total allocations under section 1437g of this title for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this chapter relating to the public housing program;

(ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this chapter relating to such program;

(iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this chapter relating to such program; or

(iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this chapter relating to such program.

(5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 3536 of this title, a report that—

(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

(C) describes the agreements that have been entered into with such agencies under such paragraph;

(D) describes the status of progress under such agreements;

(E) describes any action that has been taken in accordance with paragraph (3), including an accounting of the authorized funds that have been expended to support such actions; and

(F) describes the status of any public housing agency designated as troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program.

(6)(A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 1437g of this title, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

(7) The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.

(k) Administrative grievance procedure regulations: grounds of adverse action, hearing, examination of documents, representation, evidence, decision; judicial hearing; eviction and termination procedures

The Secretary shall by regulation require each public housing agency receiving assistance under this chapter to establish and implement an administrative grievance procedure under which tenants will—

(1) be advised of the specific grounds of any proposed adverse public housing agency action;

(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (l);

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(l) Leases; terms and conditions; maintenance; termination

Each public housing agency shall utilize leases which—

(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 1437j(c) of this title (relating to community service requirements); except that nothing in this subchapter shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

(A) a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(7) [7] provide that any occupancy in violation of section 13661(b) of this title (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 13662 of this title (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy; [8]

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the

laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(2) [9] is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5),[4] the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21).

(m) Reporting requirements; limitation

The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies assisted under this chapter.

(n) Notice to post office regarding eviction for criminal activity

When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(o) Public housing assistance for foster care children

In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

(A) in the imminent placement of a child in foster care; or

(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.

(p) Repealed. Pub. L. 105–276, title V, §519(b), Oct. 21, 1998, 112 Stat. 2561

(q) Availability of records

(1) In general

(A) Provision of information

Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, covered housing assistance for purposes of applicant screening, lease enforcement, and eviction.

(B) Requests by owners of project-based section 8 [42 U.S.C. 1437f] housing

A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 1437f of this title only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(C) Exception

A law enforcement agency described in subparagraph (A) shall provide information under

this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) Opportunity to dispute

Before an adverse action is taken with regard to assistance under this subchapter on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) Fees

A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) Records management

Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed, once the purpose for which the record was requested has been accomplished.

(5) Confidentiality

A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6) Penalty

Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph include [10] an officer, employee, or authorized representative of any public housing agency.

(7) Civil action

Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(8) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Adult

The term "adult" means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) Covered housing assistance

The term "covered housing assistance" means—

(i) a dwelling unit in public housing;

(ii) a dwelling unit in housing that is provided project-based assistance under section 1437f of this title, including new construction and substantial rehabilitation projects; and

(iii) tenant-based assistance under section 1437f of this title.

(C) Owner

The term "owner" means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

(r) Site-based waiting lists

(1) Authority

A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], and other applicable civil rights laws.

(2) Notice

Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

(s) Authority to require access to criminal records

A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(t) Obtaining information from drug abuse treatment facilities

(1) Authority

Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) Confidentiality of applicant's records

(A) Limitation on information requested

In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) Records management

Each public housing agency that receives information under this subsection from a drug

abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act [42 U.S.C. 290dd–2];

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) Expiration of written consent

In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) Prohibition of discriminatory treatment of applicants

(A) Forms signed

A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) Circumstances of inquiry

A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) Fee permitted

A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) Disclosure permitted by treatment facilities

A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(6) Option to not request information

A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Drug abuse treatment facility

The term "drug abuse treatment facility" means an entity that—

(i) is—

(I) an identified unit within a general medical care facility; or

(II) an entity other than a general medical care facility; and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) Controlled substance

The term "controlled substance" has the meaning given the term in section 802 of title 21.

(C) Currently engaging in the illegal use of a controlled substance

The term "currently engaging in the illegal use of a controlled substance" means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant's illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) Effective date

This subsection shall take effect on October 21, 1998, and without the necessity of guidance from, or any regulation issued by, the Secretary.

(Sept. 1, 1937, ch. 896, title I, §6, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 659; amended Pub. L. 96–153, title II, §206(a), Dec. 21, 1979, 93 Stat. 1108; Pub. L. 96–399, title II, §§201(c), (e), 202(c), Oct. 8, 1980, 94 Stat. 1625, 1629; Pub. L. 97–35, title III, §322(c), (d), Aug. 13, 1981, 95 Stat. 402; Pub. L. 98–181, title I [title II, §§201(c), 203(a), 204, 205, 214(b)], Nov. 30, 1983, 97 Stat. 1177–1179, 1185; Pub. L. 98–479, title I, §102(b)(4), (5), title II, §204(b)(1), Oct. 17, 1984, 98 Stat. 2221, 2233; Pub. L. 99–160, title I, §101, Nov. 25, 1985, 99 Stat. 910; Pub. L. 100–242, title I, §§112(b)(2), 116, 170(d), Feb. 5, 1988, 101 Stat. 1824, 1826, 1867; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 100–628, title X, §§1001(b), 1014(a)(1), Nov. 7, 1988, 102 Stat. 3263, 3269; Pub. L. 100–690, title V, §5101, Nov. 18, 1988, 102 Stat. 4300; Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 846; Pub. L. 101–625, title V, §§501, 502(a), (c)(1), 503(a), (b), 504–506, 572, Nov. 28, 1990, 104 Stat. 4180, 4181, 4183–4185, 4236; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 756, 757; Pub. L. 102–550, title I, §§112, 113, title VI, §§622(b), 625(a)(2), 682(a), Oct. 28, 1992, 106 Stat. 3689, 3817, 3820, 3830; Pub. L. 103–233, title I, §101(c)(1), title III, §303, Apr. 11, 1994, 108 Stat. 357, 370; Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315; Pub. L. 104–99, title IV, §402(d)(1), (6)(A)(i), Jan. 26, 1996, 110 Stat. 41, 42; Pub. L. 104–120, §9(a)–(c), Mar. 28, 1996, 110 Stat. 836, 837; Pub. L. 104–193, title IX, §903(a)(1), Aug. 22, 1996, 110 Stat. 2348; Pub. L. 104–330, title V, §501(b)(3), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §§511(d), 512(b), 514(a)(1), (2)(A), 519(b), 520(b), 521, 525, 529, 530, 564, 565(a), 575, 576(d)(1), Oct. 21, 1998, 112 Stat. 2539, 2543, 2547, 2561, 2563, 2568, 2569, 2627, 2628, 2634, 2640; Pub. L. 109–162, title VI, §607, Jan. 5, 2006, 119 Stat. 3048; Pub. L. 109–271, §5(f), Aug. 12, 2006, 120 Stat. 761; Pub. L. 113–4, title VI, §601(b)(1), Mar. 7, 2013, 127 Stat. 107.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (b)(3)(A), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the "HOME Investments Partnership Act", is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(B), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsec. (c)(4)(F), is Pub. L.

102–550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§13601 et seq.) of chapter 135 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

Section 1437l of this title, referred to in subsec. (j)(1)(I)(3), (2)(B)(ii), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

Paragraph (5), referred to in the concluding provisions of subsec. (l), was redesignated as par. (6) by Pub. L. 105–276, title V, §512(b)(1), Oct. 21, 1998, 112 Stat. 2543.

The Civil Rights Act of 1964, referred to in subsec. (r)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (r)(1), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Public Health Service Act, referred to in subsec. (t)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

PRIOR PROVISIONS

A prior section 6 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, enumerated financial provisions applicable to the Authority and was classified to section 1406 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2013—Subsec. (c)(3) to (5). Pub. L. 113–4, §601(b)(1)(A), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking".

Subsec. (l)(5). Pub. L. 113–4, §601(b)(1)(B)(i), struck out ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence" before semicolon at end.

Subsec. (l)(6). Pub. L. 113–4, §601(b)(1)(B)(ii), struck out before semicolon at end "; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A) or any Federal, State, or local law to the contrary, a public housing agency may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be

construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (u). Pub. L. 113–4, §601(b)(1)(C), struck out subsec. (u) which related to certification that an individual is a victim of domestic violence, dating violence, or stalking and confidentiality of information provided to any public housing agency.

2006—Subsec. (c)(3) to (5). Pub. L. 109–162, §607(1), (2), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (l)(5). Pub. L. 109–162, §607(3), inserted ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence" before semicolon at end.

Subsec. (l)(6). Pub. L. 109–162, §607(4), inserted before semicolon at end "; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (l)(6)(B). Pub. L. 109–271, §5(f)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant;".

Subsec. (u). Pub. L. 109–162, §607(5), added subsec. (u).

Subsec. (u)(1)(A). Pub. L. 109–271, §5(f)(2)(A), substituted "the individual receives a request for such certification from the public housing agency" for "the public housing agency requests such certification".

Subsec. (u)(1)(B). Pub. L. 109–271, §5(f)(2)(B), substituted "the individual has received a request in writing for such certification from the public housing agency" for "the public housing agency has requested such certification in writing".

Subsec. (u)(3)(D)(ii). Pub. L. 109–271, §5(f)(2)(C), substituted "blood or marriage" for "blood and marriage".

1998—Subsec. (a). Pub. L. 105–276, §511(d), in first sentence, inserted ", in a manner consistent with the public housing agency plan" before the period at end and struck out after first sentence "Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children."

Subsec. (b)(3), (4). Pub. L. 105–276, §520(b), added pars. (3) and (4).

Subsec. (c)(4)(A). Pub. L. 105–276, §514(a)(1), amended subpar. (A) generally. For former text of subpar. (A), see 1996 Amendment note below.

Subsec. (c)(4)(E). Pub. L. 105–276, §529(1), substituted "for each agency that receives assistance under this subchapter" for "except in the case of agencies not receiving operating assistance under section 1437g of this title".

Subsec. (e). Pub. L. 105–276, §529(2), struck out subsec. (e) which read as follows: "Every contract for

annual contributions shall provide that whenever in any year the receipts of a public housing agency in connection with a low-income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes, which, in the determination of the Secretary, will effect a reduction in the amount of subsequent annual contributions."

Subsec. (f). Pub. L. 105–276, §530, added subsec. (f).

Subsec. (j)(1)(B). Pub. L. 105–276, §564(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: "The amount and percentage of funds obligated to the public housing agency under section 1437l of this title which remain unexpended after 3 years."

Subsec. (j)(1)(D). Pub. L. 105–276, §564(1)(B), substituted "utility" for "energy".

Subsec. (j)(1)(E). Pub. L. 105–276, §564(1)(C), which directed the transfer and insertion of subpar. (E) after subpar. (D), required no change in text.

Subsec. (j)(1)(H) to (K). Pub. L. 105–276, §564(1)(D), (E), added subpars. (H), (I), relating to extent to which agency implements and coordinates strategies, and (J), and redesignated former subpar. (H) as (K).

Subsec. (j)(2)(A)(i). Pub. L. 105–276, §564(2)(A), inserted after first sentence "Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units." and, in last sentence, substituted "for assistance from the Capital Fund under section 1437g(d) of this title" for "under section 1437l of this title".

Subsec. (j)(2)(A)(iii). Pub. L. 105–276, §564(2)(B), substituted "for assistance from the Capital Fund under section 1437g(d) of this title" for "under section 1437l of this title".

Subsec. (j)(2)(B)(i). Pub. L. 105–276, §564(2)(C), inserted "with more than 250 units" after "public housing agency" and substituted "comparable and recent review" for "review conducted under section 1437l(p) of this title".

Subsec. (j)(2)(C). Pub. L. 105–276, §564(2)(D), inserted "(if applicable)" after "subparagraph (B)" in first sentence.

Subsec. (j)(3)(A)(i). Pub. L. 105–276, §565(a)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: "solicit competitive proposals from other public housing agencies and private housing management agents (which may be selected by existing tenants through administrative procedures established by the Secretary) in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;".

Subsec. (j)(3)(A)(iii). Pub. L. 105–276, §565(a)(1)(B), substituted "from the Capital Fund under section 1437g(d) of this title" for "under section 1437l of this title".

Subsec. (j)(3)(A)(iv), (v). Pub. L. 105–276, §565(a)(1)(C), added cls. (iv) and (v) and struck out former cl. (iv) which read as follows: "require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part of, such housing."

Subsec. (j)(3)(B) to (H). Pub. L. 105–276, §565(a)(2), added subpars. (B) to (H) and struck out former subpars. (B) to (D) which read as follows:

"(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.

"(C) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this chapter and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(D) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject."

Subsec. (j)(4), (5). Pub. L. 105–276, §521, added par. (4) and redesignated former par. (4) as (5).

Subsec. (j)(5)(F). Pub. L. 105–276, §564(3), substituted "program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program." for "program under section 1437l of this title and specifies the amount of assistance the agency received under section 1437l of this title and any credits accumulated by the agency under section 1437l(k)(5)(D) of this title."

Subsec. (j)(6), (7). Pub. L. 105–276, §564(4), added pars. (6) and (7).

Subsec. (k). Pub. L. 105–276, §575(a), in first sentence of concluding provisions, inserted "violent or" before "drug-related" and "or any activity resulting in a felony conviction," after "on or off such premises,".

Subsec. (l)(1) to (3). Pub. L. 105–276, §512(b)(1), (3), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (l)(4). Pub. L. 105–276, §512(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (l)(4)(A). Pub. L. 105–276, §575(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "a reasonable time, but not to exceed 30 days, when the health or safety of other tenants or public housing agency employees is threatened;".

Subsec. (l)(4)(C). Pub. L. 105–276, §575(b)(1)(B), inserted ", except that if a State or local law provides for a shorter period of time, such shorter period shall apply" before semicolon at end.

Subsec. (l)(5), (6). Pub. L. 105–276, §512(b)(1), redesignated pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (l)(7). Pub. L. 105–276, §575(b)(4), added par. (7) relating to termination for illegal drug use and alcohol abuse.

Pub. L. 105–276, §575(b)(2), struck out "and" at end.

Pub. L. 105–276, §512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Pub. L. 105–276, §512(b)(1), redesignated par. (6) as (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (l)(9). Pub. L. 105–276, §512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Subsec. (o). Pub. L. 105–276, §514(a)(2)(A), substituted "In" for "Subject" and all that follows through ", in" in introductory provisions.

Subsec. (p). Pub. L. 105–276, §519(b), struck out subsec. (p) which read as follows: "With respect to amounts available for obligation on or after October 1, 1991, the criteria established under section 1439(d)(5)(B) of this title for any competition for assistance for new construction, acquisition, or acquisition and rehabilitation of public housing shall give preference to applications for housing to be located in a local market area that has an inadequate supply of housing available for use by very low-income families. The Secretary shall establish criteria for determining that the housing supply of a local market area is inadequate, which shall require—

> "(1)(A) information regarding housing market conditions showing that the supply of rental housing affordable by very low-income families is inadequate, taking into account vacancy rates in such housing and other market indicators; and
>
> "(B) evidence that significant numbers of families in the local market area holding certificates and vouchers under section 1437f of this title are experiencing significant difficulty in leasing housing meeting program and family-size requirements; or
>
> "(2) evidence that the proposed development would provide increased housing opportunities for minorities or address special housing needs."

Subsec. (q)(1)(A). Pub. L. 105–276, §575(c)(1)(A)(ii), which directed the substitution of "covered housing assistance" for "public housing", was executed by making the substitution in the second place that "public housing" appeared, to reflect the probable intent of Congress.

Pub. L. 105–276, §575(c)(1)(A)(i), substituted "subparagraph (C)" for "subparagraph (B)".

Subsec. (q)(1)(B), (C). Pub. L. 105–276, §575(c)(1)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (q)(3). Pub. L. 105–276, §575(c)(2), substituted "Fees" for "Fee" in heading and inserted at end "In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection."

Subsec. (q)(5) to (8). Pub. L. 105–276, §575(c)(3), (4), added pars. (5) to (8) and struck out heading and text of former par. (5). Text read as follows: "For purposes of this subsection, the term 'adult' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law."

Subsec. (r). Pub. L. 105–276, §576(d)(1), redesignated subsec. (s) as (r) and struck out heading and text of

former subsec. (r). Text read as follows: "Any tenant evicted from housing assisted under this subchapter by reason of drug-related criminal activity (as that term is defined in section 1437f(f) of this title) shall not be eligible for housing assistance under this subchapter during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist)."

Subsec. (s). Pub. L. 105–276, §576(d)(1)(B), redesignated subsec. (t) as (s). Former subsec. (s) redesignated (r).

Pub. L. 105–276, §525, added subsec. (s).

Subsec. (t). Pub. L. 105–276, §576(d)(1)(B), redesignated subsec. (u) as (t). Former subsec. (t) redesignated (s).

Pub. L. 105–276, §575(d), added subsec. (t).

Subsec. (u). Pub. L. 105–276, §576(d)(1)(B), redesignated subsec. (u) as (t).

Pub. L. 105–276, §575(e), added subsec. (u).

1996—Subsec. (b)(1). Pub. L. 104–330 struck out "and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988" after "operation of public housing".

Subsec. (c)(4)(A). Pub. L. 104–99, §402(d)(1), (f), temporarily amended subpar. (A) generally, substituting

"(A) the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;" for

"(A) except for projects or portions of projects designated for occupancy pursuant to section 1437e(a) of this title with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which—

"(i) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12) at the time they are seeking assistance under this chapter;

"(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting families that include one or more adult members who are employed; and (VI) achieving other objectives of national housing policy as affirmed by Congress; subclause (V) shall be effective only during fiscal year 1995;

"(iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

"(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems."

See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (k). Pub. L. 104–120, §9(a)(1), in concluding provisions, substituted "involves any activity" for "involves any criminal activity" and "on or off such premises" for "on or near such premises".

Subsec. (l)(5). Pub. L. 104–120, §9(a)(2), substituted "on or off such premises" for "on or near such premises".

Subsec. (l)(7). Pub. L. 104–193 added par. (7).

Subsec. (o). Pub. L. 104–99, §402(d)(6)(A)(i), (f), in introductory provisions, temporarily substituted "written system of preferences for selection established pursuant to" for "preference rules specified in". See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (q). Pub. L. 104–120, §9(b), added subsec. (q).

Subsec. (r). Pub. L. 104–120, §9(c), added subsec. (r).

1994—Subsec. (c)(4)(A)(i). Pub. L. 103–233, §101(c)(1), inserted "(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)" after "displaced".

Subsec. (c)(4)(A)(ii). Pub. L. 103–327 added subcl. (V), redesignated former subcl. (V) as (VI), and inserted "subclause (V) shall be effective only during fiscal year 1995;" after semicolon at end.

Subsec. (c)(4)(E). Pub. L. 103–233, §303, substituted "500 units" for "250 units".

1992—Subsec. (a). Pub. L. 102–550, §625(a)(2), substituted "elderly or disabled families" for "the elderly" in last sentence.

Subsec. (c)(4)(A). Pub. L. 102–550, §622(b), substituted "designated for occupancy pursuant to section 1437e(a) of this title" for "specifically designated for elderly families" in introductory provisions.

Subsec. (c)(4)(A)(i). Pub. L. 102–550, §112, substituted "50 percent" for "70 percent" after "not less than".

Subsec. (c)(4)(F). Pub. L. 102–550, §682(a), added subpar. (F).

Subsec. (j)(1). Pub. L. 102–550, §113(e)(1)(C), which directed the substitution of "indicators for public housing agencies, to the extent practicable:" for "indicators." in fourth sentence, was executed by making the substitution for "indicators:" to reflect the probable intent of Congress.

Pub. L. 102–550, §113(e)(1)(A), (B), in introductory provisions, inserted "and resident management corporations" before period in first sentence and after "agencies" in third sentence.

Subsec. (j)(2)(B). Pub. L. 102–550, §113(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (j)(2)(C). Pub. L. 102–550, §113(a)(1), (3), redesignated subpar. (B) as (C), substituted "agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team. Such agreement shall set forth" for "agency setting forth" in introductory provisions, and inserted "To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency." before "The Secretary and the public" in concluding provisions.

Subsec. (j)(2)(D). Pub. L. 102–550, §113(e)(2), added subpar. (D).

Subsec. (j)(3)(A). Pub. L. 102–550, §113(b)(5), inserted concluding provisions.

Subsec. (j)(3)(A)(i). Pub. L. 102–550, §113(b)(1), inserted "(which may be selected by existing tenants through administrative procedures established by the Secretary)" after "management agents".

Subsec. (j)(3)(A)(iii), (iv). Pub. L. 102–550, §113(b)(2)–(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (j)(3)(B) to (D). Pub. L. 102–550, §113(c), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (j)(4)(E). Pub. L. 102–550, §113(d), which directed the insertion of ", including an accounting of the authorized funds that have been expended to support such actions" before semicolon in par. (5)(E) of subsec. (j), was executed by making the insertion in par. (4)(E) to reflect the probable intent of Congress, because subsec. (j) does not contain a par. (5).

1991—Subsec. (j)(1)(H), (I). Pub. L. 102–139, which directed amendment of "Section 6(j)(1) of the Housing Act of 1937, 42 U.S.C. 1437d(j)(1) section 502(a) of the National Affordable Housing Act," by adding "which shall not exceed the seven factors in the statute, plus an additional five" at the end of subpar. (H) and by adding subpar. (I), requiring Secretary to administer evaluation system, reflect in weights assigned indicators, and determine status, was executed to subsec. (j)(1) of this section, which is section 6 of the United States Housing Act of 1937, to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 102–139 added subsec. (p).

1990—Subsec. (c)(4)(A). Pub. L. 101–625, §501, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of lower income and deprived families with serious social problems, but (i) this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available and shall not permit public housing agencies to select families for

residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in this subparagraph are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference;".

Subsec. (c)(4)(D). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families".

Subsec. (c)(4)(E). Pub. L. 101–625, §502(c)(1), added subpar. (E).

Subsecs. (d), (e). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Subsec. (j). Pub. L. 101–625, §502(a), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: "On or after October 1, 1983, in entering into commitments for the development of public housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms."

Subsec. (k). Pub. L. 101–625, §503(a), added concluding provisions and struck out former concluding provisions which read as follows: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process."

Subsec. (l)(5). Pub. L. 101–625, §504, amended par. (5) generally. Prior to amendment, par. (5) read as follows: "provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy."

Subsec. (l)(6). Pub. L. 101–625, §503(b), added par. (6).

Subsecs. (n), (o). Pub. L. 101–625, §§505, 506, added subsecs. (n) and (o).

1989—Subsec. (b). Pub. L. 101–144 added subsec. (b).

1988—Subsec. (a). Pub. L. 100–242, §170(d)(1), substituted "The Secretary" for "Secretary" at beginning.

Pub. L. 100–242, §112(b)(2), struck out "annual" before "contributions".

Subsec. (c). Pub. L. 100–242, §112(b)(2), struck out "annual" before "contributions" in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 100–628, §1014(a)(1), inserted cl. (i) designation after ", but" and added cl. (ii) before semicolon at end.

Pub. L. 100–628, §1001(b), inserted before semicolon at end "and shall not permit public housing agencies to select families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

Pub. L. 100–242, §170(d)(2), inserted ", are paying more than 50 percent of family income for rent," after "substandard housing", and struck out "or are paying more than 50 per centum of family income for rent" after "under this chapter".

Subsec. (d). Pub. L. 100–242, §112(b)(2), struck out "annual" before "contributions" in four places and before "shelter" in two places.

Subsec. (g). Pub. L. 100–242, §112(b)(2), struck out "annual" before "contributions" in introductory provisions.

Subsec. (h). Pub. L. 100–242, §116, inserted "in the neighborhood where the public housing agency determines the housing is needed" after "is" and "in such neighborhood" after "rehabilitation".

Subsec. (k)(4), (5). Pub. L. 100–242, §170(d)(3), substituted "their" for "his".

Subsec. (l). Pub. L. 100–690 added par. (5) and concluding provisions defining term "drug-related criminal activity" for purposes of par. (5).

1985—Subsec. (b). Pub. L. 99–160 struck out subsec. (b) which related to cost of construction and equipment of a project, and prototype costs.

1984—Subsec. (a). Pub. L. 98–479, §204(b)(1), substituted "covenants" for "convenants".

Subsec. (j). Pub. L. 98–479, §102(b)(4), inserted ", acquisition, or acquisition and rehabilitation" and substituted "families requiring three or more bedrooms" for "large families".

Subsec. (m). Pub. L. 98–479, §102(b)(5), substituted "housing" for "hearing".

1983—Subsec. (c)(4)(A). Pub. L. 98–181, §203(a), inserted "or are paying more than 50 per centum of family income for rent".

Subsec. (f). Pub. L. 98–181, §214(b), repealed subsec. (f) which provided for modification or closeout of

housing project.

Subsecs. (h) to (j). Pub. L. 98–181, §201(c), added subsecs. (h) to (j).

Subsecs. (k), (l). Pub. L. 98–181, §204, added subsecs. (k) and (l).

Subsec. (m). Pub. L. 98–181, §205, added subsec. (m).

1981—Subsec. (a). Pub. L. 97–35, §322(c), substituted reference to lower income for reference to low-income.

Subsec. (c). Pub. L. 97–35, §322(c), (d), substituted provision in par. (2) requiring review at least annually for provision requiring review at least within two year intervals, or shorter where deemed desirable, in par. (4)(A) "lower income and" for "low-income and", and in par. (4)(D) reference to lower income for reference to low-income.

Subsecs. (d), (e). Pub. L. 97–35, §322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (b). Pub. L. 96–399, §201(c), inserted exception relating to availability of prototype costs for projects to be located on Indian reservations or in Alaskan Native villages, and added cl. (8).

Subsec. (c)(4)(A). Pub. L. 96–399, §201(e), inserted exception relating to application of this clause to projects specifically designated for elderly families.

Subsec. (f). Pub. L. 96–399, §202(c), inserted "pursuant to section 1437l of this title" wherever appearing.

1979—Subsec. (c)(4)(A). Pub. L. 96–153 substituted "tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed" for "tenant selection criteria designed".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Amendment by section 511 of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 511(e) of Pub. L. 105–276, set out as a note under section 1437c–1 of this title.

Amendment by section 514(a)(1), (2)(A) of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 514(g) of Pub. L. 105–276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105–276, title V, §565(b), Oct. 21, 1998, 112 Stat. 2631, provided that: "The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) [amending this section] shall apply with respect to any action taken before, on, or after the effective date of this Act [probably means the general effective date for title V of Pub. L. 105–276 included in section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title] and shall apply to any receiver appointed for a public housing agency before the date of the enactment of this Act [Oct. 21, 1998]."

Pub. L. 105–276, title V, §565(e), Oct. 21, 1998, 112 Stat. 2632, provided that: "This section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Pub. L. 104–120, §13, Mar. 28, 1996, 110 Stat. 845, provided that:

"(a) APPLICABILITY.—This Act [enacting section 1490p–2 of this title, amending this section, sections 1437e, 1437n, 1479, 1485, 1490p–2, and 5308 of this title, and sections 1715z–20, 1715z–22, and 1721 of Title 12, Banks and Banking, and enacting provisions set out as notes under sections 1437f, 5305, and 12805 of this title and sections 1701 and 4101 of Title 12] and the amendments made by this Act shall be construed to have become effective on October 1, 1995.

"(b) IMPLEMENTATION.—The amendments made by sections 9 and 10 [amending this section and sections 1437e and 1437n of this title] shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue any such regulations."

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to

cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

IMPLEMENTATION

Pub. L. 105–276, title V, §565(d), Oct. 21, 1998, 112 Stat. 2632, provided that: "The Secretary may administer the amendments made by subsection (a) [amending this section] as necessary to ensure the efficient and effective initial implementation of this section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section]."

Pub. L. 101–625, title V, §502(c)(2), Nov. 28, 1990, 104 Stat. 4184, as amended by Pub. L. 102–550, title I, §130, Oct. 28, 1992, 106 Stat. 3712, provided that: "The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C) [amending this section], taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993 for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units."

REGULATIONS

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by section 101(c) of Pub. L. 103–233, see section 101(f) of Pub. L. 103–233, set out as a note under section 1701z–11 of Title 12, Banks and Banking.

Pub. L. 102–550, title I, §104, Oct. 28, 1992, 106 Stat. 3684, provided that: "Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section and section 1437f of this title]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance."

Pub. L. 101–625, title V, §503(c), Nov. 28, 1990, 104 Stat. 4185, provided that: "The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section [amending this section] not later than the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990] and shall issue final rules implementing the amendments not later than the expiration of the 180-day period beginning on the date of the enactment of this Act."

CONSTRUCTION

Pub. L. 113–4, title VI, §601(b)(3), Mar. 7, 2013, 127 Stat. 108, provided that: "Nothing in this Act [see Tables for classification], or the amendments made by this Act, shall be construed—

"(A) to limit the rights or remedies available to any person under section 6 or 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f), as in effect on the day before the date of enactment of this Act [Mar. 7, 2013];

"(B) to limit any right, remedy, or procedure otherwise available under any provision of part 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 966, 982, or 983 of title 24, Code of Federal Regulations, that—

"(i) was issued under the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 2960) [see Tables for classification] or an amendment made by that Act; and

"(ii) provides greater protection for victims of domestic violence, dating violence, sexual assault, and stalking than this Act; or

"(C) to disqualify an owner, manager, or other individual from participating in or receiving the benefits of the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986 [26

U.S.C. 42] because of noncompliance with the provisions of this Act."

SHARED WAITING LISTS

Pub. L. 115–174, title II, §209(e), May 24, 2018, 132 Stat. 1316, provided that: "Not later than 1 year after the date of enactment of this Act [May 24, 2018], the Secretary of Housing and Urban Development shall make available to interested public housing agencies and owners of multifamily properties receiving assistance from the Department of Housing and Urban Development 1 or more software programs that will facilitate the voluntary use of a shared waiting list by multiple public housing agencies or owners receiving assistance, and shall publish on the website of the Department of Housing and Urban Development procedural guidance for implementing shared waiting lists that includes information on how to obtain the software."

STUDY OF ALTERNATIVE METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES

Pub. L. 105–276, title V, §563, Oct. 21, 1998, 112 Stat. 2624, provided that:

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall provide under subsection (e) for a study to be conducted to determine the effectiveness of various alternative methods of evaluating the performance of public housing agencies and other providers of federally assisted housing.

"(b) PURPOSES.—The purposes of the study under this section shall be—

"(1) to identify and examine various methods of evaluating and improving the performance of public housing agencies in administering public housing and tenant-based rental assistance programs and of other providers of federally assisted housing, which are alternatives to oversight by the Department of Housing and Urban Development; and

"(2) to identify specific monitoring and oversight activities currently conducted by the Department of Housing and Urban Development and to evaluate whether such activities should be eliminated, expanded, modified, or transferred to other entities (including governmental and private entities) to increase accuracy and effectiveness and improve monitoring.

"(c) EVALUATION OF VARIOUS PERFORMANCE EVALUATION SYSTEMS.—To carry out the purposes under subsection (b), the study under this section shall identify, and analyze the advantages and disadvantages of various methods of regulating and evaluating the performance of public housing agencies and other providers of federally assisted housing, including the following methods:

"(1) CURRENT SYSTEM.—The system pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], including the methods and requirements under such system for reporting, auditing, reviewing, sanctioning, and monitoring of such agencies and housing providers and the public housing management assessment program pursuant to section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)].

"(2) ACCREDITATION MODELS.—Various models that are based upon accreditation of such agencies and housing providers, subject to the following requirements:

"(A) The study shall identify and analyze various models used in other industries and professions for accreditation and determine the extent of their applicability to the programs for public housing and federally assisted housing.

"(B) If any accreditation models are determined to be applicable to the public and federally assisted housing programs, the study shall identify appropriate goals, objectives, and procedures for an accreditation program for such agencies and housing providers.

"(C) The study shall evaluate the feasibility and merit of establishing an independent accreditation and evaluation entity to assist, supplement, or replace the role of the Department of Housing and Urban Development in assessing and monitoring the performance of such agencies and housing providers.

"(D) The study shall identify the necessary and appropriate roles and responsibilities of various entities that would be involved in an accreditation program, including the Department of Housing and Urban Development, the Inspector General of the Department, an accreditation entity, independent auditors and examiners, local entities, and public housing agencies.

"(E) The study shall estimate the costs involved in developing and maintaining such an independent accreditation program.

"(3) PERFORMANCE BASED MODELS.—Various performance-based models, including systems that establish performance goals or targets, assess the compliance with such goals or targets, and provide for incentives or sanctions based on performance relative to such goals or targets.

"(4) LOCAL REVIEW AND MONITORING MODELS.—Various models providing for local, resident, and community review and monitoring of such agencies and housing providers, including systems for review and monitoring by local and State governmental bodies and agencies.

"(5) PRIVATE MODELS.—Various models using private contractors for review and monitoring of such agencies and housing providers.

"(6) OTHER MODELS.—Various models of any other systems that may be more effective and efficient in regulating and evaluating such agencies and housing providers.

"(d) CONSULTATION.—The entity that, pursuant to subsection (e), carries out the study under this section shall, in carrying out the study, consult with individuals and organizations experienced in managing public housing, private real estate managers, representatives from State and local governments, residents of public housing, families and individuals receiving tenant-based assistance, the Secretary of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States.

"(e) CONTRACT TO CONDUCT STUDY.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into a contract, within 90 days of the enactment of this Act [Oct. 21, 1998], with a public or nonprofit private entity to conduct the study under this section, using amounts made available pursuant to subsection (g).

"(2) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—The Secretary shall request the National Academy of Public Administration to enter into the contract under paragraph (1) to conduct the study under this section. If such Academy declines to conduct the study, the Secretary shall carry out such paragraph through other public or nonprofit private entities, selected through a competitive process.

"(f) REPORT.—

"(1) INTERIM REPORT.—The Secretary shall ensure that, not later than the expiration of the 6-month period beginning on the date of the execution of the contract under subsection (e)(1), the entity conducting the study under this section submits to the Congress an interim report describing the actions taken to carry out the study, the actions to be taken to complete the study, and any findings and recommendations available at the time.

"(2) FINAL REPORT.—The Secretary shall ensure that—

"(A) not later than the expiration of the 12-month period beginning on the date of the execution of the contract under subsection (e)(1), the study required under this section is completed and a report describing the findings and recommendations as a result of the study is submitted to the Congress; and

"(B) before submitting the report under this paragraph to the Congress, the report is submitted to the Secretary, national organizations for public housing agencies, and other appropriate national organizations at such time to provide the Secretary and such agencies an opportunity to review the report and provide written comments on the report, which shall be included together with the report upon submission to the Congress under subparagraph (A).

"(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

REFERENCES IN OTHER LAWS TO PREFERENCES FOR ASSISTANCE

Pub. L. 104–99, title IV, §402(d)(6)(D), Jan. 26, 1996, 110 Stat. 43, which provided that certain references to preferences for assistance under sections 1437d(c)(4)(A)(i) and 1437f(d)(1)(A)(i), (o)(3)(B) of this title, as such sections existed on the day before Jan. 26, 1996, were to be considered to refer to the written system of preferences for selection established pursuant to sections 1437d(c)(4)(A) and 1437f(d)(1)(A), (o)(3)(B) of this title, respectively, as amended by section 402 of Pub. L. 104–99, was repealed by Pub. L. 105–276, title V, §514(b)(2)(D), Oct. 21, 1998, 112 Stat. 2548.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by sections 622(b) and 625(a)(2) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

REPORT ON TRAINING AND CERTIFICATION STANDARDS

Pub. L. 101–625, title V, §502(b), Nov. 28, 1990, 104 Stat. 4183, directed Secretary to submit to Congress, not later than 12 months after Nov. 28, 1990, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies.

APPLICABILITY

Pub. L. 101–625, title V, §503(d), Nov. 28, 1990, 104 Stat. 4185, provided that: "Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)], as such section existed before the date of the enactment of this Act [Nov. 28, 1990]) that a jurisdiction requires a hearing in court providing the basic

elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment."

REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON ABILITY OF PUBLIC HOUSING AGENCIES TO TAKE ACTION AGAINST TENANTS ENGAGING IN DRUG CRIMES

Pub. L. 100–690, title V, §5103, Nov. 18, 1988, 102 Stat. 4300, directed the Secretary of Housing and Urban Development to submit to Congress a report, not later than 12 months after Nov. 18, 1988, on the impact of the implementation of the public housing tenancy and administrative grievance procedure regulations issued under subsec. (k) of this section on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances.

INDIAN HOUSING

Pub. L. 100–628, title X, §1014(a)(2), Nov. 7, 1988, 102 Stat. 3269, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former section 1437aa(b)(2) of this title], the amendments made by paragraph (1) [amending this section] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."

STUDY OF PAYMENTS IN LIEU OF TAXES; REPORT TO CONGRESS

Pub. L. 95–128, title II, §201(g), Oct. 12, 1977, 91 Stat. 1129, provided that the Secretary of Housing and Urban Development conduct a study of payment in lieu of taxes made under subsec. (d) of this section and report to the Congress on the status and adequacy of such payments not later than 12 months after Oct. 12, 1977.

[1] So in original. Probably should be "is".

[2] Another subpar. (I) is set out after subpar. (K).

[3] Another subpar. (I) is set out before subpar. (J).

[4] See References in Text note below.

[5] So in original. The word "and" probably should not appear.

[6] So in original. The word "this" probably should not appear.

[7] So in original. Probably should be "(8)".

[8] So in original. Probably should be followed by "and".

[9] So in original. Probably should be "(B)".

[10] So in original. Probably should be "includes".

§1437e. Designated housing for elderly and disabled families

(a) Authority to provide designated housing

(1) In general

Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public

housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) Priority for occupancy

In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) Eligibility of near-elderly families

If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(b) Standards regarding evictions

Except as provided in section 1437n(e)(1)(B) [1] of this title, any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

(c) Relocation assistance

A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 1437f of this title, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) Required plan

A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 12705 of this title; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 1701q(d)(8) [1] of title 12) of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term "supportive services" means services designed to meet the special needs of residents.

(e) Review of plans

(1) Review and notification

The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) Notice of reasons for determination of noncompliance

If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

(3) Standards for determination of noncompliance

The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) Treatment of existing plans

Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before March 28, 1996) that have not been approved or disapproved before March 28, 1996.

(f) Effectiveness

(1) 5-year effectiveness of original plan

A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

(2) Renewal of plan

Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

(3) Transition provision

Any application and allocation plan approved under this section (as in effect before March 28, 1996) before March 28, 1996, shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) Inapplicability of Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970

No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 [42 U.S.C. 4601 et seq.] because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(Sept. 1, 1937, ch. 896, title I, §7, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 95–557, title IV, §412, Oct. 31, 1978, 92 Stat. 2110; Pub. L. 100–242, title I,

§112(b)(3), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; amended Pub. L. 102–550, title VI, §622(a), Oct. 28, 1992, 106 Stat. 3813; Pub. L. 104–99, title IV, §402(d)(6)(A)(ii), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104–120, §10(a), Mar. 28, 1996, 110 Stat. 838; Pub. L. 104–330, title V, §501(b)(4), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §595(d), Oct. 21, 1998, 112 Stat. 2656.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437n(e)(1)(B) of this title, referred to in subsec. (b), was repealed by Pub. L. 105–276, title V, §576(d)(2), Oct. 21, 1998, 112 Stat. 2640.

Section 1701q of title 12, referred to in subsec. (d)(2)(D), was amended generally by Pub. L. 101–625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, does not contain a subsec. (d)(8) or a definition of the term "related facilities".

The Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, referred to in subsec. (g), probably means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 7 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, required publication of information and submission of annual report by the Authority and was classified to section 1407 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–276 struck out heading and text of subsec. (h). Text read as follows: "The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority."

1996—Pub. L. 104–330, §501(b)(4), which directed amendment of "subsection 7" of the United States Housing Act of 1937, probably meaning this section, by striking subsec. (l), could not be executed because this section does not contain a subsec. (l).

Pub. L. 104–120 amended section generally, restating former subsecs. (a) to (g) relating to designated housing as subsecs. (a) to (h) relating to designated housing for elderly and disabled families.

Subsec. (a)(2). Pub. L. 104–99, which directed the temporary amendment of par. (2) by substituting "in accordance with the written system of preferences for selection established pursuant to" for "according to the preferences for occupancy under", could not be executed because of the amendment by Pub. L. 104–120 which amended section generally retroactive to Oct. 1, 1995. See Effective and Termination Dates of 1996 Amendments note below.

1992—Pub. L. 102–550 amended section generally, substituting present provisions for provisions relating to and defining "congregate housing" and providing for design, development, and acquisition of congregate housing for displaced or elderly families, limitation on amounts for contracts for congregate housing, and costs for central dining facilities.

1988—Pub. L. 100–242 struck out "annual" before "contributions" in proviso.

1978—Pub. L. 95–557 substituted "(1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title IV of the Housing and Community Development Amendments of 1978" for "low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104–120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104–120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

[1] *See References in Text note below.*

§1437f. Low-income housing assistance

(a) Authorization for assistance payments

For the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

(b) Other existing housing programs

(1) IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with subchapter II–A of this chapter. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1)(A) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in

accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after October 12, 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(B) Fair market rentals for an area shall be published not less than annually by the Secretary on the site of the Department on the World Wide Web and in any other manner specified by the Secretary. Notice that such fair market rentals are being published shall be published in the Federal Register, and such fair market rentals shall become effective no earlier than 30 days after the date of such publication. The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rentals in a jurisdiction before such rentals become effective. The Secretary shall cause to be published for comment in the Federal Register notices of proposed material changes in the methodology for estimating fair market rentals and notices specifying the final decisions regarding such proposed substantial methodological changes and responses to public comments.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly

rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to

receive for the unit and the rent the family is required to pay under section 1437a(a) of this title.

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(6) Redesignated (5).

(7) Repealed. Pub. L. 105–276, title V, §550(a)(3)(C), Oct. 21, 1998, 112 Stat. 2609

(8)(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

(C) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(D) For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(d) Required provisions and duration of contracts for assistance payments; waiver of limitation

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c–1 of this title by the public housing agency;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 [1] of the Housing and Community Development Act of 1992 [42 U.S.C. 13631] to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 1437c(c) of this title for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983) only for such purpose.

(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(D) An owner of a covered section 8 [42 U.S.C. 1437f] housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992 [42 U.S.C. 13619]) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in

accordance with subtitle D of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13611 et seq.].

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5) CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

(6) TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

(e) Restrictions on contracts for assistance payments

(1) Nothing in this chapter shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided*, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(2) Repealed. Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128

(f) Definitions

As used in this section—

(1) the term "owner" means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this chapter;

(4) the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.];

(5) the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21);

(6) the term "project-based assistance" means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2) or (o)(13); and

(7) the term "tenant-based assistance" means rental assistance under subsection (o) that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing.

(g) Regulations applicable for implementation of assistance payments

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of title 12.

(h) Nonapplicability of inconsistent provisions to contracts for assistance payments

Sections 1437c(e) and 1437d of this title (except as provided in section 1437d(j)(3) of this title), and any other provisions of this chapter which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) Receipt of assistance by public housing agency under other law not to be considered

The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013(b)(1)], or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

(j) Carbon monoxide alarms

Each owner of a dwelling unit receiving project-based assistance under this section shall ensure that carbon monoxide alarms or detectors are installed in the dwelling unit in a manner that meets or exceeds—

(1) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(2) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(k) Verification of income

The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act [42 U.S.C. 301 et seq.], the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.], or title 38. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

(l) Qualifying smoke alarms

(1) In general

Each owner of a dwelling unit receiving project-based assistance under this section shall ensure that qualifying smoke alarms are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(2) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Smoke alarm defined

The term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15.

(B) Qualifying smoke alarm defined

The term "qualifying smoke alarm" means a smoke alarm that—

(i) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(I)(aa) is hardwired; or

(bb) uses 10-year non rechargeable, nonreplaceable primary batteries and—

(AA) is sealed;
(BB) is tamper resistant; and
(CC) contains silencing means; and

(II) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(ii) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

(m) Repealed. Pub. L. 98–181, title I [title II, §209(a)(5)], Nov. 30, 1983, 97 Stat. 1183

(n) Repealed. Pub. L. 105–276, title V, §550(a)(7), Oct. 21, 1998, 112 Stat. 2609

(o) Voucher program

(1) Authority

(A) In general

The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) Establishment of payment standard

Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental, except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was reduced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary.

(C) Set-aside

The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) Approval

The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental, except that a public housing agency may establish a payment standard of not more than 120 percent of the fair market rent where necessary as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may use a payment standard that is greater than 120 percent of the fair market rent as a reasonable accommodation for a person with a disability, but only with the approval of the Secretary. In connection with the use of any increased payment standard established or approved pursuant to either of the preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent.

(E) Review

The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) Amount of monthly assistance payment

Subject to the requirement under section 1437a(a)(3) of this title (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) Tenant-based assistance; rent not exceeding payment standard

For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) Tenant-based assistance; rent exceeding payment standard

For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) Families receiving project-based assistance

For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 1437a(a)(1) of this title, and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(D) Utility allowance

(i) General

In determining the monthly assistance payment for a family under subparagraphs (A) and (B), the amount allowed for tenant-paid utilities shall not exceed the appropriate utility allowance for the family unit size as determined by the public housing agency regardless of the size of the dwelling unit leased by the family.

(ii) Exception for families in including persons with disabilities

Notwithstanding subparagraph (A), upon request by a family that includes a person with disabilities, the public housing agency shall approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

(3) 40 percent limit

At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) Eligible families

To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this subchapter;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4113, 4116].

(5) Reviews of family income

(A) In general

Reviews of family incomes for purposes of this section shall be subject to paragraphs (1), (6), and (7) of section 1437a(a) of this title and to section 3544 of this title.

(B) Procedures

Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate.

(6) Selection of families and disapproval of owners

(A) Preferences

(i) Authority to establish

Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18) that has been reported to an appropriate law enforcement agency.

(ii) Content

Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) Selection of tenants

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit) [2] shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish. That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission.

(C) PHA disapproval of owners

In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner

who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) Leases and tenancy

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

(i) will occupy the unit as a primary residence; and

(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.; [3]

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection. In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2602 of title 12) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner

and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not [3] affect any State or local law that provides longer time periods or other additional protections for tenants.

(8) Inspection of units by PHAs

(A) Initial inspection

(i) In general

For each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency (or other entity pursuant to paragraph (11)) shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B), except as provided in clause (ii) or (iii) of this subparagraph.

(ii) Correction of non-life-threatening conditions

In the case of any dwelling unit that is determined, pursuant to an inspection under clause (i), not to meet the housing quality standards under subparagraph (B), assistance payments may be made for the unit notwithstanding subparagraph (C) if failure to meet such standards is a result only of non-life-threatening conditions, as such conditions are established by the Secretary. A public housing agency making assistance payments pursuant to this clause for a dwelling unit shall, 30 days after the beginning of the period for which such payments are made, withhold any assistance payments for the unit if any deficiency resulting in noncompliance with the housing quality standards has not been corrected by such time. The public housing agency shall recommence assistance payments when such deficiency has been corrected, and may use any payments withheld to make assistance payments relating to the period during which payments were withheld.

(iii) Use of alternative inspection method for interim period

In the case of any property that within the previous 24 months has met the requirements of an inspection that qualifies as an alternative inspection method pursuant to subparagraph (E), a public housing agency may authorize occupancy before the inspection under clause (i) has been completed, and may make assistance payments retroactive to the beginning of the lease term after the unit has been determined pursuant to an inspection under clause (i) to meet the housing quality standards under subparagraph (B). This clause may not be construed to exempt any dwelling unit from compliance with the requirements of subparagraph (D).

(B) Housing quality standards

The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection; or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice [4]

(C) Inspection

The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than

1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) Biennial inspections

(i) Requirement

Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall, for each assisted dwelling unit, make inspections not less often than biennially during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A).

(ii) Use of alternative inspection method

The requirements under clause (i) may be complied with by use of inspections that qualify as an alternative inspection method pursuant to subparagraph (E).

(iii) Records

The public housing agency (or other entity) shall retain the records of the inspection for a reasonable time, as determined by the Secretary, and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 1437c(h) of this title.

(iv) Mixed-finance properties

The Secretary may adjust the frequency of inspections for mixed-finance properties assisted with vouchers under paragraph (13) to facilitate the use of the alternative inspections in subparagraph (E).

(E) Alternative inspection method

An inspection of a property shall qualify as an alternative inspection method for purposes of this subparagraph if—

(i) the inspection was conducted pursuant to requirements under a Federal, State, or local housing program (including the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] and the low-income housing tax credit program under section 42 of title 26); and

(ii) pursuant to such inspection, the property was determined to meet the standards or requirements regarding housing quality or safety applicable to properties assisted under such program, and, if a non-Federal standard or requirement was used, the public housing agency has certified to the Secretary that such standard or requirement provides the same (or greater) protection to occupants of dwelling units meeting such standard or requirement as would the housing quality standards under subparagraph (B).

(F) Interim inspections

Upon notification to the public housing agency, by a family (on whose behalf tenant-based rental assistance is provided under this subsection) or by a government official, that the dwelling unit for which such assistance is provided does not comply with the housing quality standards under subparagraph (B), the public housing agency shall inspect the dwelling unit—

(i) in the case of any condition that is life-threatening, within 24 hours after the agency's receipt of such notification, unless waived by the Secretary in extraordinary circumstances; and

(ii) in the case of any condition that is not life-threatening, within a reasonable time frame, as determined by the Secretary.

(G) Enforcement of housing quality standards

(i) Determination of noncompliance

A dwelling unit that is covered by a housing assistance payments contract under this

subsection shall be considered, for purposes of subparagraphs (D) and (F), to be in noncompliance with the housing quality standards under subparagraph (B) if—

(I) the public housing agency or an inspector authorized by the State or unit of local government determines upon inspection of the unit that the unit fails to comply with such standards;

(II) the agency or inspector notifies the owner of the unit in writing of such failure to comply; and

(III) the failure to comply is not corrected—

(aa) in the case of any such failure that is a result of life-threatening conditions, within 24 hours after such notice has been provided; and

(bb) in the case of any such failure that is a result of non-life-threatening conditions, within 30 days after such notice has been provided or such other reasonable longer period as the public housing agency may establish.

(ii) Withholding of assistance amounts during correction

The public housing agency may withhold assistance amounts under this subsection with respect to a dwelling unit for which a notice pursuant to clause (i)(II), of failure to comply with housing quality standards under subparagraph (B) as determined pursuant to an inspection conducted under subparagraph (D) or (F), has been provided. If the unit is brought into compliance with such housing quality standards during the periods referred to in clause (i)(III), the public housing agency shall recommence assistance payments and may use any amounts withheld during the correction period to make assistance payments relating to the period during which payments were withheld.

(iii) Abatement of assistance amounts

The public housing agency shall abate all of the assistance amounts under this subsection with respect to a dwelling unit that is determined, pursuant to clause (i) of this subparagraph, to be in noncompliance with housing quality standards under subparagraph (B). Upon completion of repairs by the public housing agency or the owner sufficient so that the dwelling unit complies with such housing quality standards, the agency shall recommence payments under the housing assistance payments contract to the owner of the dwelling unit.

(iv) Notification

If a public housing agency providing assistance under this subsection abates rental assistance payments pursuant to clause (iii) with respect to a dwelling unit, the agency shall, upon commencement of such abatement—

(I) notify the tenant and the owner of the dwelling unit that—

(aa) such abatement has commenced; and

(bb) if the dwelling unit is not brought into compliance with housing quality standards within 60 days after the effective date of the determination of noncompliance under clause (i) or such reasonable longer period as the agency may establish, the tenant will have to move; and

(II) issue the tenant the necessary forms to allow the tenant to move to another dwelling unit and transfer the rental assistance to that unit.

(v) Protection of tenants

An owner of a dwelling unit may not terminate the tenancy of any tenant because of the withholding or abatement of assistance pursuant to this subparagraph. During the period that assistance is abated pursuant to this subparagraph, the tenant may terminate the tenancy by notifying the owner.

(vi) Termination of lease or assistance payments contract

If assistance amounts under this section for a dwelling unit are abated pursuant to clause (iii) and the owner does not correct the noncompliance within 60 days after the effective date

of the determination of noncompliance under clause (i), or such other reasonable longer period as the public housing agency may establish, the agency shall terminate the housing assistance payments contract for the dwelling unit.

(vii) Relocation

(I) Lease of new unit

The agency shall provide the family residing in such a dwelling unit a period of 90 days or such longer period as the public housing agency determines is reasonably necessary to lease a new unit, beginning upon termination of the contract, to lease a new residence with tenant-based rental assistance under this section.

(II) Availability of public housing units

If the family is unable to lease such a new residence during such period, the public housing agency shall, at the option of the family, provide such family a preference for occupancy in a dwelling unit of public housing that is owned or operated by the agency that first becomes available for occupancy after the expiration of such period.

(III) Assistance in finding unit

The public housing agency may provide assistance to the family in finding a new residence, including use of up to two months of any assistance amounts withheld or abated pursuant to clause (ii) or (iii), respectively, for costs directly associated with relocation of the family to a new residence, which shall include security deposits as necessary and may include reimbursements for reasonable moving expenses incurred by the household, as established by the Secretary. The agency may require that a family receiving assistance for a security deposit shall remit, to the extent of such assistance, the amount of any security deposit refunds made by the owner of the dwelling unit for which the lease was terminated.

(viii) Tenant-caused damages

If a public housing agency determines that any damage to a dwelling unit that results in a failure of the dwelling unit to comply with housing quality standards under subparagraph (B), other than any damage resulting from ordinary use, was caused by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, the agency may waive the applicability of this subparagraph, except that this clause shall not exonerate a tenant from any liability otherwise existing under applicable law for damages to the premises caused by such tenant.

(ix) Applicability

This subparagraph shall apply to any dwelling unit for which a housing assistance payments contract is entered into or renewed after the date of the effectiveness of the regulations implementing this subparagraph.

(H) Inspection guidelines

The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) Vacated units

If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(10) Rent

(A) Reasonableness

The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) Negotiations

A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) Units exempt from local rent control

If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) Timely payments

Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) Penalties

Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(F) Tax credit projects

In the case of a dwelling unit receiving tax credits pursuant to section 42 of title 26 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez [5] National Affordable Housing Act of 1990 [42 U.S.C. 12741 et seq.], for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

(I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(II) the payment standard established by the public housing agency for a unit of the size involved.

(11) Leasing of units owned by PHA

(A) Inspections and rent determinations

If an eligible family assisted under this subsection leases a dwelling unit (other than a public

housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

(B) Units owned by PHA

For purposes of this subsection, the term "owned by a public housing agency" means, with respect to a dwelling unit, that the dwelling unit is in a project that is owned by such agency, by an entity wholly controlled by such agency, or by a limited liability company or limited partnership in which such agency (or an entity wholly controlled by such agency) holds a controlling interest in the managing member or general partner. A dwelling unit shall not be deemed to be owned by a public housing agency for purposes of this subsection because the agency holds a fee interest as ground lessor in the property on which the unit is situated, holds a security interest under a mortgage or deed of trust on the unit, or holds a non-controlling interest in an entity which owns the unit or in the managing member or general partner of an entity which owns the unit.

(12) Assistance for rental of manufactured housing

(A) In general

A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence and rents the real property on which the manufactured home owned by any such family is located.

(B) Rent calculation

(i) Charges included

For assistance pursuant to this paragraph, rent shall mean the sum of the monthly payments made by a family assisted under this paragraph to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes, the monthly amount allowed for tenant-paid utilities, and the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges.

(ii) Monthly assistance payment

The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2). If the amount of the monthly assistance payment for a family exceeds the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges, a public housing agency may pay the remainder to the family, lender or utility company, or may choose to make a single payment to the family for the entire monthly assistance amount.

(13) PHA project-based assistance

(A) In general

A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated project, that is attached to the project, subject to the limitations and requirements of this paragraph.

(B) Percentage limitation

(i) In general

Subject to clause (ii), a public housing agency may use for project-based assistance under this paragraph not more than 20 percent of the authorized units for the agency.

(ii) Exception

A public housing agency may use up to an additional 10 percent of the authorized units for the agency for project-based assistance under this paragraph, to provide units that house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), that house families with veterans, that provide supportive housing to persons with disabilities or elderly persons, that house eligible youths receiving assistance pursuant to subsection (x)(2)(B), or that are located in areas where vouchers under this subsection are difficult to use, as specified in subparagraph (D)(ii)(II). Any units of project-based assistance that are attached to units previously subject to federally required rent restrictions or receiving another type of long-term housing subsidy provided by the Secretary shall not count toward the percentage limitation under clause (i) of this subparagraph. The Secretary may, by regulation, establish additional categories for the exception under this clause.

(C) Consistency with PHA plan and other goals

A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

(i) the public housing agency plan for the agency approved under section 1437c–1 of this title; and

(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

(D) Income-mixing requirement

(i) In general

Except as provided in clause (ii), not more than the greater of 25 dwelling units or 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term "project" means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

(ii) Exceptions

(I) Certain families

The limitation under clause (i) shall not apply to dwelling units assisted under a contract that are exclusively made available to elderly families, to eligible youths receiving assistance pursuant to subsection (x)(2)(B), or to households eligible for supportive services that are made available to the assisted residents of the project, according to standards for such services the Secretary may establish.

(II) Certain areas

With respect to areas in which tenant-based vouchers for assistance under this subsection are difficult to use, as determined by the Secretary, and with respect to census tracts with a poverty rate of 20 percent or less, clause (i) shall be applied by substituting "40 percent" for "25 percent", and the Secretary may, by regulation, establish additional conditions.

(III) Certain contracts

The limitation under clause (i) shall not apply with respect to contracts or renewal of contracts under which a greater percentage of the dwelling units in a project were assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph on July 29, 2016.

(IV) Certain properties

Any units of project-based assistance under this paragraph that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance provided by the Secretary shall not count toward the percentage limitation imposed by this subparagraph (D).

(iii) Additional monitoring and oversight requirements

The Secretary may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.

(E) Resident choice requirement

A housing assistance payment contract pursuant to this paragraph shall provide as follows:

(i) Mobility

Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.

(ii) Continued assistance

Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the requirement under the preceding sentence with respect to a low-income family, such requirement may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

(F) Contract term

(i) Term

A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 20 years, subject to—

(I) the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriation Acts and in the agency's annual contributions contract with the Secretary, provided that in the event of insufficient appropriated funds, payments due under contracts under this paragraph shall take priority if other cost-saving measures that do not require the termination of an existing contract are available to the agency; and

(II) compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make biennial inspections of each assisted unit in the development.

(ii) Addition of eligible units

Subject to the limitations of subparagraphs (B) and (D), the agency and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term thereof without being subject to any additional competitive selection procedures.

(iii) Housing under construction or recently constructed

An agency may enter into a housing assistance payments contract with an owner for any unit that does not qualify as existing housing and is under construction or recently has been constructed whether or not the agency has executed an agreement to enter into a contract with the owner, provided that the owner demonstrates compliance with applicable requirements prior to execution of the housing assistance payments contract. This clause shall not subject a housing assistance payments contract for existing housing under this paragraph to such requirements or otherwise limit the extent to which a unit may be assisted as existing housing.

(iv) Additional conditions

The contract may specify additional conditions, including with respect to continuation, termination, or expiration, and shall specify that upon termination or expiration of the

contract without extension, each assisted family may elect to use its assistance under this subsection to remain in the same project if its unit complies with the inspection requirements under paragraph (8), the rent for the unit is reasonable as required by paragraph (10)(A), and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard.

(G) Extension of contract term

A public housing agency may enter into a contract with the owner of a project assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such contract may, at the election of the public housing agency and the owner of the project, specify that such contract shall be extended for renewal terms of up to 20 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner. A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.

(H) Rent calculation

A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed 110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of title 26 and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 [42 U.S.C. 1437f] rent, subject only to paragraph (10)(A). The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

(I) Rent adjustments

A housing assistance payments contract pursuant to this paragraph entered into after July 29, 2016, shall provide for annual rent adjustments upon the request of the owner, except that—

(i) by agreement of the parties, a contract may allow a public housing agency to adjust the rent for covered units using an operating cost adjustment factor established by the Secretary pursuant to section 524(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (which shall not result in a negative adjustment), in which case the contract may require an additional adjustment, if requested, up to the reasonable rent periodically during the term of the contract, and shall require such an adjustment, if requested, upon extension pursuant to subparagraph (G);

(ii) the adjusted rent shall not exceed the maximum rent permitted under subparagraph (H);

(iii) the contract may provide that the maximum rent permitted for a dwelling unit shall not

be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the units; and

(iv) the provisions of subsection (c)(2)(C) shall not apply.

(J) Tenant selection

A public housing agency may select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph. Eligibility for such project-based assistance shall be subject to the provisions of section 1437n(b) of this title that apply to tenant-based assistance. The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 1437c–1 of this title and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a project by the owner or manager of a project assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. A public housing agency may establish and utilize procedures for owner-maintained site-based waiting lists, under which applicants may apply at, or otherwise designate to the public housing agency, the project or projects in which they seek to reside, except that all eligible applicants on the waiting list of an agency for assistance under this subsection shall be permitted to place their names on such separate list, subject to policies and procedures established by the Secretary. All such procedures shall comply with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], section 794 of title 29, and other applicable civil rights laws. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list, or a family on a site-based waiting list that complies with the requirements of this subparagraph. A public housing agency shall disclose to each applicant all other options in the selection of a project in which to reside that are provided by the public housing agency and are available to the applicant.

(K) Vacated units

Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

(i) Payment for vacant units

That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only: (I) if the vacancy was not the fault of the owner of the dwelling unit; and (II) the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.

(ii) Reduction of contract

That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

(L) Use in cooperative housing and elevator buildings

A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

(i) dwelling units in cooperative housing; and

(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

(M) Reviews

(i) Subsidy layering

A subsidy layering review in accordance with section 3545(d) of this title shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing project, or if a subsidy layering review has been conducted by the applicable State or local agency.

(ii) Environmental review

A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing project, except to the extent such a review is otherwise required by law or regulation relating to funding other than housing assistance payments.

(N) Structure owned by agency

A public housing agency engaged in an initiative to improve, develop, or replace a public housing property or site may attach assistance to an existing, newly constructed, or rehabilitated structure in which the agency has an ownership interest or which the agency has control of without following a competitive process, provided that the agency has notified the public of its intent through its public housing agency plan and subject to the limitations and requirements of this paragraph.

(O) Special purpose vouchers

A public housing agency that administers vouchers authorized under subsection (o)(19) or (x) of this section may provide such assistance in accordance with the limitations and requirements of this paragraph, without additional requirements for approval by the Secretary.

(14) Inapplicability to tenant-based assistance

Subsection (c) shall not apply to tenant-based assistance under this subsection.

(15) Homeownership option

(A) In general

A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

(B) Alternative administration

A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

(16) Rental vouchers for relocation of witnesses and victims of crime

(A) Witnesses

Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) Victims of crime

(i) In general

Of amounts made available for assistance under this section in each fiscal year, the

Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18) that has been reported to an appropriate law enforcement agency.

(ii) Notice

A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) Deed restrictions

Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act [42 U.S.C. 3601 et seq.].

(18) Rental assistance for assisted living facilities

(A) In general

A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

(B) Rent calculation

(i) Charges included

For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

(ii) Payment standard

In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility, the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

(iii) Monthly assistance payment

The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection), except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate..[3]

(C) Definition

For the purposes of this paragraph, the term "assisted living facility" has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

(19) Rental vouchers for Veterans Affairs supported housing program

(A) Set aside

Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only

for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

(B) Amount

The amount specified in this subparagraph is—

(i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

(ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

(iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

(C) Funding through incremental assistance

In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

(D) Veteran defined

In this paragraph, the term "veteran" has the meaning given that term in section 2002(b) of title 38, United States Code.

(20) Collection of utility data

(A) Publication

The Secretary shall, to the extent that data can be collected cost effectively, regularly publish such data regarding utility consumption and costs in local areas as the Secretary determines will be useful for the establishment of allowances for tenant-paid utilities for families assisted under this subsection.

(B) Use of data

The Secretary shall provide such data in a manner that—

(i) avoids unnecessary administrative burdens for public housing agencies and owners; and

(ii) protects families in various unit sizes and building types, and using various utilities, from high rent and utility cost burdens relative to income.

(21) Carbon monoxide alarms

Each dwelling unit receiving tenant-based assistance or project-based assistance under this subsection shall have carbon monoxide alarms or detectors installed in the dwelling unit in a manner that meets or exceeds—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(22) Qualifying smoke alarms

(A) In general

Each dwelling unit receiving tenant-based assistance or project-based assistance under this subsection shall have a qualifying smoke alarm installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Smoke alarm defined

The term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15.

(ii) Qualifying smoke alarm defined

The term "qualifying smoke alarm" means a smoke alarm that—

(I) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

(p) Shared housing for elderly and handicapped

In order to assist elderly families (as defined in section 1437a(b)(3) of this title who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) Administrative fees

(1) Fee for ongoing costs of administration

(A) In general

The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) Fiscal year 1999

(i) Calculation

For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) Base amount

For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under subsection (c) of this section (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(C) Subsequent fiscal years

For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) Increase

The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(E) Decrease

The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) Fee for preliminary expenses

The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of $500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under this chapter (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

(3) Transfer of fees in cases of concurrent geographical jurisdiction

In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) Applicability

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(5) Supplements for administering assistance for youth aging out of foster care

The Secretary may provide supplemental fees under this subsection to the public housing agency for the cost of administering any assistance for foster youth under subsection (x)(2)(B), in

an amount determined by the Secretary, but only if the agency waives for such eligible youth receiving assistance any residency requirement that it has otherwise established pursuant to subsection (r)(1)(B)(i).

(r) Portability

(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 [42 U.S.C. 1437f] program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(s) Prohibition of denial of certificates and vouchers to residents of public housing

In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

(t) Enhanced vouchers

(1) In general

Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o), except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in

such project exceeds the applicable payment standard established pursuant to subsection (o) for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (o) and any other reasonable limit prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D) if the annual adjusted income of the assisted family declines to a significant extent, the percentage of annual adjusted income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of annual adjusted income paid at the time of the eligibility event for the project.

(2) Eligibility event

For purposes of this subsection, the term "eligibility event" means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under this section for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 4113(f) of title 12, or section 1715z–1a(p) of title 12, results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

(3) Treatment of enhanced vouchers provided under other authority

(A) In general

Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

(B) Identification of other authority

The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the "Preserving Existing Housing Investment" account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the "Housing Certificate Fund" account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105–65; 111 Stat. 1351), or the first proviso under the "Housing Certificate Fund" account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before October 20, 1999.

(4) Authorization of appropriations

There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

(u) Assistance for residents of rental rehabilitation projects

In the case of low-income families living in rental projects rehabilitated under section 1437o [6] of this title or section 1490m of this title before rehabilitation—

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

(v) Extension of expiring contracts

The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(w) Repealed. Pub. L. 106–74, title V, §531(d)(2), Oct. 20, 1999, 113 Stat. 1116

(x) Family unification

(1) Increase in budget authority

The budget authority available under section 1437c(c) of this title for assistance under subsection (b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.

(2) Use of funds

The amounts made available under this subsection shall be used only in connection with tenant-based assistance under this section on behalf of (A) any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and (B) subject to paragraph (5), for a period not to exceed 36 months, otherwise eligible youths who have attained at least 18 years of age and not more than 24 years of age and who have left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act [42 U.S.C. 675(5)(H)], and is homeless or is at risk of becoming homeless at age 16 or older.

(3) Allocation

(A) In general

The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(B) Assistance for youth aging out of foster care

Notwithstanding any other provision of law, the Secretary shall, subject only to the availability of funds, allocate such assistance to any public housing agencies that (i) administer

assistance pursuant to paragraph (2)(B), or seek to administer such assistance, consistent with procedures established by the Secretary, (ii) have requested such assistance so that they may provide timely assistance to eligible youth, and (iii) have submitted to the Secretary a statement describing how the agency will connect assisted youths with local community resources and self-sufficiency services, to the extent they are available, and obtain referrals from public child welfare agencies regarding youths in foster care who become eligible for such assistance.

(4) Coordination between public housing agencies and public child welfare agencies

The Secretary shall, not later than the expiration of the 180-day period beginning on July 29, 2016, and after consultation with other appropriate Federal agencies, issue guidance to improve coordination between public housing agencies and public child welfare agencies in carrying out the program under this subsection, which shall provide guidance on—

(A) identifying eligible recipients for assistance under this subsection and establishing a point of contact at public housing agencies to ensure that public housing agencies receive appropriate referrals regarding eligible recipients;

(B) coordinating with other local youth and family providers in the community and participating in the Continuum of Care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);

(C) implementing housing strategies to assist eligible families and youth;

(D) aligning system goals to improve outcomes for families and youth and reducing lapses in housing for families and youth; and

(E) identifying resources that are available to eligible families and youth to provide supportive services available through parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.) or that the head of household of a family or youth may be entitled to receive under section 477 of the Social Security Act (42 U.S.C. 677).

(5) Requirements for assistance for youth aging out of foster care

Assistance provided under this subsection for an eligible youth pursuant to paragraph (2)(B) shall be subject to the following requirements:

(A) Requirements to extend assistance

(i) Participation in family self-sufficiency

In the case of a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth and that is carrying out a family self-sufficiency program under section 1437u of this title, the agency shall, subject only to the availability of such assistance, extend the provision of such assistance for up to 24 months beyond the period referred to in paragraph (2)(B), but only during such period that the youth is in compliance with the terms and conditions applicable under section 1437u of this title and the regulations implementing such section to a person participating in a family self-sufficiency program.

(ii) Education, workforce development, or employment

In the case of a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth and that is not carrying out a family self-sufficiency program under section 1437u of this title, or is carrying out such a program in which the youth has been unable to enroll, the agency shall, subject only to the availability of such assistance, extend the provision of such assistance for two successive 12-month periods, after the period referred to in paragraph (2)(B), but only if for not less than 9 months of the 12-month period preceding each such extension the youth was—

(I) engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent;

(II) enrolled in an institution of higher education, as such term is defined in section 1001(a) of title 20 and including the institutions described in subparagraphs (A) and (B) of section 1002(a)(1) of title 20; or

(III) participating in a career pathway, as such term is defined in section 3102 of title 29.

Notwithstanding any other provision of this clause, a public housing agency shall consider employment as satisfying the requirements under this subparagraph.

(iii) Exceptions

Notwithstanding clauses (i) and (ii), a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth shall extend the provision of such assistance for up to 24 months beyond the period referred to in paragraph (2)(B), and clauses (i) and (ii) of this subparagraph shall not apply, if the eligible youth certifies that he or she is—

(I) a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;

(II) a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; or

(III) a person who is incapable of complying with the requirement under clause (i) or (ii), as applicable, due to a documented medical condition.

(iv) Verification of compliance

The Secretary shall require the public housing agency to verify compliance with the requirements under this subparagraph by each eligible youth on whose behalf the agency provides such assistance under this subsection on an annual basis in conjunction with reviews of income for purposes of determining income eligibility for such assistance.

(B) Supportive services

(i) Eligibility

Each eligible youth on whose behalf such assistance under this subsection is provided shall be eligible for any supportive services (as such term is defined in section 3102 of title 29) made available, in connection with any housing assistance program of the agency, by or through the public housing agency providing such assistance.

(ii) Information

Upon the initial provision of such assistance under this subsection on behalf of any eligible youth, the public housing agency shall inform such eligible youth of the existence of any programs or services referred to in clause (i) and of their eligibility for such programs and services.

(C) Applicability to Moving to Work agencies

Notwithstanding any other provision of law, the requirements of this paragraph shall apply to assistance under this subsection pursuant to paragraph (2)(B) made available by each public housing agency participating in the Moving to Work Program under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note), except that in lieu of compliance with clause (i) or (ii) of subparagraph (A) of this paragraph, such an agency may comply with the requirements under such clauses by complying with such terms, conditions, and requirements as may be established by the agency for persons on whose behalf such rental assistance under this subsection is provided.

(D) Termination of vouchers upon turn-over

A public housing agency shall not reissue any such assistance made available from appropriated funds when assistance for the youth initially assisted is terminated, unless specifically authorized by the Secretary.

(E) Reports

(i) In general

The Secretary shall require each public housing agency that provides such assistance under this subsection in any fiscal year to submit a report to the Secretary for such fiscal year that—

(I) specifies the number of persons on whose behalf such assistance under this subsection was provided during such fiscal year;

(II) specifies the number of persons who applied during such fiscal year for such assistance under this subsection, but were not provided such assistance, and provides a brief identification in each instance of the reason why the public housing agency was unable to award such assistance; and

(III) describes how the public housing agency communicated or collaborated with public child welfare agencies to collect such data.

(ii) Information collections

The Secretary shall, to the greatest extent possible, utilize existing information collections, including the voucher management system (VMS), the Inventory Management System/PIH Information Center (IMS/PIC), or the successors of those systems, to collect information required under this subparagraph.

(F) Consultation

The Secretary shall consult with the Secretary of Health and Human Services to provide such information and guidance to the Secretary of Health and Human Services as may be necessary to facilitate such Secretary in informing States and public child welfare agencies on how to correctly and efficiently implement and comply with the requirements of this subsection relating to assistance provided pursuant to paragraph (2)(B).

(6) Definitions

For purposes of this subsection:

(A) Applicant

The term "applicant" means a public housing agency or any other agency responsible for administering assistance under this section.

(B) Public child welfare agency

The term "public child welfare agency" means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) Homeownership option

(1) Use of assistance for homeownership

A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing

agency in accordance with requirements established by the Secretary.

(2) Determination of amount of assistance

(A) Monthly expenses not exceeding payment standard

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) Monthly expenses exceed payment standard

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(3) Inspections and contract conditions

(A) In general

Each contract for the purchase of a unit to be assisted under this section shall—

(i) provide for pre-purchase inspection of the unit by an independent professional; and

(ii) require that any cost of necessary repairs be paid by the seller.

(B) Annual inspections not required

The requirement under subsection (o)(8)(A)(ii) [6] for annual inspections shall not apply to units assisted under this section.

(4) Other authority of the Secretary

The Secretary may—

(A) limit the term of assistance for a family assisted under this subsection; and

(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

(5) Inapplicability of certain provisions

Assistance under this subsection shall not be subject to the requirements of the following provisions:

(A) Subsection (c)(3)(B) [6] of this section.

(B) Subsection (d)(1)(B)(i) of this section.

(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

(E) Any other provisions of this chapter that are inconsistent with the provisions of this subsection.

(6) Reversion to rental status

(A) FHA-insured mortgages

If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section

unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 1437u(d)(3) [6] of this title may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) Other mortgages

If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) All mortgages

A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

(7) Downpayment assistance

(A) Authority

A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

(B) Amount

The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.

(8) "First-time homeowner" defined

For purposes of this subsection, the term "first-time homeowner" means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

(z) Termination of section 1437f contracts and reuse of recaptured budget authority

(1) General authority

The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of expiration or termination of a housing assistance payments contract only for one or more of the following:

(A) Tenant-based assistance

Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

(B) Project-based assistance

Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) Families occupying units formerly assisted under terminated contract

Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based

assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(aa) Omitted

(bb) Transfer, reuse, and rescission of budget authority

(1) Transfer of budget authority

If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) Reuse and rescission of certain recaptured budget authority

Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under this subchapter is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

(cc) Law enforcement and security personnel

(1) In general

Notwithstanding any other provision of this chapter, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the chapter.

(2) Rent requirements

With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) Applicability

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(dd) Tenant-based contract renewals

Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

(Sept. 1, 1937, ch. 896, title I, §8, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 94–375, §2(d), (e), (g), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95–24, title I, §101(c), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, §201(c)–(e), Oct. 12, 1977, 91 Stat. 1128; Pub. L. 95–557, title II, §206(d)(1), (e), (f), Oct. 31, 1978, 92 Stat. 2091, 2092; Pub. L.

96–153, title II, §§202(b), 206(b), 210, 211(b), Dec. 21, 1979, 93 Stat. 1106, 1108–1110; Pub. L. 96–399, title II, §203, title III, §308(c)(3), Oct. 8, 1980, 94 Stat. 1629, 1641; Pub. L. 97–35, title III, §§322(e), 324–326(a), (e)(1), 329H(a), Aug. 13, 1981, 95 Stat. 402, 405–407, 410; Pub. L. 98–181, title I [title II, §§203(b)(1), (2), 207–209(a), 210, 211], Nov. 30, 1983, 97 Stat. 1178, 1181–1183; Pub. L. 98–479, title I, §102(b)(6)–(10), Oct. 17, 1984, 98 Stat. 2221, 2222; Pub. L. 100–242, title I, §§141–149, title II, §262, Feb. 5, 1988, 101 Stat. 1849–1853, 1890; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 100–628, title X, §§1004(a), 1005(b)(1), (c), 1006, 1014(b), (c), 1029, Nov. 7, 1988, 102 Stat. 3264, 3265, 3269, 3272; Pub. L. 101–235, title I, §127, title VIII, §801(c), (g), Dec. 15, 1989, 103 Stat. 2025, 2058, 2059; Pub. L. 101–625, title II, §289(b), title IV, §413, title V, §§541–545(a), 545(2)[(b)], 546–549, 550(a), (c), 551–553, 572, title VI, §§603, 613(a), Nov. 28, 1990, 104 Stat. 4128, 4160, 4216–4224, 4236, 4277, 4280; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 756; Pub. L. 102–550, title I, §§141–148, 185(a), title VI, §§623(b), 660, 674, 675, 682(b), title X, §1012(g), Oct. 28, 1992, 106 Stat. 3713–3715, 3745, 3819, 3825, 3827, 3828, 3830, 3905; Pub. L. 103–233, title I, §101(c)(2), (3), (d), Apr. 11, 1994, 108 Stat. 357; Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315; Pub. L. 104–19, title I, §1003, July 27, 1995, 109 Stat. 236; Pub. L. 104–99, title IV, §§402(d)(2), (3), (6)(A)(iii), (iv), 405(c), Jan. 26, 1996, 110 Stat. 41, 42, 44; Pub. L. 104–134, title I, §101(e) [title II, §§203(a)–(c), 208], Apr. 26, 1996, 110 Stat. 1321–257, 1321–281, 1321–284; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–193, title IX, §903(a)(2), Aug. 22, 1996, 110 Stat. 2348; Pub. L. 104–204, title II, §201(g), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105–18, title II, §10002, June 12, 1997, 111 Stat. 201; Pub. L. 105–33, title II, §§2003, 2004, Aug. 5, 1997, 111 Stat. 257; Pub. L. 105–65, title II, §§201(c), 205, title V, §523(a), (c), Oct. 27, 1997, 111 Stat. 1364, 1365, 1406, 1407; Pub. L. 105–276, title II, §209(a), title V, §§514(b)(1), 545(a), (b), 547–549(a)(2), (b), 550(a), 552–555(a), 556(a), 565(c), Oct. 21, 1998, 112 Stat. 2485, 2547, 2596–2607, 2609–2611, 2613, 2631; Pub. L. 106–74, title II, §223, title V, §§523(a), 531(d), 535, 538(a), Oct. 20, 1999, 113 Stat. 1076, 1104, 1116, 1121, 1122; Pub. L. 106–246, div. B, title II, §2801, July 13, 2000, 114 Stat. 569; Pub. L. 106–377, §1(a)(1) [title II, §§205, 228, 232(a), 234], Oct. 27, 2000, 114 Stat. 1441, 1441A–24, 1441A–30, 1441A–31, 1441A–35; Pub. L. 106–569, title III, §301(a), title IX, §§902(a), 903(a), Dec. 27, 2000, 114 Stat. 2952, 3026; Pub. L. 107–95, §12, Dec. 21, 2001, 115 Stat. 921; Pub. L. 107–116, title VI, §632, Jan. 10, 2002, 115 Stat. 2227; Pub. L. 109–162, title VI, §606, Jan. 5, 2006, 119 Stat. 3041; Pub. L. 109–271, §5(d), (e), Aug. 12, 2006, 120 Stat. 759; Pub. L. 109–461, title VII, §710, Dec. 22, 2006, 120 Stat. 3441; Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(Y), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(Y), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 110–289, div. B, title VIII, §2835(a), July 30, 2008, 122 Stat. 2871; Pub. L. 111–22, div. A, title VII, §§703, 704, May 20, 2009, 123 Stat. 1661, 1662; Pub. L. 111–203, title XIV, §1484(2), July 21, 2010, 124 Stat. 2204; Pub. L. 111–372, title III, §302, Jan. 4, 2011, 124 Stat. 4084; Pub. L. 113–4, title VI, §601(b)(2), Mar. 7, 2013, 127 Stat. 107; Pub. L. 113–76, div. L, title II, §§220(a), 242, Jan. 17, 2014, 128 Stat. 630, 636; Pub. L. 114–94, div. G, title LXXVIII, §78001(b), Dec. 4, 2015, 129 Stat. 1791; Pub. L. 114–201, title I, §§101(a), 102(d)–(f), 105, 106(a), 107(a), (b), 108, 110, 112(a), July 29, 2016, 130 Stat. 783, 790, 791, 796, 800, 801, 803; Pub. L. 115–174, title III, §304(a), (b), May 24, 2018, 132 Stat. 1339; Pub. L. 116–260, div. Q, title I, §§101(b)(2), 103(b), (c), Dec. 27, 2020, 134 Stat. 2163, 2166, 2169; Pub. L. 116–283, div. H, title XCI, §9103(a), Jan. 1, 2021, 134 Stat. 4781; Pub. L. 117–328, div. AA, title VI, §601(a)(2), Dec. 29, 2022, 136 Stat. 5543.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Community Development Act of 1992, referred to in subsec. (d)(2)(C), (D), is Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§13601 et seq.) of chapter 135 of this title. Subtitle D of title VI of the Act is classified principally to subchapter II (§13611 et seq.) of chapter 135 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

The Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsecs. (d)(5),

(o)(13)(I)(i), and (bb)(2), is title V of Pub. L. 105–65, Oct. 27, 1997, 111 Stat. 1384. Sections 514, 517, and 524 of the Act are set out in a note under this section. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (f)(4) and (o)(4)(D), (8)(E)(i), (10)(F), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, also known as the "HOME Investment Partnerships Act", is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. Subtitle A of title II of the Act is classified generally to part A (§12741 et seq.) of subchapter II of chapter 130 of this title. Title IV of the Act, also known as the "Homeownership and Opportunity Through HOPE Act", enacted subchapter II–A (§1437aaa et seq.) of this chapter and subchapter IV (§12871 et seq.) of chapter 130 of this title, amended sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Social Security Act, referred to in subsecs. (k) and (x)(4)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of this title. Parts B and E of title IV of the Act are classified generally to parts B (§621 et seq.) and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (k), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under 2011 of Title 7 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (o)(13)(J), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (o)(13)(J), (17), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (q)(1)(B)(ii)(I), (2)(A), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, referred to in subsec. (t)(2), means the effective date of H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377, which was approved Oct. 27, 2000.

Section 1437o of this title, referred to in subsec. (u), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (x)(4)(B), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Subtitle C of title IV of the Act is classified generally to part C (§11381 et seq.) of subchapter IV of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, referred to in subsec. (x)(5)(C), is section 204 of Pub. L. 104–134, title I, §101(e) [title II], Apr. 26, 1996, 110 Stat. 1321–257, 1321–281, which is set out as a note under this section.

Subsection (o)(8)(A) of this section, referred to in subsec. (y)(3)(B), does not contain a cl. (ii) and does not relate to annual inspections. For provisions of subsec. (o)(8) which relate to annual inspections, see subpar. (D).

Subsection (c)(3)(B) of this section, referred to in subsec. (y)(5), was repealed by Pub. L. 105–276, title V, §550(a)(3)(A)(ii), Oct. 21, 1998, 112 Stat. 2609.

The National Housing Act, referred to in subsec. (y)(6), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 1437u(d)(3) of this title, relating to reimbursement of escrow accounts, referred to in subsec. (y)(6)(A), was repealed by Pub. L. 105–276, title V, §509(a)(2), Oct. 21, 1998, 112 Stat. 2531.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

October 20, 1999, referred to in subsec. (t)(3)(B)(ii), was in the original "the enactment of this Act", which

was translated as meaning the enactment of Pub. L. 106–74, which enacted subsec. (t) of this section, to reflect the probable intent of Congress.

Pub. L. 100–242, title II, §203(a), Feb. 5, 1988, 101 Stat. 1878, as amended, which was formerly set out in a note under section 1715l of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 262 of Pub. L. 100–242 is repealed and section is to read as it would without such amendment, was omitted in the general amendment of subtitle A of title II of Pub. L. 100–242 by Pub. L. 101–625.

PRIOR PROVISIONS

A prior section 8 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized promulgation of rules and regulations by the Authority and was classified to section 1408 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2022—Subsec. (l). Pub. L. 117–328, §601(a)(2)(A), added subsec. (l).

Subsec. (o)(22). Pub. L. 117–328, §601(a)(2)(B), added par. (22).

2021—Subsec. (o)(19)(D). Pub. L. 116–283 added subpar. (D).

2020—Subsec. (j). Pub. L. 116–260, §101(b)(2)(A), added subsec. (j).

Subsec. (o)(13)(B)(ii). Pub. L. 116–260, §103(c)(1), inserted "that house eligible youths receiving assistance pursuant to subsection (x)(2)(B)," before "or that".

Subsec. (o)(13)(D)(ii)(I). Pub. L. 116–260, §103(c)(2), inserted ", to eligible youths receiving assistance pursuant to subsection (x)(2)(B)," after "elderly families".

Subsec. (o)(21). Pub. L. 116–260, §101(b)(2)(B), added par. (21).

Subsec. (q)(5). Pub. L. 116–260, §103(b)(3), added par. (5).

Subsec. (x)(2)(B). Pub. L. 116–260, §103(b)(1)(A), inserted "subject to paragraph (5)," before "for a period".

Subsec. (x)(3). Pub. L. 116–260, §103(b)(1)(B), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (x)(4)(A). Pub. L. 116–260, §103(b)(2), inserted "and establishing a point of contact at public housing agencies to ensure that public housing agencies receive appropriate referrals regarding eligible recipients" before semicolon at end.

Subsec. (x)(5), (6). Pub. L. 116–260, §103(b)(1)(C), (D), added par. (5) and redesignated former par. (5) as (6).

2018—Subsec. (o)(7)(C), (F). Pub. L. 115–174 repealed Pub. L. 111–22, §704, and restored and revived amendment by Pub. L. 111–22, §703, as in effect Dec. 30, 2014. See 2009 Amendment notes below.

2016—Subsec. (c)(1). Pub. L. 114–201, §107(a), designated existing provisions as subpar. (A), struck out "Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register." after "October 1, 1980." and "The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County." after "no practical alternative.", and added subpar. (B).

Subsec. (c)(3). Pub. L. 114–201, §102(f), struck out at end "Reviews of family income shall be made no less frequently than annually."

Subsec. (o)(1)(B). Pub. L. 114–201, §107(b), inserted before period at end ", except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was reduced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary".

Subsec. (o)(1)(D). Pub. L. 114–201, §102(d)(1), inserted before period at end ", except that a public housing agency may establish a payment standard of not more than 120 percent of the fair market rent where necessary as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may use a payment standard that is greater than 120 percent of the fair market rent as a reasonable accommodation for a person with a disability, but only with the approval of the Secretary. In connection with the use of any increased payment standard established or approved pursuant to either of the

preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent".

Subsec. (o)(5). Pub. L. 114–201, §102(d)(2)(A), substituted "Reviews" for "Annual review" in heading.

Subsec. (o)(5)(A). Pub. L. 114–201, §102(d)(2)(B), substituted "paragraphs (1), (6), and (7) of section 1437a(a) of this title and to" for "the provisions of" and struck out "and shall be conducted upon the initial provision of housing assistance for the family and thereafter as required by section 1437a(a)(1) of this title" before period at end.

Subsec. (o)(5)(B). Pub. L. 114–201, §102(d)(2)(C), struck out at end "Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection."

Subsec. (o)(8)(A). Pub. L. 114–201, §101(a)(1), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B)."

Subsec. (o)(8)(G), (H). Pub. L. 114–201, §101(a)(2), (3), added subpar. (G) and redesignated former subpar. (G) as (H).

Subsec. (o)(11). Pub. L. 114–201, §105, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (o)(12)(A). Pub. L. 114–201, §112(a)(1), substituted "residence and rents" for "residence. Such payments may be made only for the rental of".

Subsec. (o)(12)(B)(i). Pub. L. 114–201, §112(a)(2)(A), substituted "rent shall mean the sum of the monthly payments made by a family assisted under this paragraph to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes, the monthly amount allowed for tenant-paid utilities, and the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges." for "the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities."

Subsec. (o)(12)(B)(ii). Pub. L. 114–201, §112(a)(2)(B), (C)(ii), redesignated cl. (iii) as (ii) and struck out former cl. (ii) which related to establishment of payment standard for the purpose of determining monthly assistance.

Subsec. (o)(12)(B)(iii). Pub. L. 114–201, §112(a)(2)(C), inserted "If the amount of the monthly assistance payment for a family exceeds the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges, a public housing agency may pay the remainder to the family, lender or utility company, or may choose to make a single payment to the family for the entire monthly assistance amount." after "paragraph (2)." and redesignated cl. (iii) as (ii).

Subsec. (o)(13)(A). Pub. L. 114–201, §106(a)(1), substituted "project" for "structure" in two places.

Subsec. (o)(13)(B). Pub. L. 114–201, §106(a)(2), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: "Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph."

Subsec. (o)(13)(D). Pub. L. 114–201, §106(a)(3), added subpar. (D) and struck out former subpar. (D). Prior to amendment, text read as follows:

"(i) IN GENERAL.—Not more than 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term 'project' means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

"(ii) EXCEPTIONS.—The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services."

Subsec. (o)(13)(F). Pub. L. 114–201, §106(a)(4), added subpar. (F) and struck out former subpar. (F). Prior to amendment, text read as follows: "A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency's annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract

may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11)."

Subsec. (o)(13)(G). Pub. L. 114–201, §106(a)(1), (5), substituted "project" for "structure" in two places and "20 years" for "15 years".

Subsec. (o)(13)(I). Pub. L. 114–201, §106(a)(6), added subpar. (I) and struck out former subpar. (I). Prior to amendment, text read as follows: "A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—

"(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit; and

"(ii) the provisions of subsection (c)(2)(C) shall not apply."

Subsec. (o)(13)(J). Pub. L. 114–201, §106(a)(1), (7), substituted "may select families" for "shall select families", inserted "or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph" before period at end of first sentence, and substituted "The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 1437c–1 of this title and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units." for "The agency may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 1437c–1 of this title.", "admission to a project by the owner or manager of a project" for "admission to a structure by the owner or manager of a structure", and "A public housing agency may establish and utilize procedures for owner-maintained site-based waiting lists, under which applicants may apply at, or otherwise designate to the public housing agency, the project or projects in which they seek to reside, except that all eligible applicants on the waiting list of an agency for assistance under this subsection shall be permitted to place their names on such separate list, subject to policies and procedures established by the Secretary. All such procedures shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 794 of title 29, and other applicable civil rights laws. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list, or a family on a site-based waiting list that complies with the requirements of this subparagraph. A public housing agency shall disclose to each applicant all other options in the selection of a project in which to reside that are provided by the public housing agency and are available to the applicant." for "The owner or manager of a structure assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list. Subject to its waiting list policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subsection are permitted to place their names on the separate list."

Subsec. (o)(13)(M). Pub. L. 114–201, §106(a)(1), substituted "project" for "structure" in cls. (i) and (ii).

Subsec. (o)(13)(M)(ii). Pub. L. 114–201, §106(a)(8), inserted before period at end "relating to funding other than housing assistance payments".

Subsec. (o)(13)(N), (O). Pub. L. 114–201, §106(a)(9), added subpars. (N) and (O).

Subsec. (o)(20). Pub. L. 114–201, §108, added par. (20).

Subsec. (t)(1)(D). Pub. L. 114–201, §102(e), substituted "annual adjusted income" for "income" wherever appearing.

Subsec. (x)(2)(B). Pub. L. 114–201, §110(1), substituted "36 months" for "18 months" and "24 years of age" for "21 years of age" and inserted ", or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless" after "have left foster care".

Subsec. (x)(4), (5). Pub. L. 114–201, §110(2), (3), added par. (4) and redesignated former par. (4) as (5).

2015—Subsec. (o)(5)(A). Pub. L. 114–94 substituted "as required by section 1437a(a)(1) of this title" for "not less than annually".

2014—Subsec. (o)(2)(D). Pub. L. 113–76, §242, added subpar. (D).

Subsec. (o)(8)(D) to (G). Pub. L. 113–76, §220(a), added subpars. (D) to (F), redesignated former subpar. (E) as (G), and struck out former subpar. (D) which required every public housing agency providing assistance

under this subsection to make an annual inspection of each assisted dwelling unit.

2013—Subsec. (c)(9). Pub. L. 113–4, §601(b)(2)(A), struck out par. (9) which related to prohibitions against the denial of program assistance or admission to victims of domestic violence, dating violence, or stalking and the termination of assistance, tenancy, or occupancy rights of such victims.

Subsec. (d)(1)(A). Pub. L. 113–4, §601(b)(2)(B)(i), struck out "and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission" before semicolon at end.

Subsec. (d)(1)(B)(ii). Pub. L. 113–4, §601(b)(2)(B)(ii)(I), struck out ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence" before semicolon at end.

Subsec. (d)(1)(B)(iii). Pub. L. 113–4, §601(b)(2)(B)(ii)(II), struck out before semicolon at end ", except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) Notwithstanding subclause (I) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (f)(8) to (11). Pub. L. 113–4, §601(b)(2)(C), struck out pars. (8) to (11) which defined "domestic violence", "dating violence", "stalking", and "immediate family member", respectively.

Subsec. (o)(6)(B). Pub. L. 113–4, §601(b)(2)(D)(i), struck out at end "Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (o)(7)(C). Pub. L. 113–4, §601(b)(2)(D)(ii)(I), in introductory provisions, struck out "and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence" before "and in the case".

Subsec. (o)(7)(D). Pub. L. 113–4, §601(b)(2)(D)(ii)(II), struck out before semicolon at end "; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) LIMITATION.—Notwithstanding clause (i) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under

this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (o)(20). Pub. L. 113–4, §601(b)(2)(D)(iii), struck out par. (20) which related to prohibited basis for termination of assistance.

Subsec. (ee). Pub. L. 113–4, §601(b)(2)(E), struck out subsec. (ee) which related to certification that an individual is a victim of domestic violence, dating violence, or stalking and confidentiality of information provided to any owner, manager, or public housing agency.

2011—Subsec. (o)(18)(B)(iii). Pub. L. 111–372 inserted before period at end ", except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate."

2009—Subsec. (o)(7)(C). Pub. L. 111–22, §703(1), as amended by Pub. L. 115–174, §304(a), (b), inserted before semicolon at end "and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

"(i) will occupy the unit as a primary residence; and

"(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice."

Subsec. (o)(7)(F). Pub. L. 111–22, §703(2), as amended by Pub. L. 115–174, §304(a), (b), inserted at end "In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2602 of title 12) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants."

2008—Subsec. (k). Pub. L. 110–246, §4002(b)(1)(B), (2)(Y), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

Subsec. (o)(10)(F). Pub. L. 110–289, §2835(a)(2), added subpar. (F).

Subsec. (o)(13)(D)(i). Pub. L. 110–289, §2835(a)(1)(A), substituted "any project" for "any building" and inserted at end "For purposes of this subparagraph, the term 'project' means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land."

Subsec. (o)(13)(F). Pub. L. 110–289, §2835(a)(1)(B), substituted "15 years" for "10 years".

Subsec. (o)(13)(G). Pub. L. 110–289, §2835(a)(1)(C), inserted after first sentence "Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract." and inserted at end "A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a

housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract."

Subsec. (o)(13)(H). Pub. L. 110–289, §2835(a)(1)(D), inserted before period at end of first sentence ", except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A)".

Subsec. (o)(13)(I)(i). Pub. L. 110–289, §2835(a)(1)(E), inserted before semicolon ", except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit".

Subsec. (o)(13)(L), (M). Pub. L. 110–289, §2835(a)(1)(F), added subpars. (L) and (M).

2006—Subsec. (c)(9). Pub. L. 109–162, §606(1), added par. (9).

Subsec. (c)(9)(C)(ii). Pub. L. 109–271, §5(e)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: "Notwithstanding clause (i), an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

Subsec. (d)(1)(A). Pub. L. 109–271, §5(d), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c–1 of this title by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission;".

Pub. L. 109–162, §606(2)(A), which directed insertion of "and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission" after "public housing agency", was executed by making the insertion after "public housing agency" the last place appearing to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(ii). Pub. L. 109–162, §606(2)(B), inserted ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence" before semicolon at end.

Subsec. (d)(1)(B)(iii). Pub. L. 109–162, §606(2)(C), inserted before semicolon at end ", except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any

provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (d)(1)(B)(iii)(II). Pub. L. 109–271, §5(e)(2), added subcl. (II) and struck out former subcl. (II) which read as follows: "notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant;".

Subsec. (f)(8). Pub. L. 109–162, §606(3), added par. (8).

Subsec. (f)(9). Pub. L. 109–271, §5(e)(3)(A), struck out "and" after semicolon at end.

Pub. L. 109–162, §606(3), added par. (9).

Subsec. (f)(10). Pub. L. 109–162, §606(3), added par. (10).

Subsec. (f)(10)(A)(i). Pub. L. 109–271, §5(e)(3)(B), substituted "or" for "and" at end.

Subsec. (f)(11). Pub. L. 109–162, §606(3), added par. (11).

Subsec. (f)(11)(B). Pub. L. 109–271, §5(e)(3)(C), substituted "blood or marriage" for "blood and marriage".

Subsec. (o)(6)(B). Pub. L. 109–271, §5(e)(4)(A)(iii), which directed the substitution of "admission. Nothing" for "admission, and that nothing" in second sentence, was executed by making the substitution in third sentence, to reflect the probable intent of Congress.

Pub. L. 109–271, §5(e)(4)(A)(ii), which directed the substitution of "for admission or" for "for admission for" in second sentence, was executed by substituting "for assistance or" for "for assistance for" in third sentence, to reflect the probable intent of Congress.

Pub. L. 109–271, §5(e)(4)(A)(i), which directed amendment of second sentence of subpar. (B) by striking "by" after "denial of program assistance", was executed by striking that language in third sentence, to reflect the probable intent of Congress.

Pub. L. 109–162, §606(4)(A), inserted "That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by or for denial of admission if the applicant otherwise qualifies for assistance for admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking." at end.

Subsec. (o)(7)(C). Pub. L. 109–162, §606(4)(B), inserted ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence" before semicolon at end.

Subsec. (o)(7)(D). Pub. L. 109–162, §606(4)(C), inserted at end "; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate, assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or

providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."

Subsec. (o)(7)(D)(ii). Pub. L. 109–271, §5(e)(4)(B)(i), added cl. (ii) and struck out former cl. (ii) which read as follows: "notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant;".

Subsec. (o)(7)(D)(iii). Pub. L. 109–271, §5(e)(4)(B)(ii), substituted "access or control" for "access to control".

Subsec. (o)(7)(D)(v). Pub. L. 109–271, §5(e)(4)(B)(iii), substituted "terminate" for "terminate,".

Subsec. (o)(19)(B). Pub. L. 109–461 reenacted heading without change and amended text generally, substituting cls. (i) to (v) relating to amounts necessary to provide vouchers for rental assistance for fiscal years 2007 to 2011 for former cls. (i) through (iv) relating to amounts necessary to provide vouchers for rental assistance for fiscal years 2003 to 2006.

Subsec. (o)(20). Pub. L. 109–162, §606(4)(D), added par. (20).

Subsec. (o)(20)(D)(ii). Pub. L. 109–271, §5(e)(4)(C), substituted "distribution or" for "distribution".

Subsec. (r)(5). Pub. L. 109–162, §606(5), inserted ", except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit" before period at end.

Subsec. (ee). Pub. L. 109–162, §606(6), added subsec. (ee).

Subsec. (ee)(1)(A). Pub. L. 109–271, §5(e)(5)(A), substituted "the individual receives a request for such certification from the owner, manager, or public housing agency" for "the owner, manager, or public housing agency requests such certification".

Subsec. (ee)(1)(B). Pub. L. 109–271, §5(e)(5)(B), substituted "the individual has received a request in writing for such certification for the owner, manager, or public housing agency" for "the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing" and "The owner, manager or public housing" for "The owner, manager, public housing" and struck out ", or assisted housing provider" before "may extend the 14-day deadline".

Subsec. (ee)(1)(C)(i). Pub. L. 109–271, §5(e)(5)(C), struck out "sexual assault," after "addressing domestic violence, dating violence,".

Subsec. (ee)(1)(D). Pub. L. 109–271, §5(e)(5)(D), struck out "sexual assault," after "dating violence,".

Subsec. (ee)(1)(E). Pub. L. 109–271, §5(e)(5)(E)(ii), struck out ", or assisted housing provider" in two places after "public housing agency".

Pub. L. 109–271, §5(e)(5)(E)(i), which directed the substitution of "manager or public housing" for "manager, public housing" wherever appearing, was executed by making the substitution for "manager, public housing" and "manger, public housing", to reflect the probable intent of Congress.

2002—Subsec. (t)(2). Pub. L. 107–116 inserted "(including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter)" after "insurance contract for the mortgage for such housing project".

2001—Subsec. (o)(19). Pub. L. 107–95 added par. (19).

2000—Subsec. (o)(13). Pub. L. 106–377, §1(a)(1) [title II, §232(a)], reenacted heading without change and amended text generally, substituting subpars. (A) to (K) providing for funding percentage limitation, consistency of contracts with public housing agency plan and goals, income mixing requirement, resident choice requirement, contract term and its extension, rent calculation and adjustments, tenant selection, and vacated units for former subpars. (A) to (D) providing for extension of contract term, rent calculation, and adjusted rents.

Subsec. (t)(1)(B). Pub. L. 106–569, §903(a), inserted before semicolon at end ", except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families".

Pub. L. 106–377, §1(a)(1) [title II, §205], inserted "and any other reasonable limit prescribed by the Secretary" before semicolon at end.

Pub. L. 106–246, which directed the substitution of "the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any

period the family makes such an election and continues to so reside," for "during any period that the assisted family continues residing in the same project in which the family was residing on the date of the eligibility event for the project, if" in section 538 of Pub. L. 106–74, was executed by making the substitution in subsec. (t)(1)(B) of this section, which was enacted by section 538 of Pub. L. 106–74, to reflect the probable intent of Congress.

Subsec. (t)(2). Pub. L. 106–569, §902(a), substituted "fiscal year 1994" for "fiscal year 1996".

Pub. L. 106–377, §1(a)(1) [title II, §228], inserted "(including any such termination or expiration during fiscal years after fiscal year 1996 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001)" after "contract for rental assistance under this section for such housing project".

Subsec. (x)(2). Pub. L. 106–377, §1(a)(1) [title II, §234], substituted "(A) any family (i) who is otherwise eligible for such assistance, and (ii)" for "any family (A) who is otherwise eligible for such assistance, and (B)" and inserted before period at end "and (B) for a period not to exceed 18 months, otherwise eligible youths who have attained at least 18 years of age and not more than 21 years of age and who have left foster care at age 16 or older".

Subsec. (y)(7), (8). Pub. L. 106–569, §301(a), added par. (7) and redesignated former par. (7) as (8).

1999—Subsec. (c)(8)(A). Pub. L. 106–74, §535(1), substituted "termination of" for "terminating" after "Not less than one year before" and ". The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year." for ", specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."

Subsec. (c)(8)(B). Pub. L. 106–74, §535(2), (4), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "In the case of owner who has requested that the Secretary renew the contract, the owner's notice under subparagraph (A) to the tenants shall include statements that—

"(i) the owner currently has a contract with the Department of Housing and Urban Development that pays the Government's share of the tenant's rent and the date on which the contract will expire;

"(ii) the owner intends to renew the contract for another year;

"(iii) renewal of the contract may depend upon the Congress making funds available for such renewal;

"(iv) the owner is required by law to notify tenants of the possibility that the contract may not be renewed if Congress does not provide funding for such renewals;

"(v) in the event of nonrenewal, the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent; and

"(vi) the notice itself does not indicate an intent to terminate the contract by either the owner or the Department of Housing and Urban Development, provided there is Congressional approval of funding availability."

Subsec. (c)(8)(C). Pub. L. 106–74, §535(4), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Pub. L. 106–74, §535(3), struck out "Notwithstanding the preceding provisions of this paragraph, if the owner agrees to a 5-year contract renewal offered by the Secretary, payments under which shall be subject to the availability of appropriations for any year, the owner shall provide a written notice to the Secretary and the tenants not less than 180 days before the termination of such contract." after "(C)" and "in the immediately preceding sentence" before ", the owner may not evict the tenants", struck out "180-day" before "notice" in two places, and substituted "1 year has elapsed" for "such period has elapsed" and "1 year of advance notice" for "180 days of advance notice".

Subsec. (c)(8)(D), (E). Pub. L. 106–74, §535(4), redesignated subpars. (D) and (E) as (C) and (D), respectively.

Subsec. (o)(18). Pub. L. 106–74, §523(a), added par. (18).

Subsec. (t). Pub. L. 106–74, §538(a), added subsec. (t).

Subsec. (v). Pub. L. 106–74, §531(d)(1), designated sentence enacted by Pub. L. 104–99, §405(c), as subsec. (v).

Subsec. (w). Pub. L. 106–74, §531(d)(2), struck out heading and text of subsec. (w). Text read as follows: "Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since August 22, 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months."

Subsec. (z)(1). Pub. L. 106–74, §223(1), in introductory provisions, inserted "expiration or" after "on account of" and struck out "(other than a contract for tenant-based assistance)" after "payments contract".

Subsec. (z)(3). Pub. L. 106–74, §223(2), struck out heading and text of par. (3). Text read as follows: "This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995."

1998—Subsec. (a). Pub. L. 105–276, §550(a)(1), struck out at end "A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits."

Subsec. (b). Pub. L. 105–276, §550(a)(2), substituted "Other" for "Rental certificates and other" in subsec. heading, inserted par. (1) designation and heading, and struck out after first sentence "The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o) of this section) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period."

Subsec. (c)(3). Pub. L. 105–276, §550(a)(3)(A), struck out "(A)" after par. designation, and struck out subpar. (B), which authorized payment of higher percentage of income as rent than that specified under section 1437a(a) of this title if family receiving tenant-based rental assistance notified public housing agency of its interest in a unit renting for an excess rent and agency determined that the rent was reasonable, and set forth provisions which limited agency approval of such excess rentals to 10 percent of annual allocation, required report to Secretary where such rentals exceeded 5 percent of allocation, and required Secretary to report to Congress annually on agencies which had submitted such reports and include recommendations deemed appropriate to correct problems identified in reports.

Subsec. (c)(4). Pub. L. 105–276, §550(a)(3)(B), struck out "or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990" after "such dwelling unit" in first sentence.

Subsec. (c)(5), (6). Pub. L. 105–276, §550(a)(3)(C), (D), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily by nonelderly and nonhandicapped persons which are not subject to mortgages purchased under section 305 of the National Housing Act, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding sixty days in duration."

Subsec. (c)(7). Pub. L. 105–276, §550(a)(3)(C), struck out par. (7) which read as follows: "To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 1437c(h) of this title and subject to the limitation contained in such section."

Subsec. (c)(8). Pub. L. 105–276, §549(b), redesignated par. (9) as (8)(A) and substituted subpars. (B) to (E) for "The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons."

Pub. L. 105–276, §549(a)(1)(A), struck out par. (8) which read as follows: "Each contract under this section

shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract."

Subsec. (c)(9). Pub. L. 105–276, §549(b)(1), redesignated par. (9) as (8)(A).

Pub. L. 105–276, §549(a)(1)(B), substituted "Not less than one year before terminating any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination." for "Not less than 180 days prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o) of this section), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination."

Subsec. (c)(10). Pub. L. 105–276, §549(a)(1)(A), struck out par. (10) which read as follows: "If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1) of this section, the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) of this section and the value of the low-income housing after rehabilitation."

Subsec. (d)(1)(A). Pub. L. 105–276, §514(b)(1), amended subpar. (A) generally. For former text of subpar. (A), see 1996 Amendment note below.

Subsec. (d)(1)(B)(ii). Pub. L. 105–276, §549(a)(2)(A), substituted "during the term of the lease, the owner" for "the owner".

Subsec. (d)(1)(B)(iii). Pub. L. 105–276, §549(a)(2)(B), substituted "during the term of the lease, any criminal activity" for "provide that any criminal activity".

Subsec. (d)(2)(A). Pub. L. 105–276, §550(a)(4)(A), struck out at end "Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (i) the Secretary and the public housing agency approve such action, and (ii) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section, except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (ii) are met. Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph."

Subsec. (d)(2)(B) to (G). Pub. L. 105–276, §550(a)(4)(C), redesignated subpars. (F) to (H) as (B) to (D), respectively, and struck out former subpars. (B) to (E). Prior to repeal, former subpar. (B) required the Secretary to permit a public housing agency to approve attachment of assistance with respect to any newly constructed structure if certain conditions were met, former subpar. (C) required a public housing agency to enter into a contract with an owner of a structure to which a contract for assistance was attached under this par. to provide for renewal of expiring assistance payment contracts, former subpar. (D) required owners of structures to which a contract for assistance was attached to adopt certain tenant selection procedures, and former subpar. (E) required the Secretary to annually survey public housing agencies to determine which have reached certain limitations in providing assistance and to report the survey results to Congress.

Subsec. (d)(2)(H). Pub. L. 105–276, §550(a)(4)(C), redesignated subpar. (H) as (D).

Pub. L. 105–276, §550(a)(4)(B), substituted "An owner" for "Notwithstanding subsection (d)(1)(A)(i) of this section, an owner".

Subsec. (d)(6). Pub. L. 105–276, §552, added par. (6).

Subsec. (f)(6). Pub. L. 105–276, §545(b), inserted "or (o)(13)" after "(d)(2)".

Subsec. (f)(7). Pub. L. 105–276, §550(a)(5), struck out "(b) or" after "under subsection" and inserted before period at end "and that provides for the eligible family to select suitable housing and to move to other suitable housing".

Subsec. (h). Pub. L. 105–276, §565(c), which directed insertion of "(except as provided in section 1437d(j)(3) of this title)" after "section 1437d of this title", was executed by making the insertion after "Sections 1437c(e) and 1437d of this title", to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 105–276, §550(a)(6), struck out subsec. (j), which authorized contracts for making rental assistance payments on behalf of low-income families utilizing manufactured homes as principal places of residence, directed that contract establish maximum monthly rent permitted with respect to home and real property on which it was located and provided formula for calculating amount of monthly assistance, provided for adjustments, set forth minimum and maximum terms, in the case of substantially rehabilitated or newly constructed park, provided limit on principal amount of mortgage attributable to rental spaces within park, and authorized Secretary to prescribe other terms and conditions necessary for purpose of carrying out subsection.

Subsec. (n). Pub. L. 105–276, §550(a)(7), struck out subsec. (n) which read as follows: "In making assistance available under subsections (b)(1) and (e)(2) of this section, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

"(1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;

"(2) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose; and

"(3) in the case of assistance under subsection (b)(1) of this section, the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the property complies with local health and safety standards.

The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 1437a(b)(3) of this title with respect to the assistance made available under this subsection."

Subsec. (o). Pub. L. 105–276, §545(a), amended subsec. (o) generally. Prior to amendment, subsec. (o) contained provisions relating to assistance using a payment standard based upon fair market rental, categories of families eligible for assistance and preferences, contracts with public housing agencies for annual contributions, annual adjustments of assistance payment amounts, assistance with respect to certain cooperative and mutual housing, contracts to provide rental vouchers, set asides of budget authority for an adjustment pool, reasonable rent requirements and disapproval of leases with unreasonable rents, and assistance on behalf of families utilizing manufactured homes as principal places of residence.

Subsec. (o)(2). Pub. L. 105–276, §209(a), inserted at end "Notwithstanding the preceding sentence, for families being admitted to the voucher program who remain in the same unit or complex, where the rent (including the amount allowed for utilities) does not exceed the payment standard, the monthly assistance payment for any family shall be the amount by which such rent exceeds the greater of 30 percent of the family's monthly adjusted income or 10 percent of the family's monthly income." Notwithstanding sections 209(b) and 503 of Pub. L. 105–276, set out as Effective Date of 1998 Amendment notes below and under section 1437 of this title, this amendment was executed before the amendment by section 545(a) of Pub. L. 105–276 to reflect the probable intent of Congress and the provisions of section 545(c) of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note below, and section 559 of Pub. L. 105–276, set out as a Regulations note below.

Subsec. (q). Pub. L. 105–276, §547, amended subsec. (q) generally, substituting present provisions for provisions which authorized establishment of fee for costs incurred in administering certificate and housing voucher programs under subsecs. (b) and (o) of this section, costs of preliminary expenses in connection with new allocations of assistance, costs incurred in assisting families who experienced difficulty in obtaining appropriate housing under the programs, and extraordinary costs; provisions which set forth use of fees for employing one or more service coordinators to coordinate provision of supportive services for elderly or disabled families on whose behalf assistance was provided; and provision which limited establishment or increase of fees to amounts provided in appropriation Acts.

Subsec. (r). Pub. L. 105–276, §553(3), inserted heading, added par. (1), and struck out former par. (1) which read as follows: "Any family assisted under subsection (b) or (o) of this section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same State, or the same or a contiguous metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for

assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency."

Subsec. (r)(2). Pub. L. 105–276, §553(1), struck out at end "If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility."

Subsec. (r)(3). Pub. L. 105–276, §553(2), struck out "(b) or" before "(o) for" and inserted at end "The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies."

Subsec. (r)(5). Pub. L. 105–276, §553(5), added par. (5).

Subsec. (t). Pub. L. 105–276, §554, struck out subsec. (t). For text, see 1996 Amendment note below.

Subsec. (u). Pub. L. 105–276, §550(a)(8), in pars. (1) and (3), struck out "certificates or" before "vouchers" and, in par. (2), struck out ", certificates" before "or vouchers".

Subsec. (x)(2). Pub. L. 105–276, §550(a)(9), substituted "tenant-based assistance" for "housing certificate assistance".

Subsec. (y)(1). Pub. L. 105–276, §555(a)(1)(A), in introductory provisions, substituted "A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family" for "A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family".

Subsec. (y)(1)(A). Pub. L. 105–276, §555(a)(1)(B), inserted ", or owns or is acquiring shares in a cooperative" before semicolon at end.

Subsec. (y)(1)(B). Pub. L. 105–276, §555(a)(1)(C), struck out cl. (i), redesignated cl. (ii) as entire subpar., and inserted ", except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family" after "public assistance". Prior to amendment, cl. (i) read as follows: "participates in the family self-sufficiency program under section 1437u of this title of the public housing agency providing the assistance; or".

Subsec. (y)(2). Pub. L. 105–276, §555(a)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

"(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) of this section exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

"(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection."

Subsec. (y)(3), (4). Pub. L. 105–276, §555(a)(3), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

"(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

"(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 1437u(d) of this title. Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government."

Subsec. (y)(5). Pub. L. 105–276, §555(a)(3), (4), redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: "A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act,

the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 1472 of this title."

Subsec. (y)(6) to (8). Pub. L. 105–276, §555(a)(4), redesignated pars. (7) and (8) as (6) and (7), respectively. Former par. (6) redesignated (5).

Subsec. (z). Pub. L. 105–276, §548(1), made technical amendment relating to placement of subsection.

Subsec. (cc). Pub. L. 105–276, §548(2), added subsec. (cc).

Subsec. (dd). Pub. L. 105–276, §556(a), added subsec. (dd).

1997—Subsec. (c)(2)(A). Pub. L. 105–65, §§201(c), 205, substituted "fiscal years 1997 and 1998" for "fiscal year 1997" in third and sixth sentences and inserted at end "In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998."

Pub. L. 105–33, §§2003, 2004, inserted ", and during fiscal year 1999 and thereafter" before period at end of third and sixth sentences.

Subsec. (c)(9). Pub. L. 105–18, which directed substitution of "Not less than 180 days prior to terminating any contract" for "Not less than one year prior to terminating any contract", was executed by making the substitution for "Not less than 1 year prior to terminating any contract" to reflect the probable intent of Congress.

Subsec. (d)(5). Pub. L. 105–65, §523(a), added par. (5).

Subsec. (bb). Pub. L. 105–65, §523(c), inserted heading, designated existing provisions as par. (1) and former subsec. heading as par. (1) heading, and added par. (2).

1996—Subsec. (c)(2)(A). Pub. L. 104–204 inserted ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "fiscal year 1995" in two places, substituted "Except for assistance under the certificate program, for" for "For", inserted after fourth sentence "In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area.", and substituted "The immediately foregoing two sentences" for "The immediately foregoing sentence".

Subsec. (c)(8). Pub. L. 104–134, §101(e) [title II, §203(b)(1), (d)], temporarily inserted "(other than a contract for assistance under the certificate or voucher program)" after "section". See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (c)(9). Pub. L. 104–134, §101(e) [title II, §203(b)(2), (d)], temporarily substituted ", other than a contract under the certificate or voucher program" for "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o) of this section)". See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(A). Pub. L. 104–99, §402(d)(2), (f), temporarily amended subpar. (A) generally, substituting "the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;" for "the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall—

> "(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12) at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such assistance) solely because the family resides in public housing;
>
> "(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater

access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2) of this section; (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (VI) achieving other objectives of national housing policy as affirmed by Congress; and

"(iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist);".

See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(B)(ii), (iii). Pub. L. 104–134, §101(e) [title II, §203(c), (d)], in cl. (ii) temporarily inserted "during the term of the lease," after "(ii)" and in cl. (iii) temporarily substituted "during the term of the lease," for "provide that". See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(B)(v). Pub. L. 104–193, §903(a)(2), added cl. (v).

Subsec. (d)(2)(A). Pub. L. 104–99, §402(d)(6)(A)(iii), (f), temporarily struck out at end "Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(2)(H). Pub. L. 104–99, §402(d)(6)(A)(iv), (f), temporarily substituted "An owner" for "Notwithstanding subsection (d)(1)(A)(i) of this section, an owner". See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (o)(3)(B). Pub. L. 104–99, §402(d)(3), (f), temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "In selecting families to be assisted, preference shall be given to families which, at the time they are seeking assistance, occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12), or are paying more than 50 per centum of family income for rent. A public housing agency may provide for circumstances in which families who do not qualify for any preference established in the preceding sentence are provided assistance under this subsection before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this sentence) may be families who do not qualify for such preference. The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (vi) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section)

shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist)." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (t). Pub. L. 104–134, §101(e) [title II, §203(a), (d)], temporarily repealed subsec. (t) which read as follows:

"(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

"(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

"(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (o) of this section, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

"(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (v). Pub. L. 104–99, §405(c), amended subsec. (v) generally. Prior to amendment, subsec. (v) read as follows:

"(1) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract for project-based loan management assistance, if the owner agrees to continue providing housing for low-income families during the term of the contract.

"(2)(A) The eligiblity of a multifamily residential project for loan management assistance under this section shall be determined without regard to whether the project is subsidized or unsubsidized.

"(B) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Low-Income Housing Preservation and Resident Homeownership Act of 1990."

Subsec. (bb). Pub. L. 104–134, §101[(e)] [title II, §208], added subsec. (bb).

1995—Subsec. (z). Pub. L. 104–19 added subsec. (z).

1994—Subsec. (c)(2)(A). Pub. L. 103–327 inserted at end: "However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995. For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995."

Subsec. (d)(1)(A)(i). Pub. L. 103–233, §101(c)(2), inserted "(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)" after "displaced".

Subsec. (d)(1)(A)(ii). Pub. L. 103–327 which directed the amendment of cl. (ii) by striking "and (V)" and inserting in lieu thereof "(V) assisting families that include one or more adult members who are employed; and (VI)", and inserting after the final semicolon "subclause (V) shall be effective only during fiscal year 1995;", was not executed because the words "and (V)" did not appear and cl. (ii) already contains subcls. (V) and (VI). See 1992 Amendment note below.

Subsec. (f)(1). Pub. L. 103–233, §101(d), inserted "an agency of the Federal Government," after "cooperative,".

Subsec. (o)(3)(B). Pub. L. 103–233, §101(c)(3), inserted "(including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12)" after "displaced".

Subsec. (aa). Pub. L. 103–327 temporarily added subsec. (aa), "Refinancing incentive", which read as follows:

"(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

"(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

"(B) is subject to an assistance contract under this section; and

"(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

"(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

"(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

"(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988."

See Effective and Termination Dates of 1994 Amendment note below.

1992—Subsec. (c)(2)(B). Pub. L. 102–550, §1012(g), inserted at end "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title."

Pub. L. 102–550, §142, inserted after first sentence "The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption."

Subsec. (c)(4). Pub. L. 102–550, §141(a), inserted "or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990" after first comma in first sentence.

Subsec. (c)(9). Pub. L. 102–550, §143, inserted before period at end ", and such term shall include termination of the contract for business reasons".

Subsec. (d)(1)(A)(ii)(V), (VI). Pub. L. 102–550, §144(a), added subcl. (V) and redesignated former subcl. (V) as (VI).

Subsec. (d)(1)(B)(iii). Pub. L. 102–550, §145, inserted ", any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises," before "or any drug-related" and substituted "tenant of any unit" for "public housing tenant".

Subsec. (d)(2)(F). Pub. L. 102–550, §674, added subpar. (F).

Subsec. (d)(2)(G), (H). Pub. L. 102–550, §682(b), added subpars. (G) and (H).

Subsec. (d)(4). Pub. L. 102–550, §660, added par. (4).

Subsec. (f)(6), (7). Pub. L. 102–550, §146, added pars. (6) and (7).

Subsec. (i). Pub. L. 102–550, §623(b), added subsec. (i).

Subsec. (o)(3)(A). Pub. L. 102–550, §141(b), struck out "or" before "(iv)" and inserted before period at end ", or" and cl. (v).

Subsec. (o)(3)(B)(v), (vi). Pub. L. 102–550, §144(b), in third sentence, added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (q)(3), (4). Pub. L. 102–550, §675, added par. (3) and redesignated former par. (3) as (4).

Subsec. (r)(1). Pub. L. 102–550, §147, inserted before period at end "; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency".

Subsec. (x)(1). Pub. L. 102–550, §148, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The budget authority available under section 1437c(c) of this title for assistance under subsection (b) of this section is authorized to be increased by $35,000,000 on or after October 1, 1990, by $35,000,000 on or after October 1, 1991."

Subsec. (y). Pub. L. 102–550, §185(a), added subsec. (y).

1991—Subsec. (c)(1). Pub. L. 102–139 inserted provisions relating to separate fair market rentals for Monroe County, Pennsylvania.

1990—Subsec. (a). Pub. L. 101–625, §572(1), which directed the substitution of "low-income families" for "lower income families", was executed by making the substitution for "lower-income families" to reflect the probable intent of Congress.

Pub. L. 101–625, §548(b), inserted at end "A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits."

Subsec. (b). Pub. L. 101–625, §541(a), inserted heading and struck out par. (1) designation preceding text.

Subsec. (b)(2). Pub. L. 101–625, §413(b)(1), added par. (2).

Subsec. (c)(1). Pub. L. 101–625, §543(b), inserted "(A)" after second reference to "fair market rental" and substituted "a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B)." for "a local housing assistance plan as defined in section 1439(a)(5) of this title."

Subsec. (c)(2)(B). Pub. L. 101–625, §542, inserted at end "Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence."

Subsec. (c)(3). Pub. L. 101–625, §543(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(9). Pub. L. 101–625, §544, inserted after first sentence "The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination." and inserted at end "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision."

Subsec. (c)(10). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing".

Subsec. (d)(1)(A). Pub. L. 101–625, §545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing, are paying more than 50 per centum of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in clause (i) are provided assistance before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference;".

Subsec. (d)(1)(B)(iii), (iv). Pub. L. 101–625, §546, added cls. (iii) and (iv).

Subsec. (d)(2)(A). Pub. L. 101–625, §552(b), inserted after first sentence "The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date."

Pub. L. 101–625, §613(a)(1), inserted at end "Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph."

Subsec. (d)(2)(C). Pub. L. 101–625, §613(a)(2), inserted at end "To the extent assistance is used as

provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years."

Pub. L. 101–625, §547(c), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "Any contract for assistance payments that is attached to a structure under this paragraph shall (at the option of the public housing agency but subject to available funds) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewals shall not exceed 15 years."

Subsec. (d)(2)(D), (E). Pub. L. 101–625, §547(a), (b), added subpars. (D) and (E).

Subsec. (e)(2). Pub. L. 101–625, §289(b), struck out par. (2) which read as follows: "For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary, and which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. Notwithstanding subsection (c)(1) of this section, the Secretary may, in carrying out the preceding sentence, establish a maximum monthly rent (for units upgraded pursuant to this paragraph) which exceeds the fair market rental by not more than 20 per centum if such units are located in an area where the Secretary finds cost levels so require, except that the Secretary may approve maximum monthly rents which exceed the fair market rentals by more than 20 but not more than 30 per centum where the Secretary determines that special circumstances warrant such higher rent or where necessary to the implementation of a local housing assistance plan. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading. The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development. In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted."

Subsec. (f)(1). Pub. L. 101–625, §548(a), substituted "dwelling units" for "newly constructed or substantially rehabilitated dwelling units as described in this section".

Subsec. (f)(4), (5). Pub. L. 101–625, §549, added pars. (4) and (5).

Subsec. (j)(1). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families" in introductory provisions.

Subsec. (o). Pub. L. 101–625, §541(b), inserted heading.

Subsec. (o)(3). Pub. L. 101–625, §545(2)[(b)], inserted "(A)" after "(3)", redesignated former cls. (A) to (D) as cls. (i) to (iv), respectively, inserted "(B)" before "In selecting families", "(including families that are homeless or living in a shelter for homeless families)" after "substandard housing", and inserted at end "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of

national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist)."

Pub. L. 101–625, §413(a), added cl. (D).

Subsec. (o)(7). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families".

Subsec. (o)(9). Pub. L. 101–625, §413(b)(2), added par. (9).

Subsec. (o)(10), (11). Pub. L. 101–625, §550(a), (c), added pars. (10) and (11).

Subsec. (r)(1). Pub. L. 101–625, §551, substituted "the same State, or the same or a contiguous" for "the same, or a contiguous,".

Subsec. (u). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families" in introductory provisions.

Subsec. (v)(1). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families".

Subsec. (v)(2)(B). Pub. L. 101–625, §603, which directed the substitution of "Low-Income Housing Preservation and Resident Homeownership Act of 1990" for "Emergency Low Income Housing Preservation Act of 1987" in section "89(v)(2) of the United States Housing Act of 1937", was executed to subsec. (v)(2)(B) of this section (section 8 of the United States Housing Act of 1937) to reflect the probable intent of Congress.

Subsecs. (w), (x). Pub. L. 101–625, §§552(a), 553, added subsecs. (w) and (x).

1989—Subsec. (c)(2)(C). Pub. L. 101–235, §702(g), substituted "quality, type, and age" for "quality and age".

Pub. L. 101–235, §702(c), inserted after first sentence "In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units."

Subsec. (e)(2). Pub. L. 101–235, §127(1), inserted before period at end of first sentence ", and which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems".

Pub. L. 101–235, §127(2), (3), inserted at end "In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted."

1988—Subsec. (b)(1). Pub. L. 100–242, §141, inserted provisions at end authorizing Secretary to enter into separate contributions contracts with each public housing agency to obligate authority approved each year, beginning with fiscal year 1988.

Subsec. (c)(1). Pub. L. 100–242, §142(a), inserted before last sentence "Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents

for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section."

Pub. L. 100–242, §142(b), inserted at end "The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York."

Pub. L. 100–242, §142(c)(1), inserted at end "If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control."

Subsec. (c)(2)(C). Pub. L. 100–628, §1004(a)(1), substituted "under subparagraphs (A) and (B)" for "as hereinbefore provided".

Pub. L. 100–628, §1004(a)(2), inserted at end "Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect."

Pub. L. 100–242, §142(c)(2), substituted "assisted units and unassisted units of similar quality and age in the same market area" for "assisted and comparable unassisted units" and inserted at end "If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied."

Pub. L. 100–242, §142(d), inserted at end "The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner."

Subsec. (c)(2)(D). Pub. L. 100–242, §142(e), struck out subpar. (D) which read as follows: "Notwithstanding the foregoing, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units."

Subsec. (c)(9), (10). Pub. L. 100–242, §262(a), (b), added pars. (9) and (10).

Subsec. (d)(1)(A). Pub. L. 100–628, §1014(b), inserted cl. (i) designation after "except that" and added cl. (ii) before semicolon at end.

Subsec. (d)(2). Pub. L. 100–628, §1005(b)(1), designated existing provisions as subpar. (A), substituted "(i)" and "(ii)" for "(A)" and "(B)" wherever appearing, and added subpar. (B).

Pub. L. 100–628, §1005(c), added subpar. (C).

Pub. L. 100–242, §148, inserted exception authorizing Secretary to permit public housing authority to approve attachment with respect to not more than 15 percent of assistance provided by public housing agency if requirements of cl. (B) are met.

Subsec. (o)(1). Pub. L. 100–242, §143(a)(1), substituted "The Secretary may provide assistance" for "In connection with the rental rehabilitation and development program under section 1437o of this title or the rural housing preservation grant program under section 1490m of this title, or for other purposes, the Secretary is authorized to conduct a demonstration program".

Subsec. (o)(3). Pub. L. 100–628, §1014(c), inserted sentence at end authorizing public housing agencies to provide for circumstances in which families who do not qualify for any preference are provided assistance under this subsection before families who do qualify for such preference.

Subsec. (o)(4). Pub. L. 100–242, §143(a)(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "The Secretary shall use substantially all of the authority to enter into contracts under this subsection to make assistance payments for families residing in dwellings to be rehabilitated with assistance under section 1437o of this title and for families displaced as a result of rental housing development assisted under such section or as a result of activities assisted under section 1490m of this title."

Subsec. (o)(5). Pub. L. 100–242, §143(a)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (o)(6). Pub. L. 100–242, §143(a)(3), (b), redesignated par. (7) as (6), substituted "annually" for "as frequently as twice during any five-year period" in subpar. (A), and struck out subpar. (D) which directed that public housing agency consult with public and units of local government regarding impact of adjustments made under this section on the number of families that can be assisted. Former par. (6) redesignated (5).

Subsec. (o)(7). Pub. L. 100–242, §143(a)(3), (c), redesignated par. (8) as (7), and struck out "not to exceed 5 per centum of the amount of" after "utilize". Former par. (7) redesignated (6).

Subsec. (o)(8). Pub. L. 100–242, §143(a)(3), (d), added par. (8). Former par. (8) redesignated (7).

Subsecs. (q) to (u). Pub. L. 100–242, §§144–149, added subsecs. (q) to (u).

Subsec. (u)(3). Pub. L. 100–628, §1006, added par. (3).

Subsec. (v). Pub. L. 100–628, §1029, redesignated par. (2) as (1) and inserted "for project-based loan management assistance", added par. (2), and struck out former par. (1) which required that each contract entered into by Secretary for loan management assistance be for a term of 180 months.

Pub. L. 100–242, §262(c), added subsec. (v).

1984—Subsec. (d)(2). Pub. L. 98–479, §102(b)(6), substituted "Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (A) the Secretary and the public housing agency approve such action, and (B) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section." for "A contract under this section may not be attached to the structure except where the Secretary specifically waives the foregoing limitation and the public housing agency approves such action, and the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section. The aggregate term of such contract and any contract extension may not be more than 180 months."

Subsec. (e)(2). Pub. L. 98–479, §102(b)(7), inserted at end "The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development."

Subsec. (n). Pub. L. 98–479, §102(b)(8), substituted "subsections (b)(1) and (e)(2) of this section" for "subsection (b)(1), subsection (e)(2) of this section".

Subsec. (o)(3)(C). Pub. L. 98–479, §102(b)(9), added cl. (C).

Subsec. (o)(7)(D). Pub. L. 98–479, §102(b)(10), inserted "unit of" before "general".

1983—Subsec. (a). Pub. L. 98–181, §209(a)(1), substituted "existing housing" for "existing, newly constructed, and substantially rehabilitated housing".

Subsec. (b)(2). Pub. L. 98–181, §209(a)(2), repealed par. (2) which related to authorization of assistance payments by the Secretary and contractually obligated public housing agencies for construction or substantial rehabilitation of housing, modest in design, with units for occupancy by low-income families and requirement that contracts providing housing assistance and entered into after Aug. 13, 1981, specify the number of units available for occupancy by eligible families.

Subsec. (d)(1)(A). Pub. L. 98–181, §203(b)(1), inserted ", are paying more than 50 per centum of family income for rent,".

Subsec. (d)(2). Pub. L. 98–181, §208, inserted second and third sentences respecting waiver of limitation and limitation of contract and any extension to prescribed period.

Subsec. (e)(1). Pub. L. 98–181, §209(a)(3), redesignated par. (4) as (1) and struck out former par. (1) which prescribed terms of 20 to 30 years for newly constructed or substantially rehabilitated dwelling units.

Subsec. (e)(2). Pub. L. 98–181, §209(a)(3), redesignated par. (5) as (2) and struck out former par. (2) which required owners to assume ownership, management, and maintenance responsibilities, including selection of tenants and termination of tenancy for newly constructed or substantially rehabilitated dwelling units.

Pub. L. 98–181, §203(b)(2), inserted ", are paying more than 50 per centum of family income for rent," after "substandard housing".

Subsec. (e)(3). Pub. L. 98–181, §209(a)(3), struck out par. (3) which required that construction or substantial rehabilitation of dwelling units be eligible for mortgages insured under the National Housing Act and that assistance not be withheld by reason of availability of mortgage insurance under section 1715z–9 of title 12 or tax-exempt status obligations used to finance the construction or rehabilitation.

Subsec. (e)(4), (5). Pub. L. 98–181, §209(a)(3), redesignated pars. (4) and (5) as (1) and (2), respectively.

Subsec. (i). Pub. L. 98–181, §209(a)(4), repealed subsec. (i) which related to contracts with respect to substantially rehabilitated dwelling units.

Subsecs. (l), (m). Pub. L. 98–181, §209(a)(5), repealed subsec. (l) relating to limitation of cost and rent increases, and subsec. (m) relating to preference for projects on suitable State and local government tracts.

Subsec. (n). Pub. L. 98–181, §209(a)(6), substituted "subsection (e)(2) of this section" for "subsection (e)(5) and subsection (i) of this section".

Pub. L. 98–181, §210(1), (2), inserted "subsection (b)(1) of this section," before "subsection (e)(5)" and a comma after "subsection (e)(5) of this section".

Subsec. (n)(3). Pub. L. 98–181, §210(3)–(5), added par. (3).

Subsec. (o). Pub. L. 98–181, §207, added subsec. (o).

Subsec. (p). Pub. L. 98–181, §211, added subsec. (p).

1981—Subsec. (b)(2). Pub. L. 97–35, §§324(1), 325(1), inserted provisions relating to increasing housing opportunities for very low-income families and provisions relating to availability for occupancy the number of units for which assistance is committed.

Subsec. (c)(2)(D). Pub. L. 97–35, §324(2), added par. (D).

Subsec. (c)(3). Pub. L. 97–35, §322(e)(1), revised formula for computation of amount of monthly assistance and struck out authority to make reviews at least every two years in cases of elderly families.

Subsec. (c)(5). Pub. L. 97–35, §325(2), inserted reference to mortgages under section 1720 of title 12.

Subsec. (c)(7). Pub. L. 97–35, §322(e)(2), struck out par. (7) relating to percentage requirement for families with very low income and redesignated former par. (8) as (7).

Subsec. (c)(8). Pub. L. 97–35, §326(a), added par. (8). Former par. (8) redesignated (7).

Subsec. (d)(1)(B). Pub. L. 97–35, §326(e)(1), substituted provisions relating to terms and conditions, and termination of the lease by the owner for provisions relating to right of the agency to give notice to terminate and owner the right to make representation to agency for termination of the tenancy.

Subsec. (f). Pub. L. 97–35, §322(e)(3), struck out pars. (1) to (3) which defined "lower income families", "very low-income families" and "income", respectively, and redesignated pars. (4) to (6) as (1) to (3), respectively.

Subsec. (h). Pub. L. 97–35, §322(e)(4), (5), struck out reference to section 1437a(1) of this title.

Subsec. (j). Pub. L. 97–35, §329H(a), generally revised and reorganized provisions and, as so revised and reorganized, substituted provisions relating to contracts to make assistance payments to assist lower income families by making rental assistance payments on behalf of such family, for provisions relating to annual contributions contracts to assist lower income families by making rental assistance payments.

Subsec. (j)(3). Pub. L. 97–35, §322(e)(6), substituted in par. (3) "the rent the family is required to pay under section 1437a(a) of this title" for "25 per centum of one-twelfth of the annual income of such family".

Subsecs. (l) to (n). Pub. L. 97–35, §324(3), added subsecs. (l) to (n).

1980—Subsec. (c)(1). Pub. L. 96–399, §203(a), inserted provision that in the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after Oct. 1, 1980.

Subsec. (e)(5). Pub. L. 96–399, §203(b), inserted provision relating to the authority of the Secretary, notwithstanding subsec. (c)(1) of this section, to establish monthly rent exceeding fair market rental where cost levels so require or where necessary to the implementation of a local housing assistance plan.

Subsec. (j). Pub. L. 96–399, §308(c)(3), substituted "manufactured home" for "mobile home" wherever appearing.

1979—Subsec. (c)(3). Pub. L. 96–153, §202(b), substituted new provisions for computation of the amount of monthly assistance payments with respect to dwelling units and laid down criteria to be followed by the Secretary in regard to payments to families with different income levels.

Subsec. (d)(1)(A). Pub. L. 96–153, §206(b)(1), substituted "Secretary and the agency, except that the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section." for "Secretary and the agency;".

Subsec. (e)(1). Pub. L. 96–153, §211(b), substituted "term of less than two hundred and forty months" for "term of less than one month".

Subsec. (e)(2). Pub. L. 96–153, §206(b)(2), substituted "performance of such responsibilities), except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section" for "performance of such responsibilities)".

Subsec. (k). Pub. L. 96–153, §210, added subsec. (k).

1978—Subsec. (e)(5). Pub. L. 95–557, §206(e), added par. (5).

Subsec. (i). Pub. L. 95–557, §206(d)(1), added subsec. (i).

Subsec. (j). Pub. L. 95–557, §206(f), added subsec. (j).

1977—Subsec. (c), Pub. L. 95–128, §201(c), (d), inserted in par. (1) prohibition against high-rise elevator projects for families with children after Oct. 12, 1977, and struck out from par. (4) provision which prohibited payment after the sixty-day period if the unoccupied unit was in a project insured under the National Housing Act, except pursuant to section 1715z–9 of title 12.

Subsec. (d)(3). Pub. L. 95–128, §201(e)(1), added par. (3).

Subsec. (e)(1). Pub. L. 95–24 substituted "three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 1715z–9 of title 12" for "two hundred and forty months" and "Notwithstanding the preceding sentence, in the case of" for "In the case of".

Subsec. (e)(2). Pub. L. 95–128, §201(e)(2), inserted provision respecting the Secretary's approval of any public housing agency for assumption of management and maintenance responsibilities of dwelling units under the preceding sentence.

1976—Subsec. (c)(4). Pub. L. 94–375, §2(d), inserted provision extending payments to newly constructed or substantially rehabilitated unoccupied units in an amount equal to the debt service of such unit for a period not to exceed one year, provided that a good faith effort is being made to fill the unit, the unit provides decent and safe housing, the unit is not insured under the National Housing Act, except pursuant to section 1715z–9 of title 12, and the revenues from the project do not exceed the cost.

Subsec. (e)(1). Pub. L. 94–375, §2(g), inserted "or the Farmers' Home Administration" after "State or local agency".

Subsec. (f)(6). Pub. L. 94–375, §2(e), added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 effective 2 years after Dec. 29, 2022, see section 601(h) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 101(b)(2) of div. Q of Pub. L. 116–260 effective 2 years after Dec. 27, 2020, see section 101(h) of div. Q of Pub. L. 116–260, set out as a note under section 1701q of Title 12, Banks and Banking.

Amendment by section 103(b), (c) of div. Q of Pub. L. 116–260 not applicable to housing choice voucher assistance made available pursuant to subsec. (x) of this section in use on behalf of an assisted family as of Dec. 27, 2020, see section 103(d) of div. Q of Pub. L. 116–260, set out as a note under section 1437a of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–174, title III, §304(c), May 24, 2018, 132 Stat. 1339, provided that: "Subsections (a) and (b) [amending this section, enacting provisions set out as a note under this section, amending provisions set out as notes under sections 5201 and 5220 of Title 12, Banks and Banking, and repealing provisions set out as a note under this section] shall take effect on the date that is 30 days after the date of enactment of this Act [May 24, 2018]."

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–201, title I, §101(b), July 29, 2016, 130 Stat. 786, provided that: "The Secretary of Housing and Urban Development shall issue notice or regulations to implement subsection (a) of this section [amending this section] and such subsection shall take effect upon such issuance." [Amendment by section 101(a)(1) effective June 6, 2024, based on notice issued May 7, 2024, see 89 F.R. 38224.]

Amendment by section 102(d)–(f) of Pub. L. 114–201 effective upon the issuance of notice or regulations by the Secretary of Housing and Urban Development implementing section 102 of Pub. L. 114–201, except that such section 102 may only take effect upon the commencement of a calendar year, see section 102(h) of Pub. L. 114–201, set out as a note under section 1437a of this title. [Amendment by section 102(d) effective Jan. 1, 2017, based on notice issued Oct. 24, 2016, see 81 F.R. 73030. Amendment by section 102(e), (f) effective Jan. 1, 2024, based on notice issued Feb. 14, 2023, see 88 F.R. 9600, as corrected Feb. 28, 2023, 88 F.R. 12559.]

Pub. L. 114–201, title I, §106(b), July 29, 2016, 130 Stat. 800, provided that: "The Secretary of Housing and Urban Development shall issue notice or regulations to implement subsection (a) of this section [amending this section] and such subsection shall take effect upon such issuance." [Amendment by section 106 effective June 6, 2024, based on notice issued May 7, 2024, see 89 F.R. 38224.]

Pub. L. 114–201, title I, §107(c), July 29, 2016, 130 Stat. 801, provided that: "The amendments made by this section [amending this section] shall take effect upon the date of the enactment of this Act [July 29, 2016]."

Pub. L. 114–201, title I, §112(b), July 29, 2016, 130 Stat. 804, provided that: "The Secretary of Housing and Urban Development shall issue notice to implement the amendments made by subsection (a) [amending this section] and such amendments shall take effect upon such issuance." [Amendment by section 112 effective June 6, 2024, based on notice issued May 7, 2024, see 89 F.R. 38224]

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–76, div. L, title II, §220(b), Jan. 17, 2014, 128 Stat. 631, provided that: "The amendments in subsection (a) [amending this section] shall take effect upon such date as the Secretary determines, in the Secretary's sole discretion, through the Secretary's publication of such date in the Federal Register, as part of regulations promulgated, or a notice issued, by the Secretary to implement such amendments."

[Notice implementing certain provisions of section 220 of Pub. L. 113–76 in a limited fashion was published June 25, 2014, effective July 1, 2014, see 79 F.R. 35940.]

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

TERMINATION DATE OF 2009 AMENDMENT

Pub. L. 111–22, div. A, title VII, §704, May 20, 2009, 123 Stat. 1662, as amended by Pub. L. 111–203, title XIV, §1484(2), July 21, 2010, 124 Stat. 2204, which provided that title VII of div. A of Pub. L. 111–22 (amending this section and enacting provisions set out as notes under sections 5201 and 5220 of Title 12, Banks and Banking), and any amendments made by such title are repealed, and the requirements under such title shall terminate, on Dec. 31, 2014, was repealed by Pub. L. 115–174, title III, §304(a), (c), May 24, 2018, 132 Stat. 1339, effective 30 days after May 24, 2018.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(Y) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–116 effective Sept. 30, 2001, see section 603 of Pub. L. 107–116, set out as a note under section 1715n of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–569, title III, §301(b), Dec. 27, 2000, 114 Stat. 2952, provided that: "The amendments made by subsection (a) [amending this section] shall take effect immediately after the amendments made by section 555(c) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note below] take effect pursuant to such section."

Pub. L. 106–569, title IX, §902(b), Dec. 27, 2000, 114 Stat. 3026, provided that: "The amendment under subsection (a) [amending this section] shall be made and shall apply—

"(1) upon the enactment of this Act, if the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377], is enacted before the enactment of this Act; and

"(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act."

Pub. L. 106–569, title IX, §903(b), Dec. 27, 2000, 114 Stat. 3026, provided that: "The amendment under subsection (a) [amending this section] shall be made and shall apply—

"(1) upon the enactment of this Act, if the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377], is enacted before the enactment of this Act; and

"(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title II, §209(b), Oct. 21, 1998, 112 Stat. 2485, provided that: "This section [amending this section] shall take effect 60 days after the later of October 1, 1998 or the date of the enactment of this Act [Oct. 21, 1998]."

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Amendment by section 514(b)(1) of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 514(g) of Pub. L. 105–276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105–276, title V, §545(c), Oct. 21, 1998, 112 Stat. 2604, provided that: "Notwithstanding the amendment made by subsection (a) of this section [amending this section], any amendments to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) that are contained in title II of this Act [see Tables for classification] shall apply with respect to the provision of assistance under such section during the period before implementation (pursuant to section 559 of this title [set out as a Regulations and Transition Provisions note below]) of such section 8(o) as amended by subsection (a) of this section."

Pub. L. 105–276, title V, §549(a)(3), Oct. 21, 1998, 112 Stat. 2607, provided that: "The amendments under this subsection [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998], and shall apply thereafter, notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [section 101(e) [title II, §203] of Pub. L. 104–134, amending this section and enacting provisions set out as an Effective and Termination Dates of 1996 Amendments note below] (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203)."

Pub. L. 105–276, title V, §554, Oct. 21, 1998, 112 Stat. 2611, provided that: "Notwithstanding section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134; 42 U.S.C. 1437f note) [see Effective and Termination Dates of 1996 Amendments note below]), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by striking subsection (t). This section shall apply beginning upon, and the amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

Pub. L. 105–276, title V, §555(c), Oct. 21, 1998, 112 Stat. 2613, provided that: "This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

Amendment by section 565(c) of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 565(e) of Pub. L. 105–276, set out as a note under section 1437d of this title.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Pub. L. 104–134, title I, §101(e) [title II, §203(d)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–281, as amended by Pub. L. 104–204, title II, §201(e), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105–65, title II, §201(b), Oct. 27, 1997, 111 Stat. 1364, provided that: "The provisions of this section [amending this section] shall be effective for fiscal years 1996, 1997, and 1998 only."

Amendment by section 402(d)(2), (3), (6)(A)(iii), (iv) of Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by Pub. L. 103–327 enacting subsec. (aa), effective only during fiscal year 1995, see title II in part of Pub. L. 103–327, set out as a note under section 1715n of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 289(b)(1) of Pub. L. 101–625, repealing subsec. (e)(2) of this section, effective Oct.

1, 1991; however, provisions of subsec. (e)(2) to remain in effect with respect to single room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4), (b) of this title.

EFFECTIVE DATE OF 1983 AMENDMENT; SAVINGS PROVISION

Pub. L. 98–181, title I [title II, §209(b)], Nov. 30, 1983, 97 Stat. 1183, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

"(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 [this section] prior to January 1, 1984; and

"(2) with respect to any project financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendments by sections 322(e) and 329H(a) of Pub. L. 97–35 effective Oct. 1, 1981, and amendments by sections 324, 325, and 326(a) of Pub. L. 97–35 applicable with respect to contracts entered into on or after Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

Pub. L. 97–35, title III, §326(e)(2), Aug. 13, 1981, 95 Stat. 407, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to leases entered into on or after October 1, 1981."

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 202(b) of Pub. L. 96–153 effective Jan. 1, 1980, except with respect to amount of tenant contribution required of families whose occupancy commenced prior to such date, see section 202(c) of Pub. L. 96–153, set out as a note under section 1437a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–557, title II, §206(d)(2), Oct. 31, 1978, 92 Stat. 2092, provided that: "The amendment made by this subsection [amending this section] shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act [Oct. 31, 1978]."

Amendment by section 206(e), (f) of Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

EFFECTIVE DATE

Section effective not later than Jan. 1, 1975, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

APPLICABILITY OF 1994 AMENDMENTS

Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315, third par., provided that: "The immediately foregoing amendment [amending subsec. (c)(2)(A) of this section by authorizing modification of rent adjustment where adjusted rent exceeds fair market rental] shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] by applying an annual adjustment factor."

Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315, fifth par., provided that: "The immediately foregoing [amending subsec. (c)(2)(A) of this section by inserting two sentences at end authorizing reduction of annual adjustment factor in certain circumstances] shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] and that provide for rent adjustments using an annual adjustment factor."

REGULATIONS AND TRANSITION PROVISIONS

Pub. L. 105–276, title V, §559, Oct. 21, 1998, 112 Stat. 2615, provided that:

"(a) INTERIM REGULATIONS.—The Secretary of Housing and Urban Development shall issue such interim regulations as may be necessary to implement the amendments made by this subtitle [subtitle C (§§545–559) of title V of Pub. L. 105–276, see Tables for classification] and other provisions in this title [see Tables for classification] which relate to section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)].

"(b) FINAL REGULATIONS.—The Secretary shall issue final regulations necessary to implement the amendments made by this subtitle and other provisions in this title which relate to section 8(o) of the United

States Housing Act of 1937 [42 U.S.C. 1437f(o)] not later then 1 year after the date of the enactment of this Act [Oct. 21, 1998].

"(c) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under subsection (b), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

"(1) seek recommendations on the implementation of sections 8(o)(6)(B), 8(o)(7)(B), and 8(o)(10)(D) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)(6)(B), (7)(B), (10)(D)] and of renewals of expiring tenant-based assistance from organizations representing—

"(A) State or local public housing agencies;

"(B) owners and managers of tenant-based housing assisted under section 8 of the United States Housing Act of 1937;

"(C) families receiving tenant-based assistance under section 8 of the United States Housing Act of 1937; and

"(D) legal service organizations; and

"(2) convene not less than 2 public forums at which the persons or organizations making recommendations under paragraph (1) may express views concerning the proposed disposition of the recommendations.

"(d) CONVERSION ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (o) of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f(b), (o)], as in effect before the applicability of the amendments made by this subtitle, to the voucher program established by the amendments made by this subtitle.

"(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], or any other provision of law amended by this subtitle, as those provisions were in effect immediately before the date of the enactment of this Act [Oct. 21, 1998] (except that such provisions shall be subject to any amendments to such provisions that may be contained in title II of this Act [see Tables for classification]), to assistance obligated by the Secretary before October 1, 1999, for the certificate or voucher program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

"(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

REGULATIONS

Pub. L. 105–276, title V, §556(b), Oct. 21, 1998, 112 Stat. 2613, directed the Secretary of Housing and Urban Development to implement the amendment made by subsec. (a), adding 42 U.S.C. 1437f(dd), through notice, not later than Dec. 31, 1998, and to issue final regulations, not later than one year after Oct. 21, 1998. HUD Notice 98–65 was issued Dec. 30, 1998, and final regulations were published in the Federal Register Oct. 21, 1999, effective Nov. 22, 1999. See 64 F.R. 56882.

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by Pub. L. 103–233, see section 101(f) of Pub. L. 103–233, set out as a note under section 1701z–11 of Title 12, Banks and Banking.

For provision requiring that not later than expiration of the 180-day period beginning Oct. 28, 1992, the Secretary of Housing and Urban Development shall issue regulations implementing amendments to this section by section 545 of Pub. L. 101–625, see section 104 of Pub. L. 102–550, set out as a note under section 1437d of this title.

Pub. L. 102–550, title I, §149, Oct. 28, 1992, 106 Stat. 3715, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section] not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance."

Pub. L. 102–550, title I, §151, Oct. 28, 1992, 106 Stat. 3716, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625] (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of

section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance."

SAVINGS PROVISION

Pub. L. 106–377, §1(a)(1) [title II, §232(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–34, as amended by Pub. L. 110–28, title VI, §6904, May 25, 2007, 121 Stat. 185, provided that: "In the case of any dwelling unit that, upon the date of the enactment of this Act [Oct. 27, 2000], is assisted under a housing assistance payment contract under section 8(o)(13) [of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13))] as in effect before such enactment, or under section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) as in effect before the enactment of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105–276) [approved Oct. 21, 1998], assistance may be renewed or extended under such section 8(o)(13), as amended by subsection (a), provided that the initial contract term and rent of such renewed or extended assistance shall be determined pursuant to subparagraphs (F) and (H), and subparagraphs (C) and (D) of such section shall not apply to such extensions or renewals."

CONSTRUCTION OF 2022 AMENDMENT

Nothing in amendment made by Pub. L. 117–328 to be construed to preempt or limit applicability of certain State or local laws relating to smoke alarms, see section 601(i) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

CONSTRUCTION OF 2020 AMENDMENT

Nothing in amendment made by section 101(b)(2) of Pub. L. 116–260 to be construed to preempt or limit applicability of certain State or local laws relating to carbon monoxide devices, see section 101(j) of div. Q of Pub. L. 116–260, set out as a note under section 1437a of this title.

RESTORATION OF TERMINATED PROVISIONS

Pub. L. 115–174, title III, §304(b), May 24, 2018, 132 Stat. 1339, provided that: "Sections 701 through 703 of the Protecting Tenants at Foreclosure Act of 2009 [title VII of div. A of Pub. L. 111–22, amending this section and enacting provisions set out as notes under section 5201 and 5220 of Title 12, Banks and Banking], the provisions of law amended by such sections, and any regulations promulgated pursuant to such sections, as were in effect on December 30, 2014, are restored and revived."

EMERGENCY HOUSING VOUCHERS

Pub. L. 117–2, title III, §3202, Mar. 11, 2021, 135 Stat. 58, provided that:

"(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $5,000,000,000, to remain available until September 30, 2030, for—

"(1) incremental emergency vouchers under subsection (b);

"(2) renewals of the vouchers under subsection (b);

"(3) fees for the costs of administering vouchers under subsection (b) and other eligible expenses defined by notice to prevent, prepare, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners; and

"(4) adjustments in the calendar year 2021 section 8 renewal funding allocation, including mainstream vouchers, for public housing agencies that experience a significant increase in voucher per-unit costs due to extraordinary circumstances or that, despite taking reasonable cost savings measures, would otherwise be required to terminate rental assistance for families as a result of insufficient funding.

"(b) EMERGENCY VOUCHERS.—

"(1) IN GENERAL.—The Secretary shall provide emergency rental assistance vouchers under subsection (a), which shall be tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

"(2) QUALIFYING INDIVIDUALS OR FAMILIES DEFINED.—For the purposes of this section, qualifying individuals or families are those who are—

"(A) homeless (as such term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));

"(B) at risk of homelessness (as such term is defined in section 401(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(1)));

"(C) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or

human trafficking, as defined by the Secretary; or

"(D) recently homeless, as determined by the Secretary, and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

"(3) ALLOCATION.—The Secretary shall notify public housing agencies of the number of emergency vouchers provided under this section to be allocated to the agency not later than 60 days after the date of the enactment of this Act [Mar. 11, 2021], in accordance with a formula that includes public housing agency capacity and ensures geographic diversity, including with respect to rural areas, among public housing agencies administering the Housing Choice Voucher program.

"(4) TERMS AND CONDITIONS.—

"(A) ELECTION TO ADMINISTER.—The Secretary shall establish a procedure for public housing agencies to accept or decline the emergency vouchers allocated to the agency in accordance with the formula under subparagraph (3).

"(B) FAILURE TO USE VOUCHERS PROMPTLY.—If a public housing agency fails to lease its authorized vouchers under subsection (b) on behalf of eligible families within a reasonable period of time, the Secretary may revoke and redistribute any unleased vouchers and associated funds, including administrative fees and costs referred to in subsection (a)(3), to other public housing agencies according to the formula under paragraph (3).

"(5) WAIVERS AND ALTERNATIVE REQUIREMENTS.—The Secretary may waive or specify alternative requirements for any provision of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or regulation applicable to such statute other than requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of amounts made available in this section.

"(6) TERMINATION OF VOUCHERS UPON TURNOVER.—After September 30, 2023, a public housing agency may not reissue any vouchers made available under this section when assistance for the family assisted ends.

"(c) TECHNICAL ASSISTANCE AND OTHER COSTS.—The Secretary may use not more $20,000,000 of the amounts made available under this section for the costs to the Secretary of administering and overseeing the implementation of this section and the Housing Choice Voucher program generally, including information technology, financial reporting, and other costs. Of the amounts set aside under this subsection, the Secretary may use not more than $10,000,000, without competition, to make new awards or increase prior awards to existing technical assistance providers to provide an immediate increase in capacity building and technical assistance to public housing agencies.

"(d) IMPLEMENTATION.—The Secretary may implement the provisions of this section by notice."

MOBILITY DEMONSTRATION PROGRAM

Pub. L. 116–6, div. G, title II, §235, Feb. 15, 2019, 133 Stat. 465, provided that:

"(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') may carry out a mobility demonstration program to enable public housing agencies to administer housing choice voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in a manner designed to encourage families receiving such voucher assistance to move to lower-poverty areas and expand access to opportunity areas.

"(b) SELECTION OF PHAS.—

"(1) REQUIREMENTS.—The Secretary shall establish requirements for public housing agencies to participate in the demonstration program under this section, which shall provide that the following public housing agencies may participate:

"(A) Public housing agencies that together—

"(i) serve areas with high concentrations of holders of rental assistance vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in poor, low-opportunity neighborhoods; and

"(ii) have an adequate number of moderately priced rental units in higher-opportunity areas.

"(B) Planned consortia or partial consortia of public housing agencies that—

"(i) include at least one agency with a high-performing Family Self-Sufficiency (FSS) program; and

"(ii) will enable participating families to continue in such program if they relocate to the jurisdiction served by any other agency of the consortium.

"(C) Planned consortia or partial consortia of public housing agencies that—

"(i) serve jurisdictions within a single region;

"(ii) include one or more small agencies; and

"(iii) will consolidate mobility focused operations.

"(D) Such other public housing agencies as the Secretary considers appropriate.

"(2) SELECTION CRITERIA.—The Secretary shall establish competitive selection criteria for public housing agencies eligible under paragraph (1) to participate in the demonstration program under this section.

"(3) RANDOM SELECTION OF FAMILIES.—The Secretary may require participating agencies to use a randomized selection process to select among the families eligible to receive mobility assistance under the demonstration program.

"(c) REGIONAL HOUSING MOBILITY PLAN.—The Secretary shall require each public housing agency applying to participate in the demonstration program under this section to submit a Regional Housing Mobility Plan (in this section referred to as a 'Plan'), which shall—

"(1) identify the public housing agencies that will participate under the Plan and the number of vouchers each participating agency will make available out of their existing programs in connection with the demonstration;

"(2) identify any community-based organizations, nonprofit organizations, businesses, and other entities that will participate under the Plan and describe the commitments for such participation made by each such entity;

"(3) identify any waivers or alternative requirements under subparagraph (e) requested for the execution of the Plan;

"(4) identify any specific actions that the public housing agencies and other entities will undertake to accomplish the goals of the demonstration, which shall include a comprehensive approach to enable a successful transition to opportunity areas and may include counseling and continued support for families;

"(5) specify the criteria that the public housing agencies would use to identify opportunity areas under the plan;

"(6) provide for establishment of priority and preferences for participating families, including a preference for families with young children, as such term is defined by the Secretary, based on regional housing needs and priorities; and

"(7) comply with any other requirements established by the Secretary.

"(d) FUNDING FOR MOBILITY-RELATED SERVICES.—

"(1) USE OF ADMINISTRATIVE FEES.—Public housing agencies participating in the demonstration program under this section may use administrative fees under section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)), their administrative fee reserves, and funding from private entities to provide mobility-related services in connection with the demonstration program, including services such as counseling, portability coordination, landlord outreach, security deposits, and administrative activities associated with establishing and operating regional mobility programs.

"(2) USE OF HOUSING ASSISTANCE FUNDS.—Public housing agencies participating in the demonstration under this section may use housing assistance payments funds under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for security deposits if necessary to enable families to lease units with vouchers in designated opportunity areas.

"(e) WAIVERS; ALTERNATIVE REQUIREMENTS.—

"(1) WAIVERS.—To allow for public housing agencies to implement and administer their Regional Housing Mobility Plans, the Secretary may waive or specify alternative requirements for the following provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]:

"(A) Sections 8(o)(7)(A) [42 U.S.C. 1437f (o)(7)(A)] and 8(o)(13)(E)(i)[42 U.S.C. 1437f (o)(13)(E)(i)] (relating to the term of a lease and mobility requirements).

"(B) Section 8(o)(13)(C)(i) [42 U.S.C. 1437f (o)(13)(C)(i)](relating to the public housing plan for an agency).

"(C) Section 8(r)(2) [42 U.S.C. 1437f(r)(2)] (relating to the responsibility of a public housing agency to administer ported assistance).

"(2) ALTERNATIVE REQUIREMENTS FOR CONSORTIA.—The Secretary shall provide alternative administrative requirements for public housing agencies in a selected region to—

"(A) form a consortium that has a single housing choice voucher funding contract; or

"(B) enter into a partial consortium to operate all or portions of the Regional Housing Mobility Plan, which may include agencies participating in the Moving To Work Demonstration program.

"(3) EFFECTIVE DATE.—Any waiver or alternative requirements pursuant to this subsection shall not take effect before the expiration of the 10-day period beginning upon publication of notice of such waiver or alternative requirement in the Federal Register.

"(f) IMPLEMENTATION.—The Secretary may implement the demonstration, including its terms,

procedures, requirements, and conditions, by notice.

"(g) EVALUATION.—Not later than five years after implementation of the regional housing mobility programs under the demonstration program under this section, the Secretary shall submit to the Congress and publish in the Federal Register a report evaluating the effectiveness of the strategies pursued under the demonstration, subject to the availability of funding to conduct the evaluation. Through official websites and other methods, the Secretary shall disseminate interim findings as they become available, and shall, if promising strategies are identified, notify the Congress of the amount of funds that would be required to expand the testing of these strategies in additional types of public housing agencies and housing markets.

"(h) TERMINATION.—The demonstration program under this section shall terminate on October 1, 2028."

RENTAL ASSISTANCE DEMONSTRATION

Pub. L. 112–55, div. C, title II, Nov. 18, 2011, 125 Stat. 673, as amended by Pub. L. 113–76, div. L, title II, §239, Jan. 17, 2014, 128 Stat. 635; Pub. L. 113–235, div. K, title II, §234, Dec. 16, 2014, 128 Stat. 2757; Pub. L. 114–113, div. L, title II, §237, Dec. 18, 2015, 129 Stat. 2897; Pub. L. 115–31, div. K, title II, §239, May 5, 2017, 131 Stat. 789; Pub. L. 115–141, div. L, title II, §237, Mar. 23, 2018, 132 Stat. 1038; Pub. L. 117–103, div. L, title II, §236, Mar. 15, 2022, 136 Stat. 763; Pub. L. 118–42, div. F, title II, §231, Mar. 9, 2024, 138 Stat. 382, provided that: "To conduct a demonstration designed to preserve and improve public housing and certain other multifamily housing through the voluntary conversion of properties with assistance under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], (hereinafter, 'the Act'), or the moderate rehabilitation program under section 8(e)(2) of the Act [42 U.S.C. 1437f(e)(2)], to properties with assistance under a project-based subsidy contract under section 8 of the Act [42 U.S.C. 1437f], which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [Pub. L. 105–65, set out below], or assistance under section 8(o)(13) of the Act [42 U.S.C. 1437f(o)(13)], the Secretary may transfer amounts provided through contracts under section 8(e)(2) of the Act or under the headings 'Public Housing Capital Fund', 'Public Housing Operating Fund', and 'Public Housing Fund' to the headings 'Tenant-Based Rental Assistance' or 'Project-Based Rental Assistance' (herein the 'First Component'): *Provided*, That the initial long-term contract under which converted assistance is made available may allow for rental adjustments only by an operating cost factor established by the Secretary, and shall be subject to the availability of appropriations for each year of such term: *Provided further*, That project applications may be received under this demonstration until September 30, 2029: *Provided further*, That any increase in cost for 'Tenant-Based Rental Assistance' or 'Project-Based Rental Assistance' associated with such conversion in excess of amounts made available under this heading shall be equal to amounts transferred from 'Public Housing Capital Fund' and 'Public Housing Operating Fund' or other account from which it was transferred: *Provided further*, That not more than 455,000 units currently receiving assistance under section 9 or section 8(e)(2) of the Act shall be converted under the authority provided under this heading: *Provided further*, That at properties with assistance under section 9 of the Act [42 U.S.C. 1437g] requesting to partially convert such assistance, and where an event under section 18 of the Act [42 U.S.C. 1437p] occurs that results in the eligibility for tenant protection vouchers under section 8(o) of the Act [42 U.S.C. 1437f(o)], the Secretary may convert the tenant protection voucher assistance to assistance under a project-based subsidy contract under section 8 of the Act, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [Pub. L. 105–65, set out below], or assistance under section 8(o)(13) of the Act, so long as the property meets any additional requirements established by the Secretary to facilitate conversion: *Provided further*, That to facilitate the conversion of assistance under the previous proviso, the Secretary may transfer an amount equal to the total amount that would have been allocated for tenant protection voucher assistance for properties that have requested such conversions from amounts made available for tenant protection voucher assistance under the heading 'Tenant-Based Rental Assistance' to the heading 'Project-Based Rental Assistance': *Provided further*, That at properties with assistance previously converted hereunder to assistance under the heading 'Project-Based Rental Assistance,' which are also separately assisted under section 8(o)(13) of the Act, the Secretary may, with the consent of the public housing agency and owner, terminate such project-based subsidy contracts and immediately enter into one new project-based subsidy contract under section 8 of the Act, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, subject to the requirement that any residents assisted under section 8(o)(13) of the Act at the time of such termination of such project-based subsidy contract shall retain all rights accrued under section 8(o)(13)(E) of the Act under the new project-based subsidy contract and section 8(o)(13)(F)(iv) of the Act shall not apply: *Provided further*, That to carry out the previous proviso, the Secretary may transfer from the heading 'Tenant-Based Rental Assistance' to the heading 'Project-Based Rental Assistance' an amount equal to the amounts associated with such terminating contract under section 8(o)(13) of the Act: *Provided further*, That tenants of such properties

with assistance converted from assistance under section 9 shall, at a minimum, maintain the same rights under such conversion as those provided under sections 6 [42 U.S.C. 1437d] and 9 of the Act: *Provided further*, That the Secretary shall select properties from applications for conversion as part of this demonstration through a competitive process: *Provided further*, That in establishing criteria for such competition, the Secretary shall seek to demonstrate the feasibility of this conversion model to recapitalize and operate public housing properties (1) in different markets and geographic areas, (2) within portfolios managed by public housing agencies of varying sizes, and (3) by leveraging other sources of funding to recapitalize properties: *Provided further*, That the Secretary shall provide an opportunity for public comment on draft eligibility and selection criteria and procedures that will apply to the selection of properties that will participate in the demonstration: *Provided further*, That the Secretary shall provide an opportunity for comment from residents of properties to be proposed for participation in the demonstration to the owners or public housing agencies responsible for such properties: *Provided further*, That the Secretary may waive or specify alternative requirements for (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) any provision of section 8(o)(13) or any provision that governs the use of assistance from which a property is converted under the demonstration or funds made available under the headings of 'Public Housing Capital Fund', 'Public Housing Operating Fund', 'Public Housing Fund', 'Self-Sufficiency Programs', 'Family Self-Sufficiency'[,] and 'Project-Based Rental Assistance', under this Act or any prior Act or any Act enacted during the period of conversion of assistance under the demonstration for properties with assistance converted under the demonstration, upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective conversion of assistance under the demonstration or the ongoing availability of services for residents: *Provided further*, That the Secretary shall publish by notice in the Federal Register any waivers or alternative requirements pursuant to the previous proviso no later than 10 days before the effective date of such notice: *Provided further*, That the demonstration may proceed after the Secretary publishes notice of its terms in the Federal Register: *Provided further*, That notwithstanding sections 3 [42 U.S.C. 1437a] and 16 [42 U.S.C. 1437n] of the Act, the conversion of assistance under the demonstration shall not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration, and such a family shall not be considered a new admission for any purpose, including compliance with income targeting requirements: *Provided further*, That in the case of a property with assistance converted under the demonstration from assistance under section 9 of the Act, section 18 of the Act [42 U.S.C. 1437p] shall not apply to a property converting assistance under the demonstration for all or substantially all of its units, the Secretary shall require ownership or control of assisted units by a public or nonprofit entity except as determined by the Secretary to be necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations or substantial default, in which case the priority for ownership or control shall be provided to a capable public or nonprofit entity, then a capable entity, as determined by the Secretary, shall require long-term renewable use and affordability restrictions for assisted units, and may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency or a nonprofit entity preserves an interest in the property in a manner approved by the Secretary, and upon expiration of the initial contract and each renewal contract, the Secretary shall offer and the owner of the property shall accept renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal: *Provided further*, That the Secretary may permit transfer of assistance at or after conversion under the demonstration to replacement units subject to the requirements in the previous proviso: *Provided further*, That the Secretary may establish the requirements for converted assistance under the demonstration through contracts, use agreements, regulations, or other means: *Provided further*, That the Secretary shall assess and publish findings regarding the impact of the conversion of assistance under the demonstration on the preservation and improvement of public housing, the amount of private sector leveraging as a result of such conversion, and the effect of such conversion on tenants: *Provided further*, That conversions of assistance under the following provisos herein shall be considered as the 'Second Component' and shall be authorized for fiscal year 2012 and thereafter: *Provided further*, That owners of properties assisted under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z–1(f)(2)], or section 8(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(e)(2)], for which an event after October 1, 2006 has caused or results in the termination of rental assistance or affordability restrictions and the issuance of tenant protection vouchers under section 8(o) of the Act [42 U.S.C. 1437f(o)] shall be eligible, subject to requirements established by the Secretary, for conversion of assistance available for such vouchers or assistance contracts to assistance under a long term project-based subsidy contract under section 8 of the Act: *Provided further*, That owners of properties with a project rental assistance contract under section 202(c)(2) of the Housing Act of 1959 [12 U.S.C. 1701q(c)(2)] shall be eligible, subject to requirements established by the Secretary, including but not limited to the subordination, restructuring, or

both, of any capital advance documentation, including any note, mortgage, use agreement or other agreements, evidencing or securing a capital advance previously provided by the Secretary under section 202(c)(1) of the Housing Act of 1959 [12 U.S.C. 1701q(c)(1)] as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving elderly persons, and tenant consultation procedures, for conversion of assistance available for such assistance contracts to assistance under a long term project-based subsidy contract under section 8 of the Act: *Provided further*, That owners of properties with a senior preservation rental assistance contract under section 811 of the American Homeownership and Economic Opportunity Act of 2000 [Pub. L. 106–569] (12 U.S.C. 1701q note), shall be eligible, subject to requirements established by the Secretary as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving elderly families, and tenant consultation procedures, for conversion of assistance available for such assistance contracts to assistance under a long-term project-based subsidy contract under section 8 of the Act: *Provided further*, That owners of properties with a project rental assistance contract under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013(d)(2)], shall be eligible, subject to requirements established by the Secretary, including but not limited to the subordination, restructuring, or both, of any capital advance documentation, including any note, mortgage, use agreement or other agreements, evidencing or securing a capital advance previously provided by the Secretary under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving persons with disabilities, and tenant consultation procedures, for conversion of assistance contracts to assistance under a long term project-based subsidy contract under section 8 of the Act: *Provided further*, That long term project-based subsidy contracts under section 8 of the Act which are established under this Second Component shall have a term of no less than 20 years, with rent adjustments only by an operating cost factor established by the Secretary, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [title V of Pub. L. 105–65] (42 U.S.C. 1437f note), or, subject to agreement of the administering public housing agency, to assistance under section 8(o)(13) of the Act, to which the limitation under subsection (B) of section 8(o)(13) of the Act shall not apply and for which the Secretary may waive or alter the provisions of subparagraphs (C) and (D) of section 8(o)(13) of the Act: *Provided further*, That contracts provided to properties converting assistance from section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s] or section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z–1(f)(2)] located in high-cost areas shall have initial rents set at comparable market rents for the market area: *Provided further*, That the Secretary may waive or alter the requirements of section 8(c)(1)(A) of the Act for contracts provided to properties converting assistance from section 202(c)(2) of the Housing Act of 1959, section 811 of the American Homeownership and Economic Opportunity Act of 2000, or section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act as necessary to ensure the ongoing provision and coordination of services or to avoid a reduction in project subsidy: *Provided further*, That conversions of assistance under the Second Component may not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration and such a family shall not be considered a new admission for any purpose, including compliance with income targeting: *Provided further*, That amounts made available under the heading 'Rental Housing Assistance' during the period of conversion under the Second Component, except for conversion of section 202 project rental assistance contracts, shall be available for project-based subsidy contracts entered into pursuant to the Second Component: *Provided further*, That amounts, including contract authority, recaptured from contracts following a conversion under the Second Component, except for conversion of section 202 project rental assistance contracts, are hereby rescinded and an amount of additional new budget authority, equivalent to the amount rescinded is hereby appropriated, to remain available until expended for such conversions: *Provided further*, That the Secretary may transfer amounts made available under the heading 'Rental Housing Assistance', amounts made available for tenant protection vouchers under the heading 'Tenant-Based Rental Assistance' and specifically associated with any such conversions, and amounts made available under the previous proviso as needed to the account under the 'Project-Based Rental Assistance' heading to facilitate conversion under the Second Component, except for conversion of section 202 project rental assistance contracts, and any increase in cost for 'Project-Based Rental Assistance' associated with such conversion shall be equal to amounts so transferred: *Provided further*, That the Secretary may transfer amounts made available under the headings 'Housing for the Elderly' and 'Housing for Persons with Disabilities' to the accounts under the headings 'Project-Based Rental Assistance' or 'Tenant-Based Rental Assistance' to facilitate the conversion of assistance from section 202(c)(2) of the Housing Act of 1959 [12 U.S.C. 1701q(c)(2)], section 811 of the American Homeownership and Economic Opportunity Act of 2000 [Pub. L. 106–569, 12 U.S.C. 1701q note], or section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013(d)(2)] under

the Second Component, and any increase in cost for 'Project-Based Rental Assistance' or 'Tenant-Based Rental Assistance' associated with such conversion shall be equal to amounts so transferred: *Provided further*, That with respect to the previous four provisos, the Comptroller General of the United States shall conduct a study of the long-term impact of the fiscal year 2012 and 2013 conversion of tenant protection vouchers to assistance under section 8(o)(13) of the Act on the ratio of tenant-based vouchers to project-based vouchers."

CONVERSION OF HUD CONTRACTS

Pub. L. 110–289, div. A, title VI, §1603, July 30, 2008, 122 Stat. 2825, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, at the request of an owner of a multifamily housing project that exceeds 5,000 units to which a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 ('Act') (42 U.S.C. 1437f) and a Rental Assistance Payment contract is subject, convert such contracts to a contract for project-based rental assistance under section 8 of the Act.

"(b) INITIAL RENEWAL.—

"(1) At the request of an owner under subsection (a) made no later than 90 days prior to a conversion, the Secretary may, to the extent sufficient amounts are made available in appropriation Acts and notwithstanding any other law, treat the contemplated resulting contract as if such contract were eligible for initial renewal under section 524(a) of the MultiFamily Assisted Housing Reform and Affordability Act of 1997 [Pub. L. 105–65] (42 U.S.C. 1437f note) ('MAHRA') (42 U.S.C. 1437f note).

"(2) A request by an owner pursuant to paragraph (1) shall be upon such terms and conditions as the Secretary may require.

"(c) RESULTING CONTRACT.—The resulting contract shall—

"(1) be subject to section 524(a) of MAHRA [Pub. L. 105–65] (42 U.S.C. 1437f note);

"(2) be considered for all purposes a contract that has been renewed under section 524(a) of MAHRA (42 U.S.C. 1437f note) for a term not to exceed 20 years;

"(3) be subsequently renewable at the request of an owner, under any renewal option for which the project is eligible under MAHRA (42 U.S.C. 1437f note);

"(4) contain provisions limiting distributions, as the Secretary determines appropriate, not to exceed 10 percent of the initial investment of the owner;

"(5) be subject to the availability of sufficient amounts in appropriation Acts; and

"(6) be subject to such other terms and conditions as the Secretary considers appropriate.

"(d) INCOME TARGETING.—To the extent that assisted dwelling units, subject to the resulting contract under subsection (a), serve low-income families, as defined in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall be considered to be in compliance with all income targeting requirements under the Act (42 U.S.C. 1437 et seq[.]).

"(e) TENANT ELIGIBILITY.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of conversion of a contract under this section, subject to the resulting contract under subsection (a), shall be considered to meet the applicable requirements for income eligibility and occupancy.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'Secretary' means the Secretary of Housing and Urban Development;

"(2) the term 'conversion' means the action under which a contract for project-based rental assistance under section 8 of the Act [42 U.S.C. 1437f] and a Rental Assistance Payment contract become a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) pursuant to subsection (a);

"(3) the term 'resulting contract' means the new contract after a conversion pursuant to subsection (a); and

"(4) the term 'assisted dwelling unit' means a dwelling unit in a multifamily housing project that exceeds 5,000 units that, on the date of conversion of a contract under this section, is subject to a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) or a Rental Assistance Payment contract."

PURPOSES OF MARK-TO-MARKET EXTENSION ACT OF 2001

Pub. L. 107–116, title VI, §602, Jan. 10, 2002, 115 Stat. 2221, provided that: "The purposes of this title [see Short Title of 2002 Amendment note set out under section 1437 of this title] are—

"(1) to continue the progress of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [title V of Pub. L. 105–65, see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking] (referred to in this section as 'that Act');

"(2) to ensure that properties that undergo mortgage restructurings pursuant to that Act are rehabilitated to a standard that allows the properties to meet their long-term affordability requirements;

"(3) to ensure that, for properties that undergo mortgage restructurings pursuant to that Act, reserves are set at adequate levels to allow the properties to meet their long-term affordability requirements;

"(4) to ensure that properties that undergo mortgage restructurings pursuant to that Act are operated efficiently, and that operating expenses are sufficient to ensure the long-term financial and physical integrity of the properties;

"(5) to ensure that properties that undergo rent restructurings have adequate resources to maintain the properties in good condition;

"(6) to ensure that the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development continues to focus on the portfolio of properties eligible for restructuring under that Act;

"(7) to ensure that the Department of Housing and Urban Development carefully tracks the condition of those properties on an ongoing basis;

"(8) to ensure that tenant groups, nonprofit organizations, and public entities continue to have the resources for building the capacity of tenant organizations in furtherance of the purposes of subtitle A of that Act [subtitle A of title V of Pub. L. 105–65, set out in a note below]; and

"(9) to encourage the Office of Multifamily Housing Assistance Restructuring to continue to provide participating administrative entities, including public participating administrative entities, with the flexibility to respond to specific problems that individual cases may present, while ensuring consistent outcomes around the country."

PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES

Pub. L. 106–569, title III, §302, Dec. 27, 2000, 114 Stat. 2953, authorized a public housing agency providing tenant-based assistance to provide homeownership assistance to a disabled family that purchases a dwelling unit (including a dwelling unit under a lease-purchase agreement) that will be owned by one or more members of the disabled family and will be occupied by the disabled family and required the Secretary of Housing and Urban Development to issue implementing regulations not later than 90 days after Dec. 27, 2000.

DETERMINATION OF ADMINISTRATIVE FEES

Pub. L. 108–7, div. K, title II, [(5)], Feb. 20, 2003, 117 Stat. 485, which provided that the fee otherwise authorized under subsec. (q) of this section was to be determined in accordance with subsec. (q) as in effect immediately before Oct. 21, 1998, was from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 660.

Pub. L. 106–377, §1(a)(1) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A–12.

Pub. L. 106–74, title II, Oct. 20, 1999, 113 Stat. 1056.

HOMEOWNERSHIP OPPORTUNITIES DEMONSTRATION PROGRAM

Pub. L. 105–276, title V, §555(b), Oct. 21, 1998, 112 Stat. 2613, provided that:

"(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

"(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection."

MULTIFAMILY HOUSING ASSISTANCE

Pub. L. 105–65, title V, subtitle A (§§511–524), subtitle D (§§571–579), Oct. 27, 1997, 111 Stat. 1385–1408, 1420–1423, as amended by Pub. L. 105–276, title V, §§549(c), 597(b), Oct. 21, 1998, 112 Stat. 2608, 2659; Pub. L. 106–74, title II, §§213(b), 219, title V, §§531(a)–(c), 534, 538(b), Oct. 20, 1999, 113 Stat. 1074, 1075, 1109–1116, 1120, 1123; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 107–116, title VI, §§611–614, 616(a)(1), (b), 621, 622(a), 623(a), 624, 625, Jan. 10, 2002, 115 Stat. 2222–2227; Pub. L. 109–289, div. B, title II, §21043(a), as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 53; Pub. L. 110–289, div. A, title II, §1216(d), July 30, 2008, 122 Stat. 2792; Pub. L. 112–55, div. C, title II, §237, Nov. 18, 2011, 125 Stat. 702; Pub. L. 113–235, div. K, title II, §232, Dec. 16, 2014, 128 Stat. 2757; Pub. L. 115–141, div. L, title II, §236, Mar. 23, 2018, 132 Stat. 1037; Pub. L. 117–328, div. L, title II, §236, Dec. 29, 2022, 136 Stat. 5179, provided that:

"SUBTITLE A—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING

ASSISTANCE RESTRUCTURING

"SEC. 511. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

"(2) as of the date of enactment of this Act [Oct. 27, 1997], it is estimated that—

"(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

"(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

"(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

"(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

"(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

"(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

"(7) it is estimated that—

"(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

"(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

"(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

"(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

"(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

"(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

"(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

"(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

"(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

"(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

"(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this title [see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking], so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

"(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993 [Pub. L. 103–62, see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the purposes of this subtitle are—

"(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

"(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

"(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

"(4) to reduce the cost of insurance claims under the National Housing Act [12 U.S.C. 1701 et seq.] related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

"(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

"(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

"(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

"(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

"(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

"SEC. 512. DEFINITIONS.

"In this subtitle:

"(1) COMPARABLE PROPERTIES.—The term 'comparable properties' means properties in the same market areas, where practicable, that—

"(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

"(B) are not receiving project-based assistance.

"(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term 'eligible multifamily housing project' means a property consisting of more than 4 dwelling units—

"(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

"(B) that is covered in whole or in part by a contract for project-based assistance under—

"(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as in effect before October 1, 1983);

"(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

"(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

"(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

"(v) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

"(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

"(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

"(C) financed by a mortgage insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.].

Such term does not include any project with an expiring contract described in paragraph (1) or (2) of section 524(e), but does include a project described in section 524(e)(3). Notwithstanding any other provision of this title, the Secretary may treat a project as an eligible multifamily housing project for purposes of this title if (I) the project is assisted pursuant to a contract for project-based assistance under section 8 of the United States Housing Act of 1937 renewed under section 524 of

this Act, (II) the owner consents to such treatment, and (III) the project met the requirements of the first sentence of this paragraph for eligibility as an eligible multifamily housing project before the initial renewal of the contract under section 524.

"(3) EXPIRING CONTRACT.—The term 'expiring contract' means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

"(4) EXPIRATION DATE.—The term 'expiration date' means the date on which an expiring contract expires.

"(5) FAIR MARKET RENT.—The term 'fair market rent' means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

"(6) LOW-INCOME FAMILIES.—The term 'low-income families' has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

"(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term 'mortgage restructuring and rental assistance sufficiency plan' means the plan as provided under section 514.

"(8) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any private nonprofit organization that—

"(A) is organized under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

"(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

"(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term 'portfolio restructuring agreement' means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

"(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term 'participating administrative entity' means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

"(11) PROJECT-BASED ASSISTANCE.—The term 'project-based assistance' means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

"(12) RENEWAL.—The term 'renewal' means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(14) STATE.—The term 'State' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704].

"(15) TENANT-BASED ASSISTANCE.—The term 'tenant-based assistance' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

"(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(17) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

"(18) QUALIFIED MORTGAGEE.—The term 'qualified mortgagee' means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

"(A) is not suspended or debarred by the Secretary;

"(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

"(C) is not in default under any Government National Mortgage Association obligation.

"(19) OFFICE.—The term 'Office' means the Office of Multifamily Housing Assistance Restructuring established under section 571.

"SEC. 513. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

"(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

"(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], in order to—

"(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

"(B) address financially and physically troubled projects; and

"(C) correct management and ownership deficiencies.

"(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

"(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

"(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

"(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

"(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

"(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

"(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

"(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

"(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

"(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this title.

"(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

"(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

"(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

"(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program);

"(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

"(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

"(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner; and

"(F) meets other criteria, as determined by the Secretary.

"(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

"(A) provide the most timely, efficient, and cost-effective—

"(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

"(ii) administration of the section 8 project-based assistance contract, if applicable; and

"(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

"(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this title.

"(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the

selection criteria under paragraph (1), the Secretary shall—

"(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

"(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

"(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES .—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing finance agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

"(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

"(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

"(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

"(7) PRIVATE ENTITY REQUIREMENTS.—

"(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

"(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

"SEC. 514. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

"(a) IN GENERAL.—

"(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

"(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

"(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

"(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

"(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

"(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration. In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 120-day notice and such

period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act.

"(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

"(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

"(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

"(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

"(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

"(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

"(A) the Secretary; or

"(B) local housing codes or codes adopted by public housing agencies that—

"(i) meet or exceed housing quality standards established by the Secretary; and

"(ii) do not severely restrict housing choice;

"(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

"(A) contained in a legally enforceable document recorded in the appropriate records; and

"(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

"(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

"(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

"(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] because of the status of the prospective tenants as certificate and voucher holders.

"(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

"(1) PROCEDURES.—

"(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

"(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

"(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

"(A) the mortgage restructuring and rental assistance sufficiency plan;

"(B) any proposed transfer of the project; and

"(C) the rental assistance assessment plan pursuant to section 515(c).

"(3) FUNDING.—

"(A) IN GENERAL.—The Secretary shall make available not more than $10,000,000 annually in funding, which amount shall be in addition to any amounts made available under this subparagraph and carried over from previous years, from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new

owners), for technical assistance for preservation of low-income housing for which project-based rental assistance is provided at below market rent levels and may not be renewed (including transfer of developments to tenant groups, nonprofit organizations, and public entities), for tenant services, and for tenant groups, nonprofit organizations, and public entities described in section 517(a)(5), from those amounts made available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

"(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] and the Multifamily Housing Property Disposition Reform Act of 1994 [Pub. L. 103–233, see Short Title of 1994 Amendment note set out under section 1701 of Title 12, Banks and Banking], or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

"(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

"(g) RENT LEVELS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

"(A) are equivalent to rents derived from comparable properties, if—

"(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

"(ii) the market rent determination is based on not less than 2 comparable properties; or

"(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to portfolio restructuring agreements, based on a finding of special need), if the participating administrative entity—

"(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

"(ii) follows the procedures under paragraph (3).

"(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

"(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

"(A) the debt service of the project;

"(B) the operating expenses of the project, as determined by the participating administrative entity, including—

"(i) contributions to adequate reserves;

"(ii) the costs of maintenance and necessary rehabilitation; and

"(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

"(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

"(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for

owners or purchasers to meet benchmarks of quality for management and housing quality; and

"(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

"(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

"(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government) and the financing involves mortgage insurance under the National Housing Act [42 U.S.C. 1701 et seq.], such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this subtitle is in conflict with applicable law or agreements governing such financing;

"(2) the project is a project financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] or section 515 of the Housing Act of 1949 [42 U.S.C. 1485], or refinanced pursuant to section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note); or

"(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401].

"SEC. 515. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

"(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

"(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

"(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

"(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

"(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

"(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

"(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

"(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families; or

"(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

"(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

"(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based

assistance or project-based assistance.

"(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

"(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

"(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

"(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

"(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

"(v) the long-term financial stability of the project;

"(vi) the ability of residents to make reasonable choices about their individual living situations;

"(vii) the quality of the neighborhood in which the tenants would reside; and

"(viii) the project's ability to compete in the marketplace.

"(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

"(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

"(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

"(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

"(4) ASSISTANCE THROUGH ENHANCED VOUCHERS.—In the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B), the tenant-based assistance provided shall be enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

"(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

"(d) RENT ADJUSTMENTS AND SUBSEQUENT RENEWALS.—After the initial renewal of a section 8 contract pursuant to this section and notwithstanding any other provision of law or contract regarding the adjustment of rents or subsequent renewal of such contract for a project, including such a provision in section 514 or this section, in the case of a project subject to any restrictions imposed pursuant to sections 514 or this section, the Secretary may, not more often than once every 10 years, adjust such rents or renew such contracts at rent levels that are equal to the lesser of budget-based rents or comparable market rents for the market area upon the request of an owner or purchaser who—

"(1) demonstrates that—

"(A) project income is insufficient to operate and maintain the project, and no rehabilitation is currently needed, as determined by the Secretary; or

"(B) the rent adjustment or renewal contract is necessary to support commercially reasonable financing (including any required debt service coverage and replacement reserve) for rehabilitation necessary to ensure the long-term sustainability of the project, as determined by the Secretary, and in the event the owner or purchaser fails to implement the rehabilitation as required by the Secretary, the Secretary may take such action against the owner or purchaser as allowed by law; and

"(2) agrees to—

"(A) extend the affordability and use restrictions required under [section] 514(e)(6) for an additional twenty years; and

"(B) enter into a binding commitment to continue to renew such contract for and during such extended term, provided that after the affordability and use restrictions required under [section] 514(e)(6)

have been maintained for a term of 30 years:

"(i) an owner with a contract for which rent levels were set at the time of its initial renewal under section 514(g)(2) shall request that the Secretary renew such contract under section 524 for and during such extended term; and

"(ii) an owner with a contract for which rent levels were set at the time of its initial renewal under section 514(g)(1) may request that the Secretary renew such contract under section 524 for and during such extended term.

"SEC. 516. PROHIBITION ON RESTRUCTURING.

"(a) PROHIBITION ON RESTRUCTURING.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

"(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

"(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

"(2) material adverse financial or managerial actions or omissions include—

"(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

"(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], after receipt of notice and an opportunity to cure;

"(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

"(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

"(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

"(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

"(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

"(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

"(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

"(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this subtitle, after receipt of notice and an opportunity to cure; or

"(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term 'owner' as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term 'purchaser' as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms 'affiliate of the owner' and 'affiliate of the purchaser' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

"(b) OPPORTUNITY TO DISPUTE FINDINGS.—

"(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

"(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

"(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under

subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

"(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

"(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

"(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

"(d) DISPLACED TENANTS.—

"(1) NOTICE TO CERTAIN RESIDENTS.—The Office shall notify any tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) at the time of rejection under this section, of such rejection, except that the Office may delegate the responsibility to provide notice under this paragraph to the participating administrative entity.

"(2) ASSISTANCE AND MOVING EXPENSES.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

"(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

"SEC. 517. RESTRUCTURING TOOLS.

"(a) MORTGAGE RESTRUCTURING.—

"(1) In this subtitle, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

"(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

"(B) a second mortgage that is in an amount equal to not more than the greater of—

"(i) the full or partial payment of claim made under this subtitle; or

"(ii) the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

"(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986 [26 U.S.C. 1274(d)]. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

"(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

"(4) The full amount of the second mortgage shall be immediately due and payable if—

"(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

"(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

"(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

"(5) The Secretary may modify the terms of the second mortgage, assign the second mortgage to the acquiring organization or agency, or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed

community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

"(6) The second mortgage under this section may be a first mortgage if no restructured or new first mortgage will meet the requirement of paragraph (1)(A).

"(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage restructuring and rental assistance sufficiency plan under this subtitle may include one or more of the following actions:

"(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act [12 U.S.C. 1735f–19(b)], as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

"(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act [12 U.S.C. 1701 et seq.], the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract.

"(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [Pub. L. 102–550, 12 U.S.C. 1707 note]. The Secretary shall use risk-shared financing under section 542(c) of the Housing and Community Development Act of 1992 for any mortgage restructuring, rehabilitation financing, or debt refinancing included as part of a mortgage restructuring and rental assistance sufficiency plan if the terms and conditions are considered to be the best available financing in terms of financial savings to the FHA insurance funds and will result in reduced risk of loss to the Federal Government. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Accounts of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

"(4) CREDIT ENHANCEMENT.—Providing any additional State or local mortgage credit enhancements and risk-sharing arrangements that may be established with State or local housing finance agencies, the Federal Housing Finance Agency, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

"(5) COMPENSATION OF THIRD PARTIES.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 [12 U.S.C. 1437f] for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

"(6) USE OF PROJECT ACCOUNTS.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary.

"(c) REHABILITATION NEEDS AND ADDITION OF SIGNIFICANT FEATURES.—

"(1) REHABILITATION NEEDS.—

"(A) IN GENERAL.—Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236 of the National Housing Act [12 U.S.C. 1715z–1], as amended by section

531 of subtitle B of this Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

"(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

"(2) ADDITION OF SIGNIFICANT FEATURES.—

"(A) AUTHORITY.—An approved mortgage restructuring and rental assistance sufficiency plan may require the improvement of the project by the addition of significant features that are not necessary for rehabilitation to the standard provided under paragraph (1), such as air conditioning, an elevator, and additional community space. The Secretary shall establish guidelines regarding the inclusion of requirements regarding such additional significant features under such plans.

"(B) FUNDING.—Significant features added pursuant to an approved mortgage restructuring and rental assistance sufficiency plan may be paid from the funding sources specified in the first sentence of paragraph (1)(A).

"(C) LIMITATION ON OWNER CONTRIBUTION.—An owner of a project may not be required to contribute from non-project resources, toward the cost of any additional significant features required pursuant to this paragraph, more than 25 percent of the amount of any assistance received for the inclusion of such features.

"(D) APPLICABILITY.—This paragraph shall apply to all eligible multifamily housing projects, except projects for which the Secretary and the project owner executed a mortgage restructuring and rental assistance sufficiency plan on or before the date of the enactment of the Mark-to-Market Extension Act of 2001 [Jan. 10, 2002].

"(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

"(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections [sic] (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

"SEC. 518. MANAGEMENT STANDARDS.

"Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

"SEC. 519. MONITORING OF COMPLIANCE.

"(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

"(A) enforcement of the provisions of this subtitle; and

"(B) remedies for the breach of those provisions.

"(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

"(b) PERIODIC MONITORING.—

"(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

"(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

"(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

"(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and

the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

"SEC. 520. REPORTS TO CONGRESS.

"(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

"(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act [Oct. 27, 1997] and not less than annually thereafter, the Secretary shall submit reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of section 515(c)(2)(C).

"SEC. 521. GAO AUDIT AND REVIEW.

"(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated under this subtitle, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

"(2) CONTENTS.—The report submitted under paragraph (1) shall include—

"(A) a description of the initial audit conducted under subsection (a); and

"(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

"SEC. 522. REGULATIONS.

"(a) RULEMAKING AND IMPLEMENTATION.—

"(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

"(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of: (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act [Oct. 27, 1997]; and (B) the 3-month period beginning upon the appointment of the Director under subtitle D.

"(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

"(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

"(i) State housing finance agencies and local housing agencies;

"(ii) other potential participating administering entities;

"(iii) tenants;

"(iv) owners and managers of eligible multifamily housing projects;

"(v) States and units of general local government; and

"(vi) qualified mortgagees; and

"(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

"(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent

Agencies Appropriations Act, 1997 [Pub. L. 104–204, set out below] (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

"SEC. 523. TECHNICAL AND CONFORMING AMENDMENTS.

"(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—[Amended this section.]

"(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—[Amended section 1735f–19 of Title 12, Banks and Banking.]

"(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—[Amended this section.]

"(d) SECTION 8 CONTRACT RENEWALS.—[Amended section 405(a) of Pub. L. 104–99, set out below.]

"(e) RENEWAL UPON REQUEST OF OWNER.—[Amended section 211 of Pub. L. 104–204, set out below.]

"(f) EXTENSION OF DEMONSTRATION CONTRACT PERIOD.—[Amended section 212 of Pub. L. 104–204, set out below.]

"SEC. 524. RENEWAL OF EXPIRING PROJECT-BASED SECTION 8 CONTRACTS.

"(a) IN GENERAL.—

"(1) RENEWAL.—Subject to paragraph (2), upon termination or expiration of a contract for project-based assistance under section 8 for a multifamily housing project (and notwithstanding section 8(v) of the United States Housing Act of 1937 [42 U.S.C. 1437f] for loan management assistance), the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, use amounts available for the renewal of assistance under section 8 of such Act to provide such assistance for the project. The assistance shall be provided under a contract having such terms and conditions as the Secretary considers appropriate, subject to the requirements of this section. This section shall not require contract renewal for a project that is eligible under this subtitle for a mortgage restructuring and rental assistance sufficiency plan, if there is no approved plan for the project and the Secretary determines that such an approved plan is necessary.

"(2) PROHIBITION ON RENEWAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations, the Secretary may elect not to renew assistance for a project otherwise required to be renewed under paragraph (1) or provide comparable benefits under paragraph (1) or (2) of subsection (e) for a project described in either such paragraph, if the Secretary determines that a violation under paragraphs (1) through (4) of section 516(a) has occurred with respect to the project. For purposes of such a determination, the provisions of section 516 shall apply to a project under this section in the same manner and to the same extent that the provisions of such section apply to eligible multifamily housing projects, except that the Secretary shall make the determination under section 516(a)(4).

"(3) CONTRACT TERM FOR MARK-UP-TO-MARKET CONTRACTS.—In the case of an expiring or terminating contract that has rent levels less than comparable market rents for the market area, if the rent levels under the renewal contract under this section are equal to comparable market rents for the market area, the contract shall have a term of not less than 5 years, subject to the availability of sufficient amounts in appropriation Acts.

"(4) RENEWAL RENTS.—Except as provided in subsection (b), the contract for assistance shall provide assistance at the following rent levels:

"(A) MARKET RENTS.—At the request of the owner of the project, at rent levels equal to the lesser of comparable market rents for the market area or 150 percent of the fair market rents, in the case only of a project that—

"(i) has rent levels under the expiring or terminating contract that do not exceed such comparable market rents;

"(ii) does not have a low- and moderate-income use restriction that can not be eliminated by unilateral action by the owner;

"(iii) is decent, safe, and sanitary housing, as determined by the Secretary;

"(iv) is not—

"(I) owned by a nonprofit entity;

"(II) subject to a contract for moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, as in effect before October 1, 1991; or

"(III) a project for which the public housing agency provided voucher assistance to one or more of the tenants after the owner has provided notice of termination of the contract covering the tenant's unit;

and

"(v) has units assisted under the contract for which the comparable market rent exceeds 110 percent of the fair market rent.

The Secretary may adjust the percentages of fair market rent (as specified in the matter preceding clause (i) and in clause (v)), but only upon a determination and written notification to the Congress within 10 days of making such determination, that such adjustment is necessary to ensure that this subparagraph covers projects with a high risk of nonrenewal of expiring contracts for project-based assistance.

"(B) REDUCTION TO MARKET RENTS.—In the case of a project that has rent levels under the expiring or terminating contract that exceed comparable market rents for the market area, at rent levels equal to such comparable market rents.

"(C) RENTS NOT EXCEEDING MARKET RENTS.—In the case of a project that is not subject to subparagraph (A) or (B), at rent levels that—

"(i) are not less than the existing rents under the terminated or expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment), if such adjusted rents do not exceed comparable market rents for the market area; and

"(ii) do not exceed comparable market rents for the market area.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iii) of subparagraph (D) that the project meets. Notwithstanding any other provision of law, the Secretary shall include in such budget-based cost increases costs relating to the project as a whole (including costs incurred with respect to units not covered by the contract for assistance), but only (I) if inclusion of such costs is requested by the owner or purchaser of the project, (II) if inclusion of such costs will permit capital repairs to the project or acquisition of the project by a nonprofit organization, and (III) to the extent that inclusion of such costs (or a portion thereof) complies with the requirement under clause (ii).

"(D) WAIVER OF 150 PERCENT LIMITATION.—Notwithstanding subparagraph (A), at rent levels up to comparable market rents for the market area, in the case of a project that meets the requirements under clauses (i) through (v) of subparagraph (A) and—

"(i) has residents who are a particularly vulnerable population, as demonstrated by a high percentage of units being rented to elderly families, disabled families, or large families;

"(ii) is located in an area in which tenant-based assistance would be difficult to use, as demonstrated by a low vacancy rate for affordable housing, a high turnback rate for vouchers, or a lack of comparable rental housing; or

"(iii) is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iv) that the project meets.

"(5) COMPARABLE MARKET RENTS AND COMPARISON WITH FAIR MARKET RENTS .—The Secretary shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties (as such term is defined in section 512), which may include appropriate adjustments for utility allowances and adjustments to reflect the value of any subsidy (other than section 8 assistance) provided by the Department of Housing and Urban Development.

"(b) EXCEPTION RENTS.—

"(1) RENEWAL.—In the case of a multifamily housing project described in paragraph (2), pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

"(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

"(B) BUDGET-BASED RENTS.—Subject to a determination by the Secretary that a rent level under this subparagraph is appropriate for a project, a rent level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and

expected operating expenses).

"(2) PROJECTS COVERED.—A multifamily housing project described in this paragraph is a multifamily housing project that—

"(A) is not an eligible multifamily housing project under section 512(2); or

"(B) is exempt from mortgage restructuring under this subtitle pursuant to section 514(h).

"(3) MODERATE REHABILITATION PROJECTS.—In the case of a project with a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

"(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

"(B) FAIR MARKET RENTS.—Fair market rents (less any amounts allowed for tenant-purchased utilities).

"(C) MARKET RENTS.—Comparable market rents for the market area.

"(c) RENT ADJUSTMENTS AFTER RENEWAL OF CONTRACT.—

"(1) REQUIRED.—After the initial renewal of a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] pursuant to subsection (a), (b)(1), or (e)(2), the Secretary shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment) or, upon the request of the owner and subject to approval of the Secretary, on a budget basis. In the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, at the expiration of each 5-year period, the Secretary shall compare existing rents with comparable market rents for the market area and may make any adjustments in the rent necessary to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

"(2) DISCRETIONARY.—In addition to review and adjustment required under paragraph (1), in the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, the Secretary may, at the discretion of the Secretary but only once within each 5-year period referred to in paragraph (1), conduct a comparison of rents for a project and adjust the rents accordingly to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

"(d) ENHANCED VOUCHERS UPON CONTRACT EXPIRATION.—

"(1) IN GENERAL.—In the case of a contract for project-based assistance under section 8 for a covered project that is not renewed under subsection (a) or (b) of this section (or any other authority), to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, upon the date of the expiration of such contract the Secretary shall make enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) available on behalf of each low-income family who, upon the date of such expiration, is residing in an assisted dwelling unit in the covered project.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) ASSISTED DWELLING UNIT.—The term 'assisted dwelling unit' means a dwelling unit that—

"(i) is in a covered project; and

"(ii) is covered by rental assistance provided under the contract for project-based assistance for the covered project.

"(B) COVERED PROJECT.—The term 'covered project' means any housing that—

"(i) consists of more than four dwelling units;

"(ii) is covered in whole or in part by a contract for project-based assistance under—

"(I) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

"(II) the property disposition program under section 8(b) of the United States Housing Act of 1937;

"(III) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991);

"(IV) the loan management assistance program under section 8 of the United States Housing Act of 1937;

"(V) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965

[12 U.S.C. 1701s]; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965,

which contract will (under its own terms) expire during the period consisting of fiscal years 2000 through 2004; and

"(iii) is not housing for which residents are eligible for enhanced voucher assistance as provided, pursuant to the 'Preserving Existing Housing Investment' account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2884) or any other subsequently enacted provision of law, in lieu of any benefits under section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

"(e) CONTRACTUAL COMMITMENTS UNDER PRESERVATION LAWS.—Except as provided in subsection (a)(2) and notwithstanding any other provision of this subtitle, the following shall apply:

"(1) PRESERVATION PROJECTS.—Upon expiration of a contract for assistance under section 8 [42 U.S.C. 1437f] for a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), to the extent amounts are specifically made available in appropriation Acts, the Secretary shall provide to the owner benefits comparable to those provided under such plan of action, including distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

"(2) DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—Upon expiration of a contract for assistance under section 8 for a project entered into pursuant to any authority specified in subparagraph (B) for which the Secretary determines that debt restructuring is inappropriate, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, provide benefits to the owner comparable to those provided under such contract, including annual distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

"(B) DEMONSTRATION PROGRAMS.—The authority specified in this subparagraph is the authority under—

"(i) section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–285; 42 U.S.C. 1437f note);

"(ii) section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2897; 42 U.S.C. 1437f note); and

"(iii) either of such sections, pursuant to any provision of this title [see Short Title of 1997 Amendment note set out under section 1701 of title 12].

"(3) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLANS .—Notwithstanding paragraph (1), the owner of the project may request, and the Secretary may consider, mortgage restructuring and rental assistance sufficiency plans to facilitate sales or transfers of properties under this subtitle, subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) [see Codification note preceding section 4101 of Title 12, Banks and Banking] or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), which plans shall result in a sale or transfer of those properties.

"(f) PREEMPTION OF CONFLICTING STATE LAWS LIMITING DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that limits or restricts, to an amount that is less than the amount provided for under the regulations of the Secretary establishing allowable project distributions to provide a return on investment, the amount of surplus funds accruing after the date of the enactment of this section [Oct. 27, 1997] that may be distributed from any multifamily housing project assisted under a contract for rental assistance renewed under any provision of this section (except subsection (b)) to the owner of the project.

"(2) EXCEPTION AND WAIVER.—Paragraph (1) shall not apply to any law or regulation to the

extent such law or regulation applies to—

"(A) a State-financed multifamily housing project; or

"(B) a multifamily housing project for which the owner has elected to waive the applicability of paragraph (1).

"(3) TREATMENT OF LOW-INCOME USE RESTRICTIONS.—This subsection may not be construed to provide for, allow, or result in the release or termination, for any project, of any low- or moderate-income use restrictions that can not be eliminated by unilateral action of the owner of the project.

"(g) APPLICABILITY.—Except to the extent otherwise specifically provided in this section, this section shall apply with respect to any multifamily housing project having a contract for project-based assistance under section 8 [42 U.S.C. 1437f] that terminates or expires during fiscal year 2000 or thereafter.

"SEC. 525. CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

"(a) IN GENERAL.—The Secretary shall examine the standards and procedures for determining and establishing the rent standards described under subsection (b). Pursuant to such examination, the Secretary shall establish procedures and guidelines that are designed to ensure that the amounts determined by the various rent standards for the same dwelling units are reasonably consistent and reflect rents for comparable unassisted units in the same area as such dwelling units.

"(b) RENT STANDARDS.—The rent standards described in this subsection are as follows:

"(1) ENHANCED VOUCHERS.—The payment standard for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

"(2) MARK-TO-MARKET.—The rents derived from comparable properties, for purposes of section 514(g) of this Act.

"(3) CONTRACT RENEWAL.—The comparable market rents for the market area, for purposes of section 524(a)(4) of this Act.

"SUBTITLE D—OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

"[SECS. 571 TO 578. REPEALED. PUB. L. 105–65, TITLE V, §579(A)(2), AS ADDED BY PUB. L. 107–116, TITLE VI, §621(1), JAN. 10, 2002, 115 STAT. 2226.]

"SEC. 579. TERMINATION.

"(a) REPEALS.—

"(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2027.

"(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.

"(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2027.

"(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate at the end of September 30, 2004.

"(d) TRANSFER OF AUTHORITY.—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary."

[Pub. L. 109–289, div. B, title II, §21043(b), as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 53, provided that: "The repeal made by section 579(a)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [Pub. L. 105–65, set out above] shall be deemed not to have taken effect before the date of the enactment of the Revised Continuing Appropriations Resolution, 2007 [Feb. 15, 2007], and subtitle A of such Act [set out above] shall be in effect as if no such repeal had been made before such date of enactment."]

[Pub. L. 107–116, title VI, §616(a)(2), Jan. 10, 2002, 115 Stat. 2225, provided that: "The amendment made by paragraph (1) of this subsection [amending section 514 of Pub. L. 105–65, set out above] is deemed to have taken effect on the date of the enactment of Public Law 106–74 [Oct. 20, 1999] (113 Stat. 1109)."]

[Pub. L. 107–116, title VI, §622(b), Jan. 10, 2002, 115 Stat. 2227, provided that: "The amendment made by subsection (a) [amending section 572(a) of Pub. L. 105–65, set out above] shall apply to the first Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development appointed after the date of the enactment of this Act [Jan. 10, 2002], and any such Director appointed thereafter."]

[Pub. L. 107–116, title VI, §623(b), Jan. 10, 2002, 115 Stat. 2227, provided that: "The amendment made by subsection (a) [amending section 572(b) of Pub. L. 105–65, set out above] shall apply to any vacancy in the

position of Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development which occurs or exists after the date of the enactment of this Act [Jan. 10, 2002]."]

[Pub. L. 105–276, title V, §597(c), Oct. 21, 1998, 112 Stat. 2659, provided that: "This section [amending section 524(a)(2) of Pub. L. 105–65, set out above] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."]

GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS

Pub. L. 105–65, title V, §532, Oct. 27, 1997, 111 Stat. 1411, directed the Comptroller General of the United States to report to the Congress on section 8 (42 U.S.C. 1437f) rental assistance for multifamily housing projects, including an analysis of how State and local housing finance agencies had benefited from rental assistance and the effectiveness of project oversight, not later than the expiration of the 18-month period beginning on Oct. 27, 1997.

ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS

Pub. L. 104–204, title II, §202, Sept. 26, 1996, 110 Stat. 2893, provided that: "Notwithstanding section 8(q) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)], as amended—

"(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate rehabilitation programs.

"(1)(A) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of no more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

"(B) The base amount shall be the higher of—

"(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

"(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i).

"(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

"(2) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

"(3) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

"(4) The Secretary may decrease the fee for PHA-owned units.

"(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and only if, immediately before the effective date of this Act [Sept. 26, 1996], it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

"(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

"(3) extraordinary costs approved by the Secretary."

Similar provisions were contained in the following prior appropriations Acts:

Pub. L. 104–99, title IV, §403(b), Jan. 26, 1996, 110 Stat. 43.

Pub. L. 103–120, §11(a), Oct. 27, 1993, 107 Stat. 1151.

CONTRACT RENEWALS

Pub. L. 104–204, title II, §211, Sept. 26, 1996, 110 Stat. 2895, as amended by Pub. L. 105–18, title II, §10006, June 12, 1997, 111 Stat. 201; Pub. L. 105–65, title V, §523(e), Oct. 27, 1997, 111 Stat. 1407; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that:

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'expiring contract' means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

"(2) the term 'family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

"(3) the term 'multifamily housing project' means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance under section 8 of the United States Housing Act of 1937;

"(4) the term 'owner' has the same meaning as in section 8(f) of the United States Housing Act of 1937;

"(5) the term 'project-based assistance' means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

"(6) the term 'public agency' means a State housing finance agency, a local housing agency, or other agency with a public purpose and status;

"(7) the term 'Secretary' means the Secretary of Housing and Urban Development; and

"(8) the term 'tenant-based assistance' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

"(b) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding section 405(a) of the Balanced Budget Downpayment Act, I [Pub. L. 104–99, set out below], upon the request of the owner of a multifamily housing project that is covered by an expiring contract, the Secretary shall use amounts made available for the renewal of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to renew the expiring contract as project-based assistance for a period of not more than one year, at rent levels that are equal to those under the expiring contract as of the date on which the contract expires: *Provided*, That those rent levels do not exceed 120 percent of the fair market rent for the market area in which the project is located. For an FHA-insured multifamily housing project with an expiring contract at rent levels that exceed 120 percent of the fair market rent for the market area, the Secretary shall provide, at the request of the owner, section 8 project-based assistance, for a period of not more than one year, at rent levels that do not exceed 120 percent of the fair market rent.

"(2) EXEMPTION FOR STATE AND LOCAL HOUSING AGENCY PROJECTS.—Notwithstanding paragraph (1), upon the expiration of a contract with rent levels that exceed the percentage described in that paragraph, if the Secretary determines that the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a public agency, the Secretary shall, at the request of the owner and the public agency, renew the expiring contract—

"(A) for a period of not more than one year; and

"(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

"(3) EXEMPTION OF CERTAIN OTHER PROJECTS.—Notwithstanding paragraph (1), for section 202 projects, section 515 projects, projects with contracts entered into pursuant to [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], and projects with rents that exceed 100 percent of fair market rent for the market area, but that are less than rents for comparable projects, upon the expiration of a section 8 contract, the Secretary shall, at the request of the owner, renew the expiring contract—

"(A) for a period of not more than one year; and

"(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

"(4) OTHER CONTRACTS.—

"(A) PARTICIPATION IN DEMONSTRATION.—For a contract covering an FHA-insured multifamily housing project that expires during fiscal year 1997 with rent levels that exceed the percentage described in paragraph (1) and after notice to the tenants, the Secretary shall, at the request of the owner of the project and after notice to the tenants, include that multifamily housing project in the demonstration program under section 212 of this Act [set out below]. The Secretary shall ensure that a multifamily housing project with an expiring contract in fiscal year 1997 shall be allowed to be included in the demonstration.

"(B) EFFECT OF MATERIAL ADVERSE ACTIONS AND OMISSIONS.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement

that would warrant suspension or debarment by the Secretary). The term 'owner', as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937 [42 U.S.C. 1437f(f)], also means an affiliate of the owner. The term 'affiliate of the owner' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner, is controlled by an owner, or is under common control with the owner. The term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial, or other interests of the owner.

"(C) TRANSFER OF PROPERTY.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (B), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of section 8 project-based assistance.

"(5) TENANT PROTECTIONS.—Any family residing in an assisted unit in a multifamily housing project that is covered by an expiring contract that is not renewed, shall be offered tenant-based assistance before the date on which the contract expires or is not renewed."

Pub. L. 104–120, §2(a), Mar. 28, 1996, 110 Stat. 834, provided that: "Notwithstanding section 405(b) of the Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 44) [set out below], at the request of the owner of any project assisted under section 8(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(e)(2)] (as such section existed immediately before October 1, 1991), the Secretary of Housing and Urban Development may renew, for a period of 1 year, the contract for assistance under such section for such project that expires or terminates during fiscal year 1996 at current rent levels."

Pub. L. 104–99, title IV, §405(a), (b), Jan. 26, 1996, 110 Stat. 44, as amended by Pub. L. 105–65, title V, §523(d), Oct. 27, 1997, 111 Stat. 1407, provided that:

"(a) Notwithstanding part 24 of title 24 of the Code of Federal Regulations, for fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

"(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at the current rent levels."

FHA MULTIFAMILY DEMONSTRATION AUTHORITY

Pub. L. 104–204, title II, §212, Sept. 26, 1996, 110 Stat. 2897, as amended by Pub. L. 105–65, title V, §523(f), Oct. 27, 1997, 111 Stat. 1407, provided that:

"(a) IN GENERAL.—

"(1) REPEAL.—

"(A) IN GENERAL.—Section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, §210] of Pub. L. 104–134, formerly set out as a note below] is repealed.

"(B) EXCEPTION.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) [of] the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 shall remain available for the demonstration program under this section through the end of fiscal year 1997.

"(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act [Sept. 26, 1996] under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

"(3) DEFINITIONS.—For purposes of this section—

"(A) the term 'demonstration program' means the program established under subsection (b);

"(B) the term 'expiring contract' means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

"(C) the term 'family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

"(D) the term 'multifamily housing project' means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

"(E) the term 'owner' has the same meaning as in section 8(f) of the United States Housing Act of 1937;

"(F) the term 'project-based assistance' means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

"(G) the term 'Secretary' means the Secretary of Housing and Urban Development; and

"(H) the term 'tenant-based assistance' has the same meaning as in section 8(f) of the United States Housing Act of 1937.

"(b) DEMONSTRATION AUTHORITY.—

"(1) IN GENERAL.—Subject to the funding limitation in subsection (l), the Secretary shall administer a demonstration program with respect to multifamily projects—

"(A) whose owners agree to participate;

"(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

"(C) the mortgages of which are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

"(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

"(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

"(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

"(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

"(c) GOALS.—

"(1) IN GENERAL.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

"(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

"(B) minimizing the involuntary displacement of tenants;

"(C) taking into account housing market conditions;

"(D) encouraging responsible ownership and management of property;

"(E) minimizing any adverse income tax impact on property owners; and

"(F) minimizing any adverse impacts on residential neighborhoods and local communities.

"(2) BALANCE OF COMPETING GOALS.—In determining the manner in which a mortgage is to be restructured or a subsidy reduced under this subsection, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(d) PARTICIPATION ARRANGEMENTS.—

"(1) IN GENERAL.—In carrying out the demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities and benefits of the Secretary.

"(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofits (separately or in conjunction with each other) to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified State housing finance agency, housing agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this

subsection shall include a designee as the primary partner. Any organization selected by the Secretary under this section shall have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility, as determined by the Secretary.

"(3) DESIGNEE PARTNERSHIPS.—For purposes of any participation arrangement under this subsection, designees are encouraged to develop partnerships with each other, and to contract or subcontract with other entities, including—

"(A) public housing agencies;

"(B) financial institutions;

"(C) mortgage servicers;

"(D) nonprofit and for-profit housing organizations;

"(E) the Federal National Mortgage Association;

"(F) the Federal Home Loan Mortgage Corporation;

"(G) Federal Home Loan Banks; and

"(H) other State or local mortgage insurance companies or bank lending consortia.

"(e) LONG-TERM AFFORDABILITY.—

"(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of the renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by the Secretary or designee and the owner under a restructuring.

"(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

"(f) PROCEDURES.—

"(1) NOTICE OF PARTICIPATION IN DEMONSTRATION.—Not later than 45 days before the date of expiration of an expiring contract (or such later date, as determined by the Secretary, for good cause), the owner of the multifamily housing project covered by that expiring contract shall notify the Secretary or designee and the residents of the owner's intent to participate in the demonstration program.

"(2) DEMONSTRATION CONTRACT.—Upon receipt of a notice under paragraph (1), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including reasonable and appropriate services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

"(g)(1) PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstration as section 8 project-based contracts, for a period of time not to exceed one year, unless otherwise provided under subsection (h) or in paragraph (2).

"(2) The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

"(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

"(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).

"(h) DEMONSTRATION ACTIONS.—

"(1) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue,

the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (l), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

"(A) REMOVAL OF RESTRICTIONS.—

"(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

"(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to apply any accumulated residual receipts toward effecting the purposes of this section.

"(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

"(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

"(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] for purposes of any contract restructured or renewed under the demonstration program.

"(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may make a full payment of claim or partial payment of claim prior to default.

"(F) CREDIT ENHANCEMENT.—

"(i) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [12 U.S.C. 1707 note]. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

"(ii) MAXIMUM PERCENTAGE.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

"(iii) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (l).

"(G) MORTGAGE RESTRUCTURING.—

"(i) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

"(ii) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (l).

"(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

"(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract,

including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

"(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

"(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

"(i) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(j) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

"(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

"(l) FUNDING.—In addition to the $30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, §210] of Pub. L. 104–134, formerly set out as a note below], for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, $10,000,000 is hereby appropriated, to remain available until September 30, 1998.

"(m) REPORT TO CONGRESS.—

"(1) IN GENERAL.—

"(A) QUARTERLY REPORTS.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

"(B) FINAL REPORT.—Not later than 6 months after the end of the demonstration program, the Secretary shall submit to the Congress a final report on the demonstration program.

"(2) CONTENTS.—Each report submitted under paragraph (1)(A) shall include a description of—

"(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

"(B) the Secretary's evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

"(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

"(D) the subsidy costs provided before and after restructuring;

"(E) the actions undertaken in the demonstration program, including the third-party arrangements made; and

"(F) the demonstration program's impact on the owners of the projects, including any tax consequences.

"(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

"(A) the required contents under paragraph (2); and

"(B) any findings and recommendations for legislative action."

Pub. L. 104–134, title I, §101(e) [title II, §210], Apr. 26, 1996, 110 Stat. 1321–257, 1321–285; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, which authorized the Secretary of Housing and

Urban Development on and after Oct. 1, 1995, and before Oct. 1, 1997, to initiate a FHA multifamily demonstration program, was repealed by Pub. L. 104–204, title II, §212(a)(1)(A), Sept. 26, 1996, 110 Stat. 2897.

PUBLIC HOUSING MOVING TO WORK DEMONSTRATION

Pub. L. 114–113, div. L, title II, §239, Dec. 18, 2015, 129 Stat. 2897, as amended by Pub. L. 118–42, div. F, title II, §241, Mar. 9, 2024, 138 Stat. 386, provided that: "The Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving to Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321) [set out below] by adding to the program 100 public housing agencies that are designated as high performing agencies under the Public Housing Assessment System (PHAS) or the Section Eight Management Assessment Program (SEMAP). No public housing agency shall be granted this designation through this section that administers in excess of 27,000 aggregate housing vouchers and public housing units. Of the agencies selected under this section, no less than 50 shall administer 1,000 or fewer aggregate housing voucher and public housing units, no less than 47 shall administer 1,001-6,000 aggregate housing voucher and public housing units, and no more than 3 shall administer 6,001–27,000 aggregate housing voucher and public housing units. Of the 100 agencies selected under this section, five shall be agencies with portfolio awards under the Rental Assistance Demonstration that meet the other requirements of this section, including current designations as high performing agencies or such designations held immediately prior to such portfolio awards. Selection of agencies under this section shall be based on ensuring the geographic diversity of Moving to Work agencies. In addition to the preceding selection criteria, agencies shall be designated by the Secretary over a 7-year period. The Secretary shall establish a research advisory committee which shall advise the Secretary with respect to specific policy proposals and methods of research and evaluation for the demonstration. The advisory committee shall include program and research experts from the Department, a fair representation of agencies with a Moving to Work designation, and independent subject matter experts in housing policy research. For each cohort of agencies receiving a designation under this heading, the Secretary shall direct one specific policy change to be implemented by the agencies, and with the approval of the Secretary, such agencies may implement additional policy changes. All agencies designated under this section shall be evaluated through rigorous research as determined by the Secretary, and shall provide information requested by the Secretary to support such oversight and evaluation, including the targeted policy changes. Research and evaluation shall be coordinated under the direction of the Secretary, and in consultation with the advisory committee, and findings shall be shared broadly. The Secretary shall consult the advisory committee with respect to policy changes that have proven successful and can be applied more broadly to all public housing agencies, and propose any necessary statutory changes. The Secretary may, at the request of a Moving to Work agency and one or more adjacent public housing agencies in the same area, designate that Moving to Work agency as a regional agency. A regional Moving to Work agency may administer the assistance under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and [1437]g) for the participating agencies within its region pursuant to the terms of its Moving to Work agreement with the Secretary. The Secretary may agree to extend the term of the agreement and to make any necessary changes to accommodate regionalization. A Moving to Work agency may be selected as a regional agency if the Secretary determines that unified administration of assistance under sections 8 and 9 [42 U.S.C. 1437f, 1437g] by that agency across multiple jurisdictions will lead to efficiencies and to greater housing choice for low-income persons in the region. For purposes of this expansion, in addition to the provisions of the Act retained in section 204, section 8(r)(1) of the Act [42 U.S.C. 1437f(r)(1)] shall continue to apply unless the Secretary determines that waiver of this section is necessary to implement comprehensive rent reform and occupancy policies subject to evaluation by the Secretary, and the waiver contains, at a minimum, exceptions for requests to port due to employment, education, health and safety. No public housing agency granted this designation through this section shall receive more funding under sections 8 or 9 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g] than it otherwise would have received absent this designation. The Secretary shall extend the current Moving to Work agreements of previously designated participating agencies until the end of each such agency's fiscal year 2038 under the same terms and conditions of such current agreements, except for any changes to such terms or conditions otherwise mutually agreed upon by the Secretary and any such agency and such extension agreements shall prohibit any statutory offset of any reserve balances equal to 4 months of operating expenses. Any such reserve balances that exceed such amount shall remain available to any such agency for all permissible purposes under such agreement unless subject to a statutory offset. In addition to

other reporting requirements, all Moving to Work agencies shall report financial data to the Department of Housing and Urban Development as specified by the Secretary, so that the effect of Moving to Work policy changes can be measured."

Pub. L. 104–134, title I, §101(e) [title II, §204], Apr. 26, 1996, 110 Stat. 1321–257, 1321–281, as amended by Pub. L. 105–276, title V, §522(b)(3), Oct. 21, 1998, 112 Stat. 2564, provided that:

"(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

"(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 [42 U.S.C. 1437f] housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], modernization assistance provided under section 14 of such Act [42 U.S.C. 1437l], and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)], and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

"(c) APPLICATION.—An application to participate in the demonstration—

"(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g, 1437l];

"(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

"(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

"(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)];

"(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

"(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

"(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

"(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

"(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

"(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)], and other appropriate factors as determined by the Secretary.

"(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

"(1) Section 18 of the United States Housing Act of 1937 [42 U.S.C. 1437p] shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

"(2) Section 12 of such Act [42 U.S.C. 1437j] shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

"(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT

PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 [42 U.S.C. 1437f, 1437g, 1437l] by a public housing agency participating in the demonstration under this part [section] shall not be diminished by its participation.

"(g) RECORDS, REPORTS, AND AUDITS.—

"(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

"(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

"(A) document the use of funds made available under this section;

"(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

"(C) describe and analyze the effect of assisted activities in addressing the objectives of this part [section].

"(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

"(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

"(h) EVALUATION AND REPORT.—

"(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

"(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

"(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437l] for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

"(1) to provide, directly or by contract, training and technical assistance—

"(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

"(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

"(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

"(j) CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g] (as amended by the Quality Housing and Work Responsibility Act of 1998), for purposes of this section—

"(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

"(2) any reference to assistance under section 14 of the United States Housing Act of 1937 [former 42 U.S.C. 1437l] shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended)."

PROHIBITION AGAINST PREFERENCES WITH RESPECT TO CERTAIN PROJECTS

Pub. L. 104–99, title IV, §402(d)(4)(B), Jan. 26, 1996, 110 Stat. 42, provided that: "Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall apply with respect to—

"(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as such section existed on the day before October 1, 1983); or

"(ii) projects financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990])."

[Pub. L. 105–276, title V, §514(c)(2), Oct. 21, 1998, 112 Stat. 2548, provided that: "Notwithstanding any other provision of law (including subsection (f) of this section [set out as an Effective and Termination Dates of 1996 Amendments note under section 1437a of this title]), section 402(d)(4)(B) of The Balanced Budget Downpayment Act, I [Pub. L. 104–99, set out above] (42 U.S.C. 1437a note) shall apply to fiscal year 1999 and thereafter."]

[Section 402(d)(4)(B) of Pub. L. 104–99, set out above, effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as Effective and Termination Dates of 1996 Amendments notes under section 1437a of this title.]

COMMUNITY INVESTMENT DEMONSTRATION PROGRAM

Pub. L. 103–120, §6, Oct. 27, 1993, 107 Stat. 1148, as amended by Pub. L. 104–316, title I, §122(j), Oct. 19, 1996, 110 Stat. 3837, provided that:

"(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

"(b) FUNDING REQUIREMENTS.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the funds appropriated for the demonstration program each year are used in conjunction with the disposition of either—

"(1) multifamily properties owned by the Department; or

"(2) multifamily properties securing mortgages held by the Department.

"(c) CONTRACT TERMS.—

"(1) IN GENERAL.—Project-based assistance under this section shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

"(A) provides assistance for a term of not less than 60 months and not greater than 180 months; and

"(B) provides for contract rents, to be determined by the Secretary, which shall not exceed contract rents permitted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], taking into consideration any costs for the construction, rehabilitation, or acquisition of the housing.

"(2) AMENDMENT TO SECTION 203.—[Amended section 1701z–11 of Title 12, Banks and Banking.]

"(d) LIMITATION.—(1) The Secretary may not provide (or make a commitment to provide) more than 50 percent of the funding for housing financed by any single pension fund, except that this limitation shall not apply if the Secretary, after the end of the 6-month period beginning on the date notice is issued under subsection (e)—

"(A) determines that—

"(i) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

"(ii) any such expressions of interest are not likely to use all funding under this section; and

"(B) so informs the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the Secretary's determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

"(e) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

"(f) APPLICABILITY OF ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(d)], nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act [29 U.S.C. 1001 et seq.].

"(g) REPORT.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

"(h) ESTABLISHMENT OF STANDARDS.—Mortgages secured by housing assisted under this

demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out this section.

"[(j) Redesignated (i).]

"(k) TERMINATION DATE.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1998."

ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS DURING FISCAL YEAR 1994

Pub. L. 103–120, §11(a), Oct. 27, 1993, 107 Stat. 1151, provided that: "Notwithstanding the second sentence of section 8(q)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)(1)], other applicable law, or any implementing regulations and related requirements, the fee for the ongoing costs of administering the certificate and housing voucher programs under subsections (b) and (o) of section 8 of such Act during fiscal year 1994 shall be—

"(1) not less than a fee calculated in accordance with the fair market rents for Federal fiscal year 1993; or

"(2) not more than—

"(A) a fee calculated in accordance with section 8(q) of such Act, except that such fee shall not be in excess of 3.5 percent above the fee calculated in accordance with paragraph (1); or

"(B) to the extent approved in an appropriation Act, a fee calculated in accordance with such section 8(q)."

EFFECTIVENESS OF ASSISTANCE FOR PHA-OWNED UNITS

Pub. L. 102–550, title I, §150, Oct. 28, 1992, 106 Stat. 3715, provided that: "The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section] shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development."

MOVING TO OPPORTUNITY FOR FAIR HOUSING

Pub. L. 102–550, title I, §152, Oct. 28, 1992, 106 Stat. 3716, as amended by Pub. L. 103–120, §3, Oct. 27, 1993, 107 Stat. 1148, which directed Secretary of Housing and Urban Development to carry out demonstration program in eligible cities to provide tenant-based assistance to very low-income families with children to move out of areas of high concentrations of persons living in poverty to areas with low concentrations of such persons, required biennial report to Congress evaluating effectiveness and final report not later than Sept. 30, 2004, provided for increased funding under section 1437c(c) of this title to carry out demonstration, and authorized implementation by notice of requirements necessary to carry out program, was repealed by Pub. L. 105–276, title V, §550(f), Oct. 21, 1998, 112 Stat. 2610.

DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS

Pub. L. 102–550, title I, §153, Oct. 28, 1992, 106 Stat. 3717, which directed Secretary of Housing and Urban Development, not later than 2 years after Oct. 28, 1992, to review and comment upon study prepared pursuant to section 558(3) of Pub. L. 101–625, formerly set out as a note below, to evaluate implementation and effects of existing demonstration and judicially mandated programs, to assess factors that might impede geographic dispersion of families receiving section 8 certificates and vouchers, to identify and implement administrative revisions that would enhance dispersion and tenant choice, and to submit report to Congress describing findings, actions taken, and recommendations, was repealed by Pub. L. 105–276, title V, §582(a)(3), Oct. 21, 1998, 112 Stat. 2643.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 623(b) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

TERMINATION OF EXISTING HOUSING PROGRAMS

Except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under subsec. (e)(2) of this section except for funds allocated under such section for single room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4) of this title.

PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION

Pub. L. 101–625, title V, §522, Nov. 28, 1990, 104 Stat. 4207, as amended by Pub. L. 104–66, title I, §1071(b), Dec. 21, 1995, 109 Stat. 720; Pub. L. 104–99, title IV, §402(d)(6)(B), Jan. 26, 1996, 110 Stat. 43, which directed Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of promoting revitalization of troubled urban communities through provision of public housing in socioeconomically mixed settings, directed appointment of coordinating committees to develop implementation plans, set forth scope of program including provision of supportive services, required report to Congress evaluating program's effectiveness and including findings and recommendations, and provided for termination of the program 10 years after Nov. 28, 1990, was repealed by Pub. L. 105–276, title V, §582(a)(10), Oct. 21, 1998, 112 Stat. 2644.

STUDY OF PUBLIC HOUSING FUNDING SYSTEM

Pub. L. 101–625, title V, §524, Nov. 28, 1990, 104 Stat. 4215, directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for operation, maintenance and modernization of public housing, which study was to include a comparison of existing methods of funding in public housing with those used by Department of Housing and Urban Development in housing assisted under this section and a review of results of study entitled "Alternative Operating Subsidies Systems for the Public Housing Program", with an update of such study as necessary, and to submit a report to Congress not later than 12 months after Nov. 28, 1990, detailing the findings of this study.

STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING

Pub. L. 101–625, title V, §525, Nov. 28, 1990, 104 Stat. 4216, directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies, examining methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments on behalf of low income public housing tenants, and making specific assessments and to submit a report to Congress not later than 12 months after Nov. 28, 1990.

GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT

Pub. L. 101–625, title V, §526, Nov. 28, 1990, 104 Stat. 4216, directed Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under this chapter, and submit a report to Congress regarding the findings and conclusions of the study not later than 12 months after Nov. 28, 1990.

PREFERENCE FOR NEW CONSTRUCTION UNDER THIS SECTION

Pub. L. 101–625, title V, §545(c), Nov. 28, 1990, 104 Stat. 4220, as amended by Pub. L. 104–99, title IV, §402(d)(4)(A), Jan. 26, 1996, 110 Stat. 42, which provided that, with respect to housing constructed or substantially rehabilitated pursuant to assistance provided under subsec. (b)(2) of this section, as such provisions existed before Oct. 1, 1983, and projects financed under section 1701q of Title 12, Banks and Banking, notwithstanding tenant selection criteria under contract between Secretary and owner pursuant to first sentence of such section, for at least 70 percent of units becoming available, tenant selection criteria for such housing was to give preference to families occupying substandard housing (including homeless families and those living in shelters), paying more than 50 percent of family income for rent, or involuntarily displaced, and system of local preferences established under subsec. (d)(1)(A)(ii) of this section by public housing agency was to apply to remaining units that became available, to extent that such preferences were applicable with respect to tenant eligibility limitations, was repealed by Pub. L. 105–276, title V, §514(c)(1), Oct. 21, 1998, 112 Stat. 2548.

DOCUMENTATION OF EXCESSIVE RENT BURDENS

Pub. L. 101–625, title V, §550(b), Nov. 28, 1990, 104 Stat. 4222, provided that:

"(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which data shall include the share of family income paid toward rent.

"(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act [42 U.S.C. 1437a(a)(1)]. The report shall set forth data in appropriate categories, such as various areas of the

country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

"(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency."

[For termination, effective May 15, 2000, of reporting provisions in section 550(b)(2) of Pub. L. 101–625, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 16 on page 103 of House Document No. 103–7.]

INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS

Pub. L. 101–625, title V, §555, Nov. 28, 1990, 104 Stat. 4233, provided that: "Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families."

GAO STUDY REGARDING FAIR MARKET RENT CALCULATION

Pub. L. 101–625, title V, §558, Nov. 28, 1990, 104 Stat. 4233, directed Comptroller General to conduct a study to examine fair market rentals under subsec. (c)(1) of this section which are wholly contained within such market areas and submit a report to Congress not later than 18 months after Nov. 28, 1990, regarding findings and conclusions.

STUDY OF UTILIZATION RATES

Pub. L. 101–625, title V, §559, Nov. 28, 1990, 104 Stat. 4234, directed Secretary of Housing and Urban Development to conduct a study of reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available for such areas under this section and submit a report to Congress concerning this study not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM

Pub. L. 101–625, title V, §561, Nov. 28, 1990, 104 Stat. 4235, directed Secretary of Housing and Urban Development to conduct a study to determine feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under subsec. (o) of this section and submit a report to Congress regarding findings and conclusions not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

STUDY OF PRIVATE NONPROFIT INITIATIVES

Pub. L. 101–625, title V, §582, Nov. 28, 1990, 104 Stat. 4248, directed Secretary of Housing and Urban Development to conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded, with particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development, and submit a report to Congress regarding findings not later than 1-year after Nov. 28, 1990.

PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS

Pub. L. 101–625, title IX, §958, Nov. 28, 1990, 104 Stat. 4422, which directed Secretary of Housing and Urban Development to provide preferences for housing assistance programs to native Hawaiians in subsec. (a), described assistance programs available in subsec. (b), authorized Secretary to provide mortgage insurance in certain situations in subsec. (c), and defined pertinent terms in subsec. (d), was repealed by Pub. L. 102–238, §5(b), Dec. 17, 1991, 105 Stat. 1910.

AUTHORIZATION FOR PROVISION OF ASSISTANCE TO PROGRAMS ADMINISTERED BY STATE OF HAWAII UNDER ACT OF JULY 9, 1921

Pub. L. 101–625, title IX, §962, as added by Pub. L. 102–238, §5(a), Dec. 17, 1991, 105 Stat. 1909, provided that:

"(a) ASSISTANCE AUTHORIZED.—The Secretary of Housing and Urban Development is authorized to provide assistance, under any housing assistance program administered by the Secretary, to the State of Hawaii, for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108) [formerly 48 U.S.C. 691–718].

"(b) MORTGAGE INSURANCE.—

"(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act [see Short Title note set out under section 12701 of this title], or the National Housing Act [12 U.S.C. 1701 et seq.], including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any property on lands set aside under the provisions of the Act of July 9, 1921 (42 Stat. 108), upon which there is or will be located a multifamily residence, for which the Department of the Hawaiian Home Lands of the State of Hawaii—

"(A) is the mortgagor or co-mortgagor;

"(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

"(C) offers other security that is acceptable to the Secretary, subject to appropriate conditions prescribed by the Secretary.

"(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible beneficiary as defined in the Act of July 9, 1921 (42 Stat. 108)."

ANNUAL ADJUSTMENT FACTORS FOR RENTS UNDER LOWER-INCOME HOUSING ASSISTANCE PROGRAM

Pub. L. 101–235, title VIII, §801(a), (b), (d), (e), Dec. 15, 1989, 103 Stat. 2057–2059, provided that:

"(a) EFFECT OF PRIOR COMPARABILITY STUDIES.—

"(1) IN GENERAL.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)]—

"(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

"(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regulations issued under subsection (e) take effect. For purposes of this paragraph, 'debt service' shall include interest, principal, and mortgage insurance premium if any.

"(2) APPLICABILITY.—

"(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

"(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments

under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act [Dec. 15, 1989] that is final and not appealable (including any settlement agreement).

"(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

"(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

"(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)], or

"(B) calculated in accordance with the first sentence of subsection (a)(1).

"(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

"(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending this section], including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 15, 1989]."

PROHIBITION OF REDUCTION OF CONTRACT RENTS; BUDGET COMPLIANCE

Pub. L. 100–628, title X, §1004(b), Nov. 7, 1988, 102 Stat. 3264, provided that: "During fiscal year 1989, the amendment made by subsection (a)(2) [amending this section] shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) [2 U.S.C. 909], to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change."

PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE; IMPLEMENTATION OF PROGRAM

Pub. L. 100–628, title X, §1005(a), Nov. 7, 1988, 102 Stat. 3264, provided that: "To implement the amendment made by section 148 of the Housing and Community Development Act of 1987 [Pub. L. 100–242, see 1988 Amendment note above], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act [Nov. 7, 1988]. Until the effective date of the regulations, the Secretary of Housing and Urban Development shall consider each application from a public housing agency to attach a contract for assistance payments to a structure, in accordance with the amendment made by such section 148 to section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly approve such application if it meets the requirements of such section 8(d)(2)."

PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE IN NEW CONSTRUCTION; REGULATIONS IMPLEMENTING PROGRAM

Section 1005(b)(2) of Pub. L. 100–628 provided that: "To implement the amendments made by this subsection [amending this section], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 90 days after the date of the enactment of this Act [Nov. 7, 1988]."

USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS

Pub. L. 100–628, title X, §1012, Nov. 7, 1988, 102 Stat. 3268, as amended by Pub. L. 102–273, §2(a), (c)(1), Apr. 21, 1992, 106 Stat. 113; Pub. L. 102–550, title I, §163, Oct. 28, 1992, 106 Stat. 3722, provided that:

"(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

"(1) was—

"(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]; or

"(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

"(2) is being refinanced.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

"(c) APPLICABILITY AND BUDGET COMPLIANCE.—

"(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992 [Oct. 28, 1992], subject to the provisions of paragraph (2).

"(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts."

[Pub. L. 102–273, §2(b), Apr. 21, 1992, 106 Stat. 113, provided that: "The amendments made by subsection (a) [amending section 1012 of Pub. L. 100–628, set out above] shall apply to any refinancing of a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992."]

PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION

Pub. L. 100–242, title I, §126, Feb. 5, 1988, 101 Stat. 1847, which directed Secretary of Housing and Urban Development to carry out program in 11 public housing agencies to demonstrate effectiveness of providing services to ensure transition of public housing residents to private housing, set forth requirements of program, and required interim report to Congress not later than 2 years after Feb. 5, 1988, and final report not later than 60 days after termination of program 7 years after such date, was repealed by Pub. L. 105–276, title V, §582(a)(8), Oct. 21, 1998, 112 Stat. 2644.

NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS

Pub. L. 100–242, title I, §183(c), Feb. 5, 1988, 101 Stat. 1872, which prohibited owner of subsidized project to refuse to lease dwelling unit to holder of certificate of eligibility or voucher under this section, where proximate cause of refusal was status of prospective tenant as holder of such certificate or voucher, was repealed by Pub. L. 105–276, title V, §582(a)(2), Oct. 21, 1998, 112 Stat. 2643.

WITHDRAWAL BY OWNERS, DEVELOPERS, AND SPONSORS FROM PROGRAMS UNDER THIS SECTION; SURVEY AND DETERMINATION OF NUMBER; NOTIFICATION OF RENT INCREASES; REPORT TO CONGRESS; REGULATIONS TO PREVENT CONFLICT OF INTEREST ON THE PART OF FEDERAL, STATE, AND LOCAL OFFICIALS; RECOVERY OF LEGAL EXPENSES; CONTENTS OF ANNUAL REPORT

Pub. L. 97–35, title III, §326(b)–(d), Aug. 13, 1981, 95 Stat. 406, 407, as amended by Pub. L. 102–550, title I, §129(a), Oct. 28, 1992, 106 Stat. 3711; Pub. L. 105–276, title V, §582(a)(4), Oct. 21, 1998, 112 Stat. 2643, provided that:

"(b)[(1) Repealed. Pub. L. 105–276, title V, §582(a)(4), Oct. 21, 1998, 112 Stat. 2643.]

"(2) Not later than one year after the date of the enactment of this Act [Aug. 13, 1981], the Secretary shall transmit to the Congress a report indicating alternative methods which may be utilized for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.

"[(c) Repealed. Pub. L. 105–276, title V, §582(a)(4), Oct. 21, 1998, 112 Stat. 2643.]

"(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

"(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

"(A) 50 percent of the amount actually collected, or

"(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

"(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

"(3) RECOVERY.—Amounts may be recovered under this paragraph—

"(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

"(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)]."

[Pub. L. 102–550, title I, §129(b), Oct. 28, 1992, 106 Stat. 3712, provided that: "Subsection (a) [amending section 326(d) of Pub. L. 97–35, set out above] shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act [Oct. 28, 1992]."]

STUDY BY SECRETARY CONCERNING FEASIBILITY OF MINIMUM RENT PAYMENT REQUIREMENTS

Pub. L. 96–153, title II, §212, Dec. 21, 1979, 93 Stat. 1110, directed the Secretary of Housing and Urban Development to conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under this chapter, and to submit a report to the Congress containing the findings and conclusions of such study not later than ten days after the Budget for fiscal year 1981 is transmitted pursuant to section 11 of former Title 31, Money and Finance, and directed the Secretary of Housing and Urban Development to conduct a study to provide detailed comparisons between the rents paid by tenants occupying low-income housing assisted under this chapter and the rents paid by tenants at the same income level who are not in assisted housing and to transmit a report on such study to the Congress not later than Mar. 1, 1980.

STUDY OF ALTERNATIVE MEANS OF ENCOURAGING THE DEVELOPMENT OF HOUSING

Pub. L. 95–557, title II, §208, Oct. 31, 1978, 92 Stat. 2095, directed that Secretary of Housing and Urban Development conduct a study for purpose of examining alternative means of encouraging development of housing to be assisted under this section for occupancy by large families which reside in areas with a low-vacancy rate in rental housing and report to Congress no later than one year after Oct. 31, 1978, for purpose of providing legislative recommendations with respect to this study.

TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY

Pub. L. 93–383, title III, §319(b), Aug. 22, 1974, 88 Stat. 686, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Act [section 1715l(d)(3) of Title 12, Banks and Banking] and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [this section], the interest paid on such obligation shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [chapter 1 of Title 26, Internal Revenue Code]."

RENTAL OR INCOME CONTRIBUTIONS; USE OF SPECIAL SCHEDULES OF REQUIRED PAYMENTS FOR PARTICIPANTS IN MUTUAL HELP PROJECTS CONTRIBUTING LABOR, ETC.

Pub. L. 93–383, title II, §203, Aug. 22, 1974, 88 Stat. 668, provided that: "The rental or income contribution provisions of the United States Housing Act of 1937 [sections 1437 to 1437j of this title], as amended by section 201 of this Act, shall not preclude the use of special schedules of required payments as approved by the Secretary for participants in mutual help housing projects who contribute labor, land, or materials to the development of such projects."

[1] So in original. Probably should be section "671".

[2] So in original. No opening parenthesis was enacted.

[3] *So in original.*

[4] *So in original. Probably should be followed by a period.*

[5] *So in original. Probably should be "Cranston-Gonzalez".*

[6] *See References in Text note below.*

§1437f–1. Repealed. Pub. L. 116–6, div. G, title II, §236, Feb. 15, 2019, 133 Stat. 467

Section, Pub. L. 113–235, div. K, title II, §221, Dec. 16, 2014, 128 Stat. 2754, related to report on section 8 project-based housing.

Provisions similar to those in this section were contained in the following prior act:

Pub. L. 113–76, div. L, title II, §225, Jan. 17, 2014, 128 Stat. 632.

§1437g. Public housing Capital and Operating Funds

(a) Merger into Capital Fund

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 1437l of this title before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).

(b) Merger into Operating Fund

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under this section before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).

(c) Allocation amount

(1) In general

For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds [1] for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—

(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and

(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).

(2) Funding

There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

(A) Capital Fund

For allocations of assistance from the Capital Fund, $3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(B) Operating Fund

For allocations of assistance from the Operating Fund, $2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

(d) Capital Fund

(1) In general

The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

(D) planned code compliance;

(E) management improvements, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(F) demolition and replacement;

(G) resident relocation;

(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

(I) capital expenditures to improve the security and safety of residents;

(J) homeownership activities, including programs under section 1437z–4 of this title;

(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.

(2) Formula

The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 1437d(j) of this title; and

(F) any other factors that the Secretary determines to be appropriate.

(3) Conditions on use for development and modernization

(A) Development

Except as otherwise provided in this chapter, any public housing developed using amounts provided under this subsection, or under section 1437l of this title as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of

1998, shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) Modernization

Except as otherwise provided in this chapter, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 1437l of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) Applicability of latest expiration date

Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) Operating Fund

(1) In general

The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 1437d(j)(6) of this title by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

(B) activities to ensure a program of routine preventative maintenance;

(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management and policymaking of public housing by public housing residents;

(F) the costs of insurance;

(G) the energy costs associated with public housing units, with an emphasis on energy conservation;

(H) the costs of administering a public housing work program under section 1437j of this title, including the costs of any related insurance needs;

(I) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish;

(J) the costs associated with the operation and management of mixed finance projects, to the extent appropriate; and

(K) the costs of operating computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E), and of activities related to that initiative.

(2) Formula

(A) In general

The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

(i) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of

the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;

(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(iv) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 1437u(d)(2) [2] of this title for families participating in a family self-sufficiency program of the agency under such section 1437u of this title; and

(vii) any other factors that the Secretary determines to be appropriate.

(B) Incentive to increase certain rental income

The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) Treatment of savings

(i) In general

The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

(ii) Third party contracts

Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

(iii) Term of contract

The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.

(iv) Existing contracts

The term of a contract described in clause (i) that, as of December 26, 2007, is in repayment and has a term of not more than 12 years, may be extended to a term of not more than 20 years to permit additional energy conservation improvements without requiring the reprocurement of energy performance contractors.

(D) Freeze of consumption levels

(i) In general

A small public housing agency, as defined in section 1437z–10(a) of this title, may elect to be paid for its utility and waste management costs under the formula for a period, at the

discretion of the small public housing agency, of not more than 20 years based on the small public housing agency's average annual consumption during the 3-year period preceding the year in which the election is made (in this subparagraph referred to as the "consumption base level").

(ii) Initial adjustment in consumption base level

The Secretary shall make an initial one-time adjustment in the consumption base level to account for differences in the heating degree day average over the most recent 20-year period compared to the average in the consumption base level.

(iii) Adjustments in consumption base level

The Secretary shall make adjustments in the consumption base level to account for an increase or reduction in units, a change in fuel source, a change in resident controlled electricity consumption, or for other reasons.

(iv) Savings

All cost savings resulting from an election made by a small public housing agency under this subparagraph—

(I) shall accrue to the small public housing agency; and

(II) may be used for any public housing purpose at the discretion of the small public housing agency.

(v) Third parties

A small public housing agency making an election under this subparagraph—

(I) may use, but shall not be required to use, the services of a third party in its energy conservation program; and

(II) shall have the sole discretion to determine the source, and terms and conditions, of any financing used for its energy conservation program.

(3) Condition on use

No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this chapter.

(f) Negotiated rulemaking procedure

The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

(g) Limitations on use of funds

(1) Flexibility in use of funds

(A) Flexibility for Capital Fund amounts

Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(B) Flexibility for Operating Fund amounts

Of any amounts appropriated for fiscal year 2016 or any fiscal year thereafter that are allocated for fiscal year 2016 or any fiscal year thereafter from the Operating Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (d) for assistance with amounts from the Capital Fund, but only if the public housing plan under section 1437c–1 of this title for the agency provides for such use.

(2) Full flexibility for small PHAs

Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 1437d(j)(2) of this title as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on October 21, 1998.

(3) Limitation on new construction

(A) In general

Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) Exception regarding use of assistance

A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) Exception regarding formulas

Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 1437f(o) of this title for the same period of time.

(h) Technical assistance

To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;

(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 1437d(j) of this title, to assist such agencies from being so designated; and

(B) designated as troubled under section 1437d(j) of this title, to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing

or tenant-based assistance;

(7) clearinghouse services in furtherance of the goals and activities of this subsection; and

(8) assistance in connection with the establishment and operation of computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E).

As used in this subsection, the terms "training" and "technical assistance" shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) Eligibility of units acquired from proceeds of sales under demolition or disposition plan

If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 1437z–4 of this title to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) Penalty for slow expenditure of capital funds

(1) Obligation of amounts

Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) Extension of time period for obligation

The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) Effect of failure to comply

(A) Prohibition of new assistance

A public housing agency shall not be awarded assistance under this section for any month

during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) Withholding of assistance

During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) Redistribution

The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 1437d(j) of this title to be high-performing.

(4) Exception to obligation requirements

(A) In general

Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) Prior fiscal years

Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) Expenditure of amounts

(A) In general

A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) Enforcement

The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

(6) Right of recapture

Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(7) Treatment of replacement reserve

The requirements of this subsection shall not apply to funds held in replacement reserves established pursuant to subsection (n).

(k) Treatment of nonrental income

A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(l) Provision of only capital or operating assistance

(1) Authority

In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which

assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) Exemptions

In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such units must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 [42 U.S.C. 1437f] requirements applicable, as appropriate, by regulation.

(m) Treatment of public housing

(1) Repealed. Pub. L. 108–7, div. K, title II, §212(a), Feb. 20, 2003, 117 Stat. 503

(2) Reduction of asthma incidence

Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding [3] $500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this subchapter.

(3) Services for elderly residents

Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than $600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) Effective date

This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.

(n) Establishment of replacement reserves

(1) In general

Public housing agencies shall be permitted to establish a replacement reserve to fund any of the capital activities listed in subsection (d)(1).

(2) Source and amount of funds for replacement reserve

At any time, a public housing agency may deposit funds from such agency's Capital Fund into a replacement reserve, subject to the following:

(A) At the discretion of the Secretary, public housing agencies may transfer and hold in a replacement reserve funds originating from additional sources.

(B) No minimum transfer of funds to a replacement reserve shall be required.

(C) At any time, a public housing agency may not hold in a replacement reserve more than the amount the public housing authority has determined necessary to satisfy the anticipated capital needs of properties in its portfolio assisted under this section, as outlined in its Capital Fund 5-Year Action Plan, or a comparable plan, as determined by the Secretary.

(D) The Secretary may establish, by regulation, a maximum replacement reserve level or levels that are below amounts determined under subparagraph (C), which may be based upon the size of the portfolio assisted under this section or other factors.

(3) Transfer of operating funds

In first establishing a replacement reserve, the Secretary may allow public housing agencies to transfer more than 20 percent of its operating funds into its replacement reserve.

(4) Expenditure

Funds in a replacement reserve may be used for purposes authorized by subsection (d)(1) and contained in its Capital Fund 5-Year Action Plan.

(5) Management and report

The Secretary shall establish appropriate accounting and reporting requirements to ensure that public housing agencies are spending funds on eligible projects and that funds in the replacement reserve are connected to capital needs.

(o) Public housing heating guidelines

The Secretary shall publish model guidelines for minimum heating requirements for public housing dwelling units operated by public housing agencies receiving assistance under this section.

(Sept. 1, 1937, ch. 896, title I, §9, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 666; amended Pub. L. 94–375, §2(c), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95–24, title I, §101(b), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, §201(f), Oct. 12, 1977, 91 Stat. 1129; Pub. L. 95–557, title II, §206(g), Oct. 31, 1978, 92 Stat. 2093; Pub. L. 96–153, title II, §§201(c), 207, 211(a), Dec. 21, 1979, 93 Stat. 1106, 1109, 1110; Pub. L. 96–399, title II, §201(b), (d), Oct. 8, 1980, 94 Stat. 1625; Pub. L. 97–35, title III, §§321(d), 322(c), Aug. 13, 1981, 95 Stat. 399, 402; Pub. L. 98–181, title I [title II, §212], Nov. 30, 1983, 97 Stat. 1184; Pub. L. 99–272, title III, §3003, Apr. 7, 1986, 100 Stat. 102; Pub. L. 100–242, title I, §§112(b)(4), 118, Feb. 5, 1988, 101 Stat. 1824, 1828; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, §§507, 572(2), title VIII, §802(p), Nov. 28, 1990, 104 Stat. 4186, 4236, 4317; Pub. L. 102–550, title I, §114, title VI, §673, Oct. 28, 1992, 106 Stat. 3691, 3827; Pub. L. 103–233, title III, §304, Apr. 11, 1994, 108 Stat. 370; Pub. L. 104–134, title I, §101(e) [title II, §218], Apr. 26, 1996, 110 Stat. 1321–257, 1321–290; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–330, title V, §501(b)(5), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title II, §210, title V, §519(a), Oct. 21, 1998, 112 Stat. 2485, 2551; Pub. L. 106–377, §1(a)(1) [title II, §214(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A–27; Pub. L. 108–7, div. K, title II, §212(a), Feb. 20, 2003, 117 Stat. 503; Pub. L. 109–58, title I, §151, Aug. 8, 2005, 119 Stat. 648; Pub. L. 110–161, div. K, title II, §229, Dec. 26, 2007, 121 Stat. 2438; Pub. L. 110–289, div. B, title VIII, §2804, July 30, 2008, 122 Stat. 2866; Pub. L. 114–201, title I, §§109, 111, July 29, 2016, 130 Stat. 801, 803; Pub. L. 115–174, title II, §209(b), May 24, 2018, 132 Stat. 1315.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Quality Housing and Work Responsibility Act of 1998, referred to in subsecs. (a) and (b), is title V of Pub. L. 105–276, Oct. 21, 1998, 112 Stat. 2518. Section 503(a) of the Act is set out as an Effective Date of 1998 Amendment note under section 1437 of this title. Section 519(e) of the Act is set out as a note below. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 1437 of this title and Tables.

Section 1437l of this title, referred to in subsecs. (a) and (d)(3)(A), (B), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 1437u(d)(2) of this title, referred to in subsec. (e)(2)(A)(vi), was redesignated section 1437u(e)(2) of this title and substantially rewritten by Pub. L. 115–174, title III, §306(a)(4), (7)(B), May 24, 2018, 132 Stat. 1340, 1341.

PRIOR PROVISIONS

A prior section 9 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized loans for low-rent housing and slum clearance projects and was classified to section 1409 of this title, prior to the general revision of this chapter by Pub. L. 93–383. Similar provisions are contained in section 1437b of this title.

AMENDMENTS

2018—Subsec. (e)(2)(D). Pub. L. 115–174 added subpar. (D).

2016—Subsec. (g)(1). Pub. L. 114–201, §109(b), substituted "Flexibility in use of funds" for "Flexibility for Capital Fund amounts" in heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (j)(7). Pub. L. 114–201, §109(a)(1), added par. (7).

Subsec. (n). Pub. L. 114–201, §109(a)(2), added subsec. (n).

Subsec. (o). Pub. L. 114–201, §111, added subsec. (o).

2008—Subsecs. (k) to (n). Pub. L. 110–289 redesignated subsecs. (l) to (n) as (k) to (m), respectively, and struck out former subsec. (k), which related to emergency reserve and use of amounts.

2007—Subsec. (e)(2)(C)(iv). Pub. L. 110–161 added cl. (iv).

2005—Subsec. (d)(1)(K), (L). Pub. L. 109–58, §151(1), added subpars. (K) and (L).

Subsec. (e)(2)(C). Pub. L. 109–58, §151(2), designated existing provisions as cl. (i), inserted heading, and added cls. (ii) and (iii).

2003—Subsec. (n)(1). Pub. L. 108–7 struck out par. (1) which related to treatment of certain covered locally developed public housing units as eligible public housing units.

2000—Subsec. (d)(1)(E). Pub. L. 106–377, §1(a)(1) [title II, §214(a)(1)], inserted before semicolon ", including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources".

Subsec. (e)(1)(K). Pub. L. 106–377, §1(a)(1) [title II, §214(a)(2)], added subpar. (K).

Subsec. (h)(8). Pub. L. 106–377, §1(a)(1) [title II, §214(a)(3)], added par. (8).

1998—Pub. L. 105–276, §519(a), amended section generally, substituting present provisions for provisions which had: in subsec. (a), authorized annual contributions for operation of low-income housing, and provided for determination of the amounts and use of those contributions, contract authorization, standards for payments, necessity of contribution contracts, performance funding system, and audits; in subsec. (b), set forth limitation on amount of aggregate rentals paid by families residing in dwelling units receiving annual contributions; in subsec. (c), authorized appropriations for fiscal years 1993 and 1994; in subsec. (d), required distribution of remaining appropriated funds to projects incurring excessive costs; and in subsec. (e), set forth time of payment of assistance to public housing agency.

Subsec. (a)(3)(A). Pub. L. 105–276, §210, inserted after third sentence "Notwithstanding the preceding sentences, the Secretary may revise the performance funding system in a manner that takes into account equity among public housing agencies and that includes appropriate incentives for sound management." and, in last sentence, inserted ", or any substantial change under the preceding sentence," after "vacant public housing units".

1996—Subsec. (a)(1)(A). Pub. L. 104–330, in second sentence, inserted "and" after comma at end of cl. (i), struck out ", and" after "reserve funds" in cl. (ii), and struck out cl. (iii) which read as follows: "with respect to housing projects developed under the Indian and Alaskan Native housing program assisted under this chapter, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 1437c of this title and until such time as the project is occupied".

Subsec. (a)(3)(B)(i). Pub. L. 104–134 struck out "for a period not to exceed 6 years" after "with the public housing agency".

1994—Subsec. (a)(4). Pub. L. 103–233 added par. (4).

1992—Subsec. (a)(1)(B). Pub. L. 102–550, §673, designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, substituted "this clause" for "this subparagraph", inserted reference to section 8011 of this title and a period after "section 8013 of this title", and added cl. (ii).

Subsec. (a)(3)(A). Pub. L. 102–550, §114(b), inserted at end "Notwithstanding sections 583(a) and 585(a) of title 5 (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations."

Subsec. (a)(3)(B)(i). Pub. L. 102–550, §114(c), inserted before semicolon at end ", and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public

housing agency for a period not to exceed 6 years".

Subsec. (c). Pub. L. 102–550, §114(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "There are authorized to be appropriated for purposes of providing annual contributions under this section $2,000,000,000 for fiscal year 1991 and $2,086,000,000 in fiscal year 1992."

1990—Subsec. (a)(1). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Pub. L. 101–625, §507(b)(1), designated existing provisions as subpar. (A), redesignated former cls. (A) to (C) as cls. (i) to (iii), respectively, and added subpar. (B).

Subsec. (a)(2). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Subsec. (a)(3)(A). Pub. L. 101–625, §507(b)(2), inserted after first comma "(except for payments under paragraph (1)(B))".

Subsec. (a)(3)(B)(v). Pub. L. 101–625, §802(p), added cl. (v).

Subsec. (c). Pub. L. 101–625, §507(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "There are authorized to be appropriated for purposes of providing annual contributions under this section $1,500,000,000 for fiscal year 1988 and $1,530,000,000 for fiscal year 1989."

Subsec. (d). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing".

1988—Subsec. (a)(1). Pub. L. 100–242, §118(a)(1), struck out last sentence directing Secretary to establish standards for costs of operation and reasonable projections of income, for purposes of making payments under this section.

Pub. L. 100–242, §118(d), inserted at end "If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition."

Subsec. (a)(2). Pub. L. 100–242, §112(b)(4), substituted "one developed pursuant to a contributions contract authorized by section 1437c" for "being assisted by an annual contributions contract authorized by section 1437c(c)" and "any such" for "any such annual".

Subsec. (a)(3). Pub. L. 100–242, §118(a)(2), added par. (3).

Subsec. (c). Pub. L. 100–242, §118(b), amended subsec. (c) generally, substituting provisions authorizing appropriations under this section for fiscal years 1988 and 1989 for provisions authorizing appropriations for the period beginning on or after July 1, 1975, through the period beginning on or after Oct. 1, 1985.

Subsec. (e). Pub. L. 100–242, §118(c), added subsec. (e).

1986—Subsec. (c). Pub. L. 99–272 struck out "and by" after "1983," and inserted ", and not to exceed $1,279,000,000 on or after October 1, 1985" after "1984".

1983—Subsec. (c). Pub. L. 98–181 substituted "October 1, 1980, and" for "October 1, 1980," and authorized appropriations of not to exceed $1,500,000,000 on or after Oct. 1, 1983, and of such sums as may be necessary on or after Oct. 1, 1984.

1981—Subsec. (a). Pub. L. 97–35, §322(c), substituted reference to lower income for reference to low-income wherever appearing.

Subsec. (c). Pub. L. 97–35, §321(d), inserted provisions respecting authorization on or after Oct. 1, 1981.

Subsec. (d). Pub. L. 97–35, §322(c), substituted reference to lower income for reference to low-income.

1980—Subsec. (a)(1)(C). Pub. L. 96–399, §201(d), added cl. (C).

Subsec. (c). Pub. L. 96–399, §201(b), authorized appropriation of not to exceed $826,000,000 on or after Oct. 1, 1980.

1979—Subsec. (a). Pub. L. 96–153, §211(a), designated existing provisions as par. (1) and cls. (1) and (2) thereof as (A) and (B), inserted provisions that such contract shall provide that no disposition of low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary, and added par. (2).

Subsec. (c). Pub. L. 96–153, §201(c), authorized appropriation for annual contributions of $741,500,000 on or after Oct. 1, 1979.

Subsec. (d). Pub. L. 96–153, §207, added subsec. (d).

1978—Subsec. (c). Pub. L. 95–557 inserted "and not to exceed $729,000,000 on or after October 1, 1978".

1977—Subsec. (c). Pub. L. 95–128 authorized appropriation for annual contributions of $685,000,000 on or after Oct. 1, 1977.

Pub. L. 95–24 substituted "and not to exceed $595,600,000 on or after October 1, 1976" for "and not to exceed $576,000,000 on or after October 1, 1976".

1976—Subsec. (c). Pub. L. 94–375 substituted provision authorizing appropriations for annual contributions not to exceed $535,000,000 on or after July 1, 1975, not to exceed $80,000,000 on or after July 1, 1976, and not to exceed $576,000,000 on or after October 1, 1976 for provision which authorized annual contributions for contracts entered into on or after July 1, 1974 of not more than $500,000,000 per annum, which amount was to be increased by $60,000,000 on July 1, 1975.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–174, title II, §209(d), May 24, 2018, 132 Stat. 1316, provided that: "The amendments made by subsections (a) and (b) [enacting section 1437z–10 of this title and amending this section] shall take effect on the date that is 60 days after the date of enactment of this Act [May 24, 2018]."

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–7, div. K, title II, §212(c), Feb. 20, 2003, 117 Stat. 504, provided that: "The amendment made by subsection (a) [amending this section] shall be deemed to have taken effect on October 1, 1998."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, §519(e)–(g), Oct. 21, 1998, 112 Stat. 2561, 2562, provided that:

"(e) TRANSITIONAL PROVISION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437g, 1437l], as those sections existed immediately before the enactment of this Act [Oct. 21, 1998] (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act [see Tables for classification]).

"(2) QUALIFICATIONS.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by subsection (a) of this section)—

"(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section [42 U.S.C. 1437a note], the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g];

"(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(5)(G)] (as in effect immediately before the enactment of this Act [Oct. 21, 1998]), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g]; and

"(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)(1)(A), (B), (C)], the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g].

"(f) EFFECTIVE DATE OF OPERATING FORMULA.—Notwithstanding the effective date under section 503(a) [42 U.S.C. 1437 note], the Secretary may extend the effective date of the formula under section 9(e)(2)

of the United States Housing Act of 1937 [42 U.S.C. 1437g(e)(2)] (as amended by subsection (a) of this section) for up to 6 months if such additional time is necessary to implement such formula.

"(g) EFFECTIVE DATE.—Subsections (d) [42 U.S.C. 1437a note], (e), and (f) shall take effect upon the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 802(p) of Pub. L. 101–625 deemed enacted Nov. 5, 1990, see title II of Pub. L. 101–507, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of subsec. (c) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

REGULATIONS

Pub. L. 108–199, div. G, title II, §222, Jan. 23, 2004, 118 Stat. 398, provided that: "The Secretary of Housing and Urban Development shall conduct negotiated rulemaking with representatives from interested parties for purposes of any changes to the formula governing the Public Housing Operating Fund. A final rule shall be issued no later than July 1, 2004."

Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 487, provided in part: "That the Secretary shall issue final regulations to carry out section 9(j) of the United States Housing Act of 1937 (42 U.S.C. 1437g(j)), not later than August 1, 2003".

CAPITAL FUNDS FOR CENTRAL OFFICE COSTS

Pub. L. 119–75, div. D, title II, §213, Feb. 3, 2026, 140 Stat. 414, provided that: "With respect to the use of amounts provided in this Act [probably means title II of div. D of Pub. L. 119–75, 140 Stat. 381, see Tables for classification] and in future Acts for the operation, capital improvement, and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d), (e)), the Secretary [of Housing and Urban Development] shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to paragraph (1) or (2) of section 9(g) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1), (2)): *Provided*, That a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under paragraph (1) or (2) of section 9(g)."

Similar provisions were contained in the following appropriation acts:

Pub. L. 118–42, div. F, title II, §214, Mar. 9, 2024, 138 Stat. 377.

Pub. L. 117–328, div. L, title II, §214, Dec. 29, 2022, 136 Stat. 5174.

Pub. L. 117–103, div. L, title II, §214, Mar. 15, 2022, 136 Stat. 758.

Pub. L. 116–260, div. L, title II, §214, Dec. 27, 2020, 134 Stat. 1896.

Pub. L. 116–94, div. H, title II, §214, Dec. 20, 2019, 133 Stat. 3004.

Pub. L. 116–6, div. G, title II, §216, Feb. 15, 2019, 133 Stat. 460.

Pub. L. 115–141, div. L, title II, §217, Mar. 23, 2018, 132 Stat. 1033.

Pub. L. 115–31, div. K, title II, §218, May 5, 2017, 131 Stat. 784.
Pub. L. 114–113, div. L, title II, §219, Dec. 18, 2015, 129 Stat. 2893.
Pub. L. 113–235, div. K, title II, §219, Dec. 16, 2014, 128 Stat. 2753.
Pub. L. 113–76, div. L, title II, §223, Jan. 17, 2014, 128 Stat. 631.
Pub. L. 112–55, div. C, title II, §224, Nov. 18, 2011, 125 Stat. 700.
Pub. L. 111–117, div. A, title II, §224, Dec. 16, 2009, 123 Stat. 3102.
Pub. L. 111–8, div. I, title II, §226, Mar. 11, 2009, 123 Stat. 977.
Pub. L. 110–161, div. K, title II, §226, Dec. 26, 2007, 121 Stat. 2437.

PAYMENTS FOR COSTS OF OPERATION AND MANAGEMENT OF PUBLIC HOUSING PROHIBITED

Pub. L. 108–447, div. I, title II, Dec. 8, 2004, 118 Stat. 3298, provided in part: "That for fiscal year 2006 and all fiscal years thereafter, the Secretary shall provide assistance under this heading [PUBLIC HOUSING OPERATING FUND] to public housing agencies on a calendar year basis: *Provided further*, That, in fiscal year 2005 and all fiscal years hereafter, no amounts under this heading in any appropriations Act may be used for payments to public housing agencies for the costs of operation and management of public housing for any year prior to the current year of such Act".

Similar provisions were contained in the following appropriation acts:
Pub. L. 111–117, div. A, title II, Dec. 16, 2009, 123 Stat. 3080.
Pub. L. 111–8, div. I, title II, Mar. 11, 2009, 123 Stat. 956.
Pub. L. 110–161, div. K, title II, Dec. 26, 2007, 121 Stat. 2417.
Pub. L. 109–115, div. A, title III, Nov. 30, 2005, 119 Stat. 2444.
Pub. L. 108–199, div. G, title II, Jan. 23, 2004, 118 Stat. 375.
Pub. L. 108–7, div. K, title II, Feb. 20, 2003, 117 Stat. 488.

FUNDING OF COVERED LOCALLY DEVELOPED PUBLIC HOUSING UNITS PROHIBITED

Pub. L. 108–7, div. K, title II, §207, Feb. 20, 2003, 117 Stat. 502, provided that: "Notwithstanding any other provision of law, no funds in this Act or in any other Act in any fiscal year, including all future and prior fiscal years, may be used hereafter by the Secretary of Housing and Urban Development to provide any assistance or other funds for housing units defined in section 9(n) [now 9(m)] of the United States Housing Act of 1937 [42 U.S.C. 1437g(m)] (as in effect immediately before the enactment of this Act [Feb. 20, 2003]) as 'covered locally developed public housing units'. The States of New York and Massachusetts shall reimburse any funds already made available under any appropriations Act for these units to the Secretary of Housing and Urban Development for reallocation to public housing agencies: *Provided*, That, if either State fails to make such reimbursement within 12 months, the Secretary shall recapture such funds through reductions from the amounts allocated to each State under section 106 of the Housing and Community Development Act of 1974 [42 U.S.C. 5306]."

APPLICABILITY OF PENALTIES FOR SLOW EXPENDITURE OF CAPITAL FUNDS

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 660, provided in part: "That, hereafter, notwithstanding any other provision of law or any failure of the Secretary of Housing and Urban Development to issue regulations to carry out section 9(j) of the United States Housing Act of 1937 (42 U.S.C. 1437g(j)), such section is deemed to have taken effect on October 1, 1998, and, except as otherwise provided in this heading ["PUBLIC HOUSING CAPITAL FUND (INCLUDING TRANSFER OF FUNDS)"], shall apply to all assistance made available under this same heading on or after such date".

COOLING DEGREE DAY ADJUSTMENT UNDER PERFORMANCE FUNDING SYSTEM

Pub. L. 101–625, title V, §508, Nov. 28, 1990, 104 Stat. 4187, provided that: "In determining the Performance Funding System utility subsidy for public housing agencies pursuant to section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], the Secretary of Housing and Urban Development shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included."

ENERGY EFFICIENCY DEMONSTRATION

Pub. L. 101–625, title V, §523, Nov. 28, 1990, 104 Stat. 4215, which directed Secretary of Housing and Urban Development to carry out demonstration program to encourage use of private energy service companies and demonstrate opportunities for energy cost reduction through energy services contracts, and to report findings and recommendations to Congress as soon as practicable after expiration of 1-year period beginning on Nov. 28, 1990, was repealed by Pub. L. 105–276, title V, §582(a)(11), Oct. 21, 1998, 112 Stat. 2644.

[1] *So in original. Probably should be "Fund".*

[2] *See References in Text note below.*

[3] *So in original.*

§1437h. Implementation of provisions by Secretary

(a) Preparation and submission of annual budget program; maintenance of accounts; audit by Government Accountability Office

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain an integral set of accounts which may be audited by the Government Accountability Office as provided by chapter 91 of title 31.

(b) Availability of receipts and assets

All receipts and assets of the Secretary under this chapter shall be available for the purposes of this chapter until expended.

(c) Federal Reserve banks to act as depositories, custodians and fiscal agents; reimbursement for services

The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this chapter, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

(Sept. 1, 1937, ch. 896, title I, §10, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 666; amended Pub. L. 98–479, title II, §203(b)(2), Oct. 17, 1984, 98 Stat. 2229; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 104–316, title I, §122(k), Oct. 19, 1996, 110 Stat. 3837; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized annual contributions in assistance of low rentals for housing projects and was classified to section 1410 of this title, prior to the general revision of this chapter by Pub. L. 93–383. Similar provisions are contained in section 1437c of this title.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1996—Subsec. (a)(2). Pub. L. 104–316 substituted "maintain an integral set of accounts which may be audited by the General Accounting Office as provided by chapter 91 of title 31." for "maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by chapter 91 of title 31, and no other audit shall be required."

1984—Subsec. (a)(1), (2). Pub. L. 98–479 substituted "chapter 91 of title 31" for "the Government Corporations Control Act, as amended".

§1437i. Obligations of public housing agencies; contestability; full faith and

credit of United States pledged as security; tax exemption

(a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 1437c(g) of this title, obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

(Sept. 1, 1937, ch. 896, title I, §11, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 667; amended Pub. L. 97–35, title III, §322(c), Aug. 13, 1981, 95 Stat. 402; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, §572(2), Nov. 28, 1990, 104 Stat. 4236.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11 of act Sept. 1, 1937, ch. 896, 50 Stat. 893, as amended, authorized capital grants to public housing agencies in assistance of low rentals and was classified to section 1411 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1990—Pub. L. 101–625 substituted "low-income housing" for "lower income housing" wherever appearing.

1981—Pub. L. 97–35 substituted reference to lower income for reference to low-income wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§1437j. Labor standards and community service requirement

(a) Payment of wages prevailing in locality

Any contract for loans, contributions, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 1437f of this title, where the

public housing agency or the Secretary and the builder or sponsor enter into agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Exception for volunteers

Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this chapter, shall not apply to any individual that—

(1) performs services for which the individual volunteered;
(2)(A) does not receive compensation for such services; or
(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and
(3) is not otherwise employed at any time in the construction work.

(c) Community service requirement

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g)) for 8 hours per month.

(2) Exemptions

The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

(A) is 62 years of age or older;

(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997)); [1]

(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) Annual determinations

(A) Requirement

For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 1437d(l)(1) of this title, review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) Due process

Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) Noncompliance

If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

(i) shall notify the resident—
(I) of such noncompliance;
(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); [2] and
(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) Ineligibility for occupancy for noncompliance

A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) Inclusion in plan

Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) Geographic location

The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) Prohibition against replacement of employees

In carrying out this subsection, a public housing agency may not—
(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or
(B) supplant a job at any location at which community work requirements are fulfilled.

(8) Third-party coordinating

A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d) Treatment of income changes resulting from welfare program requirements

(1) Covered family

For purposes of this subsection, the term "covered family" means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 1437f of this title.

(2) Decreases in income for failure to comply

(A) In general

Notwithstanding the provisions of section 1437a(a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a(b) of this title (relating to definition of

income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) No reduction based on time limit for assistance

For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning on October 21, 1998.

(3) Effect of fraud

Notwithstanding the provisions of section 1437a(a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a(b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning on October 21, 1998.

(4) Notice

Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this chapter on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) Occupancy rights

This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 1437f of this title.

(6) Review

Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 1437d(k) of this title for the public housing agency.

(7) Cooperation agreements for economic self-sufficiency activities

(A) Requirement

A public housing agency providing public housing dwelling units or tenant-based assistance under section 1437f of this title for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

(B) Contents

A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 1437f of this title, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

(C) Confidentiality

This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

(e) Lease provisions

A public housing agency shall incorporate into leases under section 1437d(l) of this title and into agreements for the provision of tenant-based assistance under section 1437f of this title, provisions incorporating the conditions under subsection (d).

(f) Treatment of income

Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 1437f of this title, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

(g) Definition

For purposes of this section, the term "economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.

(Sept. 1, 1937, ch. 896, title I, §12, as added Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 667; amended Pub. L. 97–35, title III, §322(c), Aug. 13, 1981, 95 Stat. 402; Pub. L. 100–242, title I, §112(b)(5), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title V, §572(2), title IX, §955(b), Nov. 28, 1990, 104 Stat. 4236, 4421; Pub. L. 105–276, title V, §512(a), Oct. 21, 1998, 112 Stat. 2539.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(D), (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Subsection (k), referred to in subsec. (c)(3)(C)(i)(II), probably means section 1437d(k) of this title, which relates to administrative grievance procedures. This section does not contain a subsec. (k).

CODIFICATION

In subsec. (a), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act (49 Stat. 1011)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 12 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, authorized the disposal of low-rent housing projects transferred to or acquired by the Authority and was classified to section 1412 of this

title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Pub. L. 105–276, §512(a)(1), inserted "and community service requirement" after "Labor standards" in section catchline.

Subsecs. (c) to (g). Pub. L. 105–276, §512(a)(2), added subsecs. (c) to (g).

1990—Pub. L. 101–625, §955(b), designated existing provisions as subsec. (a) and added subsec. (b).

Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing".

1988—Pub. L. 100–242 struck out "annual" before "contributions".

1981—Pub. L. 97–35 substituted reference to lower income for reference to low-income.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 955(d) of Pub. L. 101–625 provided that: "The amendments made by this section [amending this section, section 5310 of this title, and section 1701q of Title 12, Banks and Banking] shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act [Nov. 28, 1990], except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

[1] So in original. Probably should be only one closing parenthesis.

[2] See References in Text note below.

§1437j–1. Repealed. Pub. L. 105–276, title V, §582(a)(5), Oct. 21, 1998, 112 Stat. 2643

Section, Pub. L. 97–35, title III, §329A, Aug. 13, 1981, 95 Stat. 409, related to payment for development managers of projects assisted under this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1437k. Consortia, joint ventures, affiliates, and subsidiaries of public housing agencies

(a) Consortia

(1) In general

Any 2 or more public housing agencies may participate in a consortium for the purpose of

administering any or all of the housing programs of those public housing agencies in accordance with this section.

(2) Effect

With respect to any consortium described in paragraph (1)—

(A) any assistance made available under this subchapter to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

(3) Restrictions

(A) Agreement

Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 1437c–1 of this title.

(B) Minimum requirements

The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

(b) Joint ventures

(1) In general

Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

(i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this subchapter; or

(ii) for the purpose of providing or arranging for the provision of supportive or social services.

(2) Use and treatment of income

Any income generated under paragraph (1)—

(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and

(B) shall not result in any decrease in any amount provided to the public housing agency under this subchapter, except as otherwise provided under the formulas established under section 1437g(d)(2) and 1437g(e)(2) of this title.

(3) Audits

The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.

(Sept. 1, 1937, ch. 896, title I, §13, as added Pub. L. 96–153, title II, §209, Dec. 21, 1979, 93 Stat. 1109; amended Pub. L. 96–399, title II, §202(b), Oct. 8, 1980, 94 Stat. 1629; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 105–276, title V, §515, Oct. 21, 1998, 112 Stat. 2549.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 13 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, enumerated powers of the Authority and was classified to section 1413 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Pub. L. 105–276 amended section catchline and text of section generally. Prior to amendment, text read as follows: "The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under this chapter with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems."

1980—Pub. L. 96–399 struck out subsec. (a) which related to consideration by the Secretary, in utilizing contract authority, of projects which will be modernized to a substantial extent with weatherization materials as defined in section 6862(9) of this title, and redesignated former subsec. (b) as entire section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

REPORTING BY AGENCIES OPERATING IN CONSORTIA

Pub. L. 115–174, title II, §209(c), May 24, 2018, 132 Stat. 1316, provided that: "Not later than 180 days after the date of enactment of this Act [May 24, 2018], the Secretary of Housing and Urban Development shall develop and deploy all electronic information systems necessary to accommodate full consolidated reporting by public housing agencies, as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)), electing to operate in consortia under section 13(a) of such Act (42 U.S.C. 1437k(a))."

ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION

Pub. L. 100–242, title I, §125, Feb. 5, 1988, 101 Stat. 1847, provided that the Secretary of Housing and Urban Development would establish a demonstration program through the assistance of an appropriate technology transfer organization specializing in producing detailed energy-efficient designs and in conducting local and statewide public participation tests for energy efficient, needs-oriented housing, provided the appropriate technology organization would carry out the demonstration working with public housing agencies to build and test energy-efficient housing designs in 100 separate housing units in 4 different States meeting local lower income housing needs through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas, provided that as soon as practicable following Sept. 30, 1988, the Secretary would submit to the Congress a report setting forth the findings and recommendations of the program, and authorized $4,700,000 for fiscal year 1988 for the project.

§1437*l*. Repealed. Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564

Section, act Sept. 1, 1937, ch. 896, title I, §14, as added Pub. L. 96–399, title II, §202(a), Oct. 8, 1980, 94 Stat. 1625; amended Pub. L. 97–35, title III, §§322(c), 329G, Aug. 13, 1981, 95 Stat. 402, 410; Pub. L. 98–181, title I [title II, §214(b)], Nov. 30, 1983, 97 Stat. 1185; Pub. L. 98–479, title II, §204(b)(2), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 100–242, title I, §§112(b)(6), 119(b)–(i), 120, Feb. 5, 1988, 101 Stat. 1824, 1830–1837; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title IV, §414, title V, §§509(a)–(g), 510, 572, Nov. 28, 1990, 104 Stat. 4160, 4187, 4191–4193, 4236; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 757, 759; Pub. L. 102–550, title I, §§111(b)(1), 115, title VI, §625(a)(3), Oct. 28, 1992, 106 Stat. 3688, 3692, 3820; Pub. L. 103–233, title III, §302, Apr. 11, 1994, 108 Stat. 369; Pub. L. 104–19, title I, §§1001(a), 1003A, July 27, 1995, 109 Stat. 235, 236; Pub. L. 104–134, title I, §101(e) [title II, §201(a)(1)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–277; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–330, title V, §501(b)(6), Oct. 26, 1996, 110 Stat.

4042; Pub. L. 105–276, title II, §208, Oct. 21, 1998, 112 Stat. 2485, related to assistance for public housing modernization. See section 1437g(a) of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

SAVINGS PROVISION

Pub. L. 105–276, title V, §522(c), Oct. 21, 1998, 112 Stat. 2565, provided that:

"(1) IN GENERAL.—Section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437l] shall apply as provided in section 519(e) of this Act [42 U.S.C. 1437g note].

"(2) EXPANSION OF USE OF MODERNIZATION FUNDING.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by section 519(a) of this Act) an agency may utilize any authority provided under or pursuant to section 14(q) of such Act [42 U.S.C. 1437l(q)] (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [see Tables for classification] (Public Law 104–134; 110 Stat. 1321–277)), as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act [see Tables for classification]), notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section 201 [see Tables for classification], or any repeal of such section 201).

"(3) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

Pub. L. 104–134, title I, §101(e) [title II, §202], Apr. 26, 1996, 110 Stat. 1321–257, 1321–279; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, which required identification for removal from the inventory of a public housing agency of developments on same or contiguous sites which had more than 300 units and vacancy rate of at least 10 percent, were identified as distressed, and for which estimated cost of continued operation exceeded cost of providing tenant-based assistance under section 1437f of this title, provided for implementation and enforcement of provisions requiring identification, required each agency to develop and carry out plan for removal over 5-year period, and required provision of tenant-based assistance to families residing in any removed development, was repealed by Pub. L. 105–276, title V, §537(b), Oct. 21, 1998, 112 Stat. 2592. Amounts made available to carry out section 101(e) [title II, §202] of Pub. L. 104–134 authorized to be used, to extent provided in advance in appropriations Acts, to carry out section 1437z–5 of this title, and section 101(e) [title II, §202] of Pub. L. 104–134 as in effect immediately before Oct. 21, 1998, to continue to apply to public housing developments identified for conversion, or assessment of whether conversion is required, prior to such date, see section 537(c) of Pub. L. 105–276, set out as a Transition note under section 1437z–5 of this title.

§1437m. Payment of non-Federal share

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this chapter, other than under section 1437f of this title;

(1) annual contributions under this chapter for operation of the project; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this chapter.

(Sept. 1, 1937, ch. 896, title I, §15, as added Pub. L. 96–399, title II, §212, Oct. 8, 1980, 94 Stat. 1636; amended Pub. L. 100–242, title I, §112(b)(7), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681.)

EDITORIAL NOTES

AMENDMENTS

1988—Cl. (2). Pub. L. 100–242 struck out "with loans or debt service annual contributions" after "cost financed".

§1437n. Eligibility for assisted housing

(a) Income eligibility for public housing

(1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA income mix

(A) [1] TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by extremely low-income families.

(3) Prohibition of concentration of low-income families

(A) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) Deconcentration

(i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c–1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II),[2] *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(s) [3] of this title.

(4) Fungibility with tenant-based assistance

(A) Authority

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) Credit for exceeding tenant-based assistance targeting requirement

Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 1437f of this title by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) Limitations on credit number

The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 1437f of this title by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) Fungibility floor

Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) Qualified family

For purposes of this paragraph, the term "qualified family" means a family having an income described in subsection (b)(1).

(5) Limitations on tenancy for over-income families

(A) Limitations

Except as provided in subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 1437a(a)(6) of this title, has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall—

(i) notwithstanding any other provision of this chapter, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

(I) the applicable fair market rental established under section 1437f(c) of this title for a dwelling unit in the same market area of the same size; or

(II) the amount of the monthly subsidy provided under this chapter for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 1437g of this title used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subclause; or

(ii) terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

(B) Notice

In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

(C) Income limitation

The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

(D) Exception

Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 1437a(a) of this title.

(E) Reports on over-income families and waiting lists

The Secretary shall require that each public housing agency shall—

(i) submit a report annually, in a format required by the Secretary, that specifies—

(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

(ii) make the information reported pursuant to clause (i) publicly available.

(b) Income eligibility for tenant-based section 1437f assistance

(1) In general

Of the families initially provided tenant-based assistance under section 1437f of this title by a public housing agency in any fiscal year, not less than 75 percent shall be extremely low-income families.

(2) Jurisdictions served by multiple PHAs

In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 1437f of this title with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) Income eligibility for project-based section 1437f assistance

(1) Pre-1981 act projects

Not more than 25 percent of the dwelling units that were available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter before October 1, 1981, and which will be leased on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(2) Post-1981 act projects

Not more than 15 percent of the dwelling units which become available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(3) Targeting

For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by extremely low-income families.

(4) Prohibition of skipping

In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) Exception

The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 1437f of this title for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) Definition

For purposes of this subsection, the term "project-based assistance" means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 1437f(b)(2) of this title (as in effect before October 1, 1983).

(B) The property disposition program under section 1437f(b) of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).

(C) The loan management set-aside program under subsections (b) and (v) of section 1437f of this title.

(D) The project-based certificate program under section 1437f(d)(2) of this title.

(E) The moderate rehabilitation program under section 1437f(e)(2) of this title (as in effect before October 1, 1991).

(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

(G) Section 1437f of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 1701s of title 12 or section 1715z–1(f)(2) of title 12.

(d) Establishment of different standards

Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

(e) Eligibility for assistance based on assets

(1) Limitation on assets

Subject to paragraph (3) and notwithstanding any other provision of this chapter, a dwelling unit assisted under this chapter may not be rented and assistance under this chapter may not be provided, either initially or at each recertification of family income, to any family—

(A) whose net family assets exceed $100,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate; or

(B) who has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence, except that the prohibition under this subparagraph shall not apply to—

(i) any property for which the family is receiving assistance under subsection (y) or (o)(12) of section 1437f of this title;

(ii) any person that is a victim of domestic violence; or

(iii) any family that is offering such property for sale.

(2) Net family assets

(A) In general

For purposes of this subsection, the term "net family assets" means, for all members of the household, the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. Such term does not include interests in Indian trust land, equity in property for which the family is receiving assistance under subsection (y) or (o)(12) of section 1437f of this title, equity accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

(B) Exclusions

Such term does not include—

(i) the value of personal property, except for items of personal property of significant value, as the Secretary may establish or the public housing agency may determine;

(ii) the value of any retirement account;

(iii) real property for which the family does not have the effective legal authority necessary to sell such property;

(iv) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family and arising out of law, that resulted in a member of the family being disabled;

(v) the value of any Coverdell education savings account under section 530 of title 26 or any qualified tuition program under section 529 of such title; and

(vi) such other exclusions as the Secretary may establish.

(C) Trust funds

In cases in which a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset of a family if the fund continues to be held in trust. Any income distributed from the trust fund shall be considered income for purposes of section 1437a(b) of this title and any calculations of annual family income, except in the case of medical expenses for a minor.

(3) Self-certification

(A) Net family assets

A public housing agency or owner may determine the net assets of a family, for purposes of this section, based on a certification by the family that the net assets of such family do not exceed $50,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate.

(B) No current real property ownership

A public housing agency or owner may determine compliance with paragraph (1)(B) based on a certification by the family that such family does not have any current ownership interest in any real property at the time the agency or owner reviews the family's income.

(C) Standardized forms

The Secretary may develop standardized forms for the certifications referred to in subparagraphs (A) and (B).

(4) Compliance for public housing dwelling units

When recertifying family income with respect to families residing in public housing dwelling units, a public housing agency may, in the discretion of the agency and only pursuant to a policy

that is set forth in the public housing agency plan under section 1437c–1 of this title for the agency, choose not to enforce the limitation under paragraph (1).

(5) Enforcement

When recertifying the income of a family residing in a dwelling unit assisted under this chapter, a public housing agency or owner may choose not to enforce the limitation under paragraph (1) or may establish exceptions to such limitation based on eligibility criteria, but only pursuant to a policy that is set forth in the public housing agency plan under section 1437c–1 of this title for the agency or under a policy adopted by the owner. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

(6) Authority to delay evictions

In the case of a family residing in a dwelling unit assisted under this chapter who does not comply with the limitation under paragraph (1), the public housing agency or project owner may delay eviction or termination of the family based on such noncompliance for a period of not more than 6 months.

(7) Verifying income

(A) Beginning in fiscal year 2018, the Secretary shall require public housing agencies to require each applicant for, or recipient of, benefits under this chapter to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the public housing agency to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act [12 U.S.C. 3415]) from any financial institution (within the meaning of section 1101(1) of such Act [12 U.S.C. 3401(1)]) any financial record (within the meaning of section 1101(2) of such Act [12 U.S.C. 3401(2)]) held by the institution with respect to the applicant or recipient (or any such other person) whenever the public housing agency determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

(B) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(1)], an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subparagraph (A) of this paragraph shall remain effective until the earliest of—

(i) the rendering of a final adverse decision on the applicant's application for eligibility for benefits under this chapter;

(ii) the cessation of the recipient's eligibility for benefits under this chapter; or

(iii) the express revocation by the applicant or recipient (or such other person referred to in subparagraph (A)) of the authorization, in a written notification to the Secretary.

(C)(i) An authorization obtained by the public housing agency pursuant to this paragraph shall be considered to meet the requirements of the Right to Financial Privacy Act [12 U.S.C. 3401 et seq.] for purposes of section 1103(a) of such Act [12 U.S.C. 3403(a)], and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act [12 U.S.C. 3404(a)].

(ii) The certification requirements of section 1103(b) of the Right to Financial Privacy Act [12 U.S.C. 3403(b)] shall not apply to requests by the public housing agency pursuant to an authorization provided under this clause.

(iii) A request by the public housing agency pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(3)] and the flush language of section 1102 of such Act [12 U.S.C. 3402].

(iv) The public housing agency shall inform any person who provides authorization pursuant to this paragraph of the duration and scope of the authorization.

(D) If an applicant for, or recipient of, benefits under this chapter (or any such other person referred to in subparagraph (A)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the public housing agency to obtain from any financial institution any financial record, the public housing agency may, on that basis, determine that the applicant or recipient is ineligible for benefits under this subchapter.

(f) Ineligibility of individuals convicted of manufacturing or producing methamphetamine on the premises

Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 1437f of this title that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 1437f of this title for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 1437f of this title for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

(Sept. 1, 1937, ch. 896, title I, §16, as added Pub. L. 97–35, title III, §323, Aug. 13, 1981, 95 Stat. 404; amended Pub. L. 98–181, title I [title II, §213], Nov. 30, 1983, 97 Stat. 1184; Pub. L. 100–242, title I, §§103, 112(b)(8), Feb. 5, 1988, 101 Stat. 1822, 1824; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 100–628, title X, §1001(a), Nov. 7, 1988, 102 Stat. 3263; Pub. L. 101–625, title V, §§511, 572(1), Nov. 28, 1990, 104 Stat. 4194, 4236; Pub. L. 102–550, title I, §105, Oct. 28, 1992, 106 Stat. 3684; Pub. L. 104–99, title IV, §402(d)(6)(A)(v), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104–120, §9(d), Mar. 28, 1996, 110 Stat. 837; Pub. L. 104–330, title V, §501(b)(7), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title IV, §428, title V, §§513(a), 576(d)(2), Oct. 21, 1998, 112 Stat. 2511, 2543, 2640; Pub. L. 105–277, div. A, §123, Oct. 21, 1998, 112 Stat. 2681–546; Pub. L. 106–74, title II, §205, Oct. 20, 1999, 113 Stat. 1069; Pub. L. 113–76, div. L, title II, §238(b), Jan. 17, 2014, 128 Stat. 635; Pub. L. 114–201, title I, §§103, 104, July 29, 2016, 130 Stat. 792, 793.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437d(s) of this title, referred to in subsec. (a)(3)(B)(iii), probably should be a reference to section 1437d(r) of this title. Pub. L. 105–276, title V, §§525, 575(d), 576(d)(1)(B), Oct. 21, 1998, 112 Stat. 2568, 2637, 2640, amended section 1437d by adding a subsec. (s) relating to site-based waiting lists and a subsec. (t) relating to authority to require access to criminal records and then redesignated those subsecs. (s) and (t) as (r) and (s), respectively.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (c)(6)(B), (G), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (c)(6)(F), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, which is classified principally to chapter 42 (§4101 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (c)(6)(F), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101–625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitles A and B of title II, which were formerly set out as a note under section 1715l of Title 12, Banks and Banking, and which amended section 1715z–6 of Title 12, were amended generally by Pub. L. 101–625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of Title 12. Subtitles C and D of title II amended section 1715z–15 of Title 12 and sections 1437f, 1472, 1485, and 1487 of this title. Another subtitle C of title II of Pub. L. 100–242, as added by Pub. L. 102–550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

The Right to Financial Privacy Act, referred to in subsec. (e)(7)(C)(i), probably means the Right to

Financial Privacy Act of 1978, title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

CODIFICATION

October 1, 1981, referred to in subsec. (c)(1), (2), was in the original "the effective date of the Housing and Community Development Amendments of 1981" and "such effective date", meaning the effective date of subtitle A of title III of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 384, which was generally effective Oct. 1, 1981. See Effective Date note below.

AMENDMENTS

2016—Subsec. (a)(5). Pub. L. 114–201, §103, added par. (5).

Subsec. (e). Pub. L. 114–201, §104, added subsec. (e).

2014—Subsec. (a)(2)(A). Pub. L. 113–76, §238(b)(1), substituted "extremely low-income families" for "families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes".

Subsec. (b)(1). Pub. L. 113–76, §238(b)(2), substituted "extremely low-income families" for "families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes".

Subsec. (c)(3). Pub. L. 113–76, §238(b)(3), substituted "extremely low-income families" for "families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes".

1999—Subsecs. (a)(2)(A), (c)(3). Pub. L. 106–74, §205(1), inserted before the period at end "; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes".

1998—Subsecs. (a) to (d). Pub. L. 105–276, §513(a), as amended by Pub. L. 105–277, §123, added subsecs. (a) to (d) and struck out former subsecs. (a) to (d). Prior to amendment, subsec. (a) related to percentage availability under contracts prior to Oct. 1, 1981, subsec. (b) related to percentage availability under contracts on or after Oct. 1, 1981, subsec. (c) related to admission procedures implementing subsec. (b), and subsec. (d) related to applicability of admission procedures limitations.

Subsec. (e). Pub. L. 105–276, §576(d)(2), struck out heading and text of subsec. (e), which directed public housing agency to establish standards to prohibit occupancy by and terminate tenancy of any person illegally using controlled substance or whose use of controlled substance or abuse of alcohol might interfere with peaceful enjoyment of premises by other residents, and authorized agency to consider rehabilitation of person in making determination to deny occupancy.

Subsec. (f). Pub. L. 105–276, §428, added subsec. (f).

1996—Pub. L. 104–120, §9(d)(1), substituted "Eligibility" for "Income eligibility" in section catchline.

Subsec. (c). Pub. L. 104–99 temporarily substituted "the written system of preferences for selection established by the public housing agency pursuant to section 1437d(c)(4)(A)" for "the system of preferences established by the agency pursuant to section 1437d(c)(4)(A)(ii)". See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d). Pub. L. 104–330, §501(b)(7)(A), redesignated par. (1) as entire subsec. and struck out par. (2) which read as follows: "The limitations established in subsections (a) and (b) of this section shall not apply to dwelling units assisted by Indian public housing agencies, to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 1437c(h) of this title.."

Subsec. (e). Pub. L. 104–120, §9(d)(2), added subsec. (e).

Subsec. (e)(3). Pub. L. 104–330, §501(b)(7)(B), struck out heading and text of par. (3). Text read as follows: "This subsection does not apply to any dwelling unit assisted by an Indian housing authority."

1992—Subsec. (c). Pub. L. 102–550, §105(a), substituted "very low-income families and shall" for "very

low-income families, shall" and ". In developing such admission procedures, the Secretary shall" for ", and shall" and inserted "; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 1437d(c)(4)(A)(ii) of this title" after "higher income families for residence".

Subsec. (d)(2). Pub. L. 102–550, §105(b), inserted before period at end ", to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 1437c(h) of this title."

1990—Subsec. (a). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families".

Subsec. (b). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families" in par. (1).

Pub. L. 101–625, §511, designated existing provisions as par. (1), substituted "15 percent" for "5 per centum", and added par. (2).

Subsecs. (c), (d)(1). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families" wherever appearing.

1988—Subsec. (b). Pub. L. 100–242, §112(b)(8), struck out "annual" before "contributions".

Subsec. (c). Pub. L. 100–628 substituted "shall establish an appropriate specific percentage of lower income families other than very-low income families that may be assisted in each assisted housing program" for "and shall establish, as appropriate, differing percentage limitations on admission of lower income families in separate assisted housing programs" and inserted before period at end of first sentence ", and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

Pub. L. 100–242, §103, added subsec. (c).

Subsec. (d). Pub. L. 100–242, §103, added subsec. (d).

1983—Subsec. (a). Pub. L. 98–181 increased to 25 from 10 the percentage of dwelling units available for leasing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–277, div. A, §123, Oct. 21, 1998, 112 Stat. 2681–546, provided that the amendment made by section 123 of Pub. L. 105–277 is effective upon enactment of Pub. L. 105–276.

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, title V, §513(b), Oct. 21, 1998, 112 Stat. 2547, provided that: "This section [amending this section] shall take effect on, and the amendments under this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104–120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104–120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as a note under section 3701 of Title 12, Banks and Banking.

[1] So in original. No subpar. (B) has been enacted.

[2] So in original. Cl. (i) does not contain subclauses.

[3] *See References in Text note below.*

§1437*o*. Repealed. Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128

Section, act Sept. 1, 1937, ch. 896, title I, §17, as added Nov. 30, 1983, Pub. L. 98–181, title I [title III, §301], 97 Stat. 1196; amended Oct. 17, 1984, Pub. L. 98–479, title I, §103, 98 Stat. 2223; Oct. 18, 1986, Pub. L. 99–500, §101(g), 100 Stat. 1783–242, and Oct. 30, 1986, Pub. L. 99–591, §101(g), 100 Stat. 3341–242; Dec. 22, 1987, Pub. L. 100–202, §§101(f) [title I, §101], 106, 101 Stat. 1329–187, 1329–189, 1329–433; Feb. 5, 1988, Pub. L. 100–242, title I, §§150, 151, 170(e), 101 Stat. 1853, 1854, 1867; renumbered title I, June 29, 1988, Pub. L. 100–358, §5, 102 Stat. 681; Nov. 7, 1988, Pub. L. 100–628, title X, §1007, 102 Stat. 3266; June 30, 1989, Pub. L. 101–45, title I, 103 Stat. 112; Dec. 15, 1989, Pub. L. 101–235, title III, §304, 103 Stat. 2044; May 25, 1990, Pub. L. 101–302, title II, 104 Stat. 238; Nov. 5, 1990, Pub. L. 101–507, title II, 104 Stat. 1369; Nov. 28, 1990, Pub. L. 101–625, title V, §572(1), 104 Stat. 4236; Apr. 10, 1991, Pub. L. 102–27, title II, 105 Stat. 150; Oct. 28, 1992, Pub. L. 102–550, title VI, §625(a)(4), 106 Stat. 3820, authorized Secretary to make rental rehabilitation and development grants.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(1), (b)(1) of this title.

§1437p. Demolition and disposition of public housing

(a) Applications for demolition and disposition

Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this subchapter, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this subchapter—

(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

(i) in the best interests of the residents and the public housing agency;

(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

(iii) otherwise consistent with this subchapter; or

(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

(4) that the public housing agency—

(A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be demolished or disposed of;

(ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and

(iii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and [1]

(D) will provide any necessary counseling for residents who are displaced; and

(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;

(5) that the net proceeds of any disposition will be used—

(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—

(i) the provision of low-income housing or to benefit the residents of the public housing agency; or

(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and

(6) that the public housing agency has complied with subsection (c).

(b) Disapproval of applications

The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

(2) the application was not developed in consultation with—

(A) residents who will be affected by the proposed demolition or disposition;

(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and

(C) appropriate government officials.

(c) Resident opportunity to purchase in case of proposed disposition

(1) In general

In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

(2) Timing

(A) Expression of interest

A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

(B) Opportunity to arrange purchase

If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

(d) Replacement units

Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

(e) Consolidation of occupancy within or among buildings

Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(f) De minimis exception to demolition requirements

Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

(g) Uniform Relocation and Real Property Acquisition Act

The Uniform Relocation and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.] shall not apply to activities under this section.

(h) Relocation and replacement

Of the amounts appropriated for tenant-based assistance under section 1437f of this title in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).

(Sept. 1, 1937, ch. 896, title I, §18, as added Pub. L. 98–181, title I [title II, §214(a)], Nov. 30, 1983, 97 Stat. 1184; amended Pub. L. 100–242, title I, §§112(b)(9), 121, 170(f), Feb. 5, 1988, 101 Stat. 1824, 1837, 1867; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101–625, title IV, §412, title V, §§512(a), 513(b), (c), 572, Nov. 28, 1990, 104 Stat. 4159, 4194–4196, 4236; Pub. L. 102–550, title I, §§111(b)(2), 116(a)–(c), Oct. 28, 1992, 106 Stat. 3688, 3693, 3694; Pub. L. 104–19, title I, §1002(a), July 27, 1995, 109 Stat. 235; Pub. L. 104–134, title I, §101(e) [title II, §201(b)(2)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–276, title V, §531(a), Oct. 21, 1998, 112 Stat. 2570.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Uniform Relocation and Real Property Acquisition Policies Act of 1970, referred to in subsec. (g), probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, and which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–276 amended section generally. Prior to amendment, subsec. (a) required the Secretary to make certain determinations before approving the demolition or disposition of all or part of a public housing project; subsec. (b) required public housing agency consultation with tenants and provision of relocation assistance; subsec. (c) authorized financial assistance using section 1437c contributions; subsec. (d) provided that agency would not be prevented from consolidating occupancy within or among buildings or projects; subsec. (e) provided set-asides for replacement housing in fiscal years 1993 and 1994; subsec. (f) authorized construction on original site if number of new units would be less than number of demolished units; and subsec. (g) declared that this section did not apply to dispositions in accordance with approved homeownership program under subchapter II–A of this chapter.

1996—Subsec. (f). Pub. L. 104–134 inserted at end "No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved, by a court."

1995—Subsec. (b)(1). Pub. L. 104–19, §1002(a)(1), inserted "and" after "housing assistance plan;".

Subsec. (b)(2). Pub. L. 104–19, §1002(a)(2), substituted ", and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this chapter and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated." for "; and".

Subsec. (b)(3). Pub. L. 104–19, §1002(a)(3), struck out par. (3) which made approval conditional upon development of plan for provision of additional unit for each unit to be demolished or disposed of.

Subsec. (c). Pub. L. 104–19, §1002(a)(4), (5), struck out par. (1) designation and text of par. (2), which read as follows: "The Secretary shall, upon approving a plan under subsection (b)(3) of this section, agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan. As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—

"(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3) of this section; and

"(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in subparagraph (A)."

Subsec. (d). Pub. L. 104–19, §1002(a)(6), inserted before period at end ": *Provided*, That nothing in this

section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants".

Subsec. (e). Pub. L. 104–19, §1002(a)(7), which directed the striking of "under section (b)(3)(A) of this section" each place it occurred, was executed by striking out "under subsection (b)(3)(A) of this section" before "for units demolished or disposed of" in two places, to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 104–19, §1002(a)(8), (9), added subsec. (f) and redesignated former subsec. (f) as (g).

1992—Subsec. (a)(3). Pub. L. 102–550, §111(b)(2), added par. (3).

Subsec. (b)(1). Pub. L. 102–550, §116(a), inserted "of the project or portion of the project covered by the application" after "tenant cooperative".

Subsec. (b)(3). Pub. L. 102–550, §116(b)(5), inserted at end "except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents."

Subsec. (b)(3)(A)(ii). Pub. L. 102–550, §116(b)(1)(A), inserted before semicolon at end "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 1437f of this title having a term of not less than 5 years".

Subsec. (b)(3)(A)(iii). Pub. L. 102–550, §116(b)(1)(B), inserted before semicolon at end "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years".

Subsec. (b)(3)(A)(v). Pub. L. 102–550, §116(b)(1)(C), inserted before semicolon "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 1437f of this title (excluding vouchers under section 1437f(o) of this title) having a term of not less than 5 years".

Subsec. (b)(3)(B). Pub. L. 102–550, §116(b)(4), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C) to (F). Pub. L. 102–550, §116(b)(3), redesignated subpars. (B) to (E) as (C) to (F), respectively. Former subpar. (F) redesignated (G).

Subsec. (b)(3)(G). Pub. L. 102–550, §116(b)(3), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 102–550, §116(b)(2), substituted "tenant's choice;" for "tenant's choice."

Subsec. (b)(3)(H). Pub. L. 102–550, §116(b)(3), redesignated subpar. (G) as (H).

Subsecs. (e), (f). Pub. L. 102–550, §116(c), added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsec. (a)(2)(A)(i). Pub. L. 101–625, §572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Subsec. (a)(2)(B). Pub. L. 101–625, §572, substituted "low-income families" for "lower income families" and "low-income housing" for "lower income housing" wherever appearing.

Pub. L. 101–625, §512(a), inserted before first comma ", which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition".

Subsec. (b)(1). Pub. L. 101–625, §412(a), substituted "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application," for "disposition".

Subsec. (c)(2). Pub. L. 101–625, §513(b), inserted at end "As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—", and added subpars. (A) and (B).

Subsec. (c)(3). Pub. L. 101–625, §513(c), struck out par. (3) which read as follows: "The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 1437f(e)(2) of this title, give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3) of this section."

Subsec. (e). Pub. L. 101–625, §412(b), added subsec. (e).

1988—Subsec. (a)(1). Pub. L. 100–242, §121(a), substituted "and" for "or" after "purposes,".

Subsec. (b). Pub. L. 100–242, §170(f), inserted "or" after "under this section".

Subsec. (b)(3). Pub. L. 100–242, §121(b), added par. (3).

Subsec. (c). Pub. L. 100–242, §121(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 100–242, §112(b)(9), substituted "contributions authorized under section 1437c" for "annual contributions authorized under section 1437c(c)".

Subsec. (d). Pub. L. 100–242, §121(d), added subsec. (d) and struck out former subsec. (d) which read as follows: "The provisions of this section shall not apply to the conveyance of units in a public housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §531(c), Oct. 21, 1998, 112 Stat. 2574, provided that: "This section [amending this section and section 1437aaa–3 of this title and enacting provisions set out as a note under section 1437aaa–3 of this title] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–19 effective for applications for demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken on, before, or after Sept. 30, 1995 and on or before Sept. 30, 1998, see section 1002(d) of Pub. L. 104–19, as amended, set out as a note under section 1437c of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title V, §512(b), Nov. 28, 1990, 104 Stat. 4195, provided that: "The amendment made by this section [amending this section] shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act [Nov. 28, 1990]."

REPLACEMENT HOUSING DEMONSTRATION PROGRAM

Pub. L. 101–625, title V, §513(a), Nov. 28, 1990, 104 Stat. 4195, directed Secretary of Housing and Urban Development to carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under 42 U.S.C. 1437f, with Secretary to carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for Saint Louis, Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition, and with the demonstration program to terminate at end of Sept. 30, 1992.

[1] So in original. The word "and" probably should not appear.

§1437q. Financing limitations

On and after October 1, 1983, the Secretary—

(1) may only enter into contracts for annual contributions regarding obligations financing public housing projects authorized by section 1437c(c) of this title if such obligations are exempt from taxation under section 1437i(b) of this title, or if such obligations are issued under section 1437b of this title and such obligations are exempt from taxation; and

(2) may not enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 2294(b) of title 12) issued by local public housing agencies for purposes of financing public housing projects authorized by section 1437c(c) of this title.

(Sept. 1, 1937, ch. 896, title I, §19, as added Pub. L. 98–181, title I [title II, §215], Nov. 30, 1983, 97 Stat. 1185; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681.)

§1437r. Public housing resident management

(a) Purpose

The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term "public housing project" includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) Program requirements

(1) Resident council

As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

(2) Public housing management specialist

The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) Bonding and insurance

Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) Management responsibilities

A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this chapter applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, rent determination, community service requirements,,[1] and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and

shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) Annual audit

The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

(c) Assistance amounts

A contract under this section for management of a public housing project by a resident management corporation shall provide for—

(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 1437g of this title.

(d) Waiver of Federal requirements

(1) Waiver of regulatory requirements

Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

(2) Waiver to permit employment

Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

(3) Exceptions

The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 1437n of this title, rental payments under section 1437a(a) of this title, tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e) Direct provision of operating and capital assistance

(1) In general

The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

(A) the resident management corporation petitions the Secretary for the release of the funds;

(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

(2) Use of assistance

Any assistance from the Operating and Capital Funds provided to a resident management

corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

(3) Responsibility of public housing agency

If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

(4) Calculation of Operating Fund allocation

Notwithstanding any provision of section 1437g of this title or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 1437g of this title that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

(5) Calculation of total income

(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on February 5, 1988, or on any later date on which a resident management corporation is first established for the project.

(B) If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 1437g of this title) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

(6) Retention of excess revenues

(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the allocations from the Operating Fund for the public housing agency under section 1437g of this title; and (ii) the funds provided by the public housing agency to the resident management corporation.

(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for low-income families.

(f), (g) Repealed. Pub. L. 105–276, title V, §532(a)(5), Oct. 21, 1998, 112 Stat. 2575

(h) Applicability

Any management contract between a public housing agency and a resident management corporation that is entered into after November 7, 1988, shall be subject to this section and the regulations issued to carry out this section.

(Sept. 1, 1937, ch. 896, title I, §20, as added Pub. L. 100–242, title I, §122, Feb. 5, 1988, 101 Stat. 1839; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; amended Pub. L. 100–628, title X, §1003, Nov. 7, 1988, 102 Stat. 3263; Pub. L. 101–625, title IV, §415, title V, §§514, 572(1), Nov. 28, 1990, 104 Stat. 4160, 4196, 4236; Pub. L. 102–550, title I, §117, Oct. 28, 1992, 106 Stat. 3695; Pub. L. 105–276, title V, §532(a), Oct. 21, 1998, 112 Stat. 2574.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1437r, act Sept. 1, 1937, ch. 896, §20, as added Nov. 6, 1986, Pub. L. 99–603, title I, §121(b)(6), 100 Stat. 3391, related to payment for implementation of immigration status verification system, prior to repeal by Pub. L. 100–242, §164(f)(2).

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–276, §532(a)(1), inserted ", rent determination, community service requirements," after "materials".

Subsec. (c). Pub. L. 105–276, §532(a)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 1437l of this title for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract."

Subsec. (d)(3), (4). Pub. L. 105–276, §532(a)(3), redesignated par. (4) as (3) and struck out heading and text of former par. (3). Text read as follows: "Not later than 6 months after February 5, 1988, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies."

Subsec. (e)(1) to (3). Pub. L. 105–276, §532(a)(4)(B), added subsec. heading and pars. (1) to (3) and struck out former subsec. heading and former pars. (1) to (3), which in par. (1), specified amount of operating subsidy to be allocated to a public housing project managed by a resident management corporation; in par. (2), set forth requirements for any contract for management of a project entered into by a public housing agency and a resident management corporation; and in par. (3), prohibited reduction of funds provided by an agency to a project during 3-year period beginning on date on which resident management corporation is first established for the project, and provided for proportional reduction or increase if total income of agency is reduced or increased.

Subsec. (e)(4), (5). Pub. L. 105–276, §532(a)(4)(B), added pars. (4) and (5). Former par. (4) redesignated (6).

Subsec. (e)(6). Pub. L. 105–276, §532(a)(4)(A), redesignated par. (4) as (6).

Subsec. (e)(6)(A)(i). Pub. L. 105–276, §532(a)(4)(C), substituted "the allocations from the Operating Fund for" for "the operating subsidies provided to".

Subsec. (f). Pub. L. 105–276, §532(a)(5), struck out heading and text of subsec. (f) which required Secretary to provide financial assistance to resident management corporations or resident councils that obtain technical assistance for the development of resident management entities, limited assistance to $100,000 with respect to any public housing project, authorized appropriations for fiscal years 1993 and 1994, and limited assistance to corporations or councils where assistance was provided under subchapter II–A of this chapter.

Subsec. (g). Pub. L. 105–276, §532(a)(5), struck out heading and text of subsec. (g). Text read as follows: "Not later than 3 years after February 5, 1988, the Secretary shall—

"(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

"(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate."

1992—Subsec. (f)(3). Pub. L. 102–550 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "(3) FUNDING.—Of amounts made available for financial assistance under section 1437l of this title, the Secretary may use to carry out this subsection not more than $5,000,000 for each of fiscal years 1991 and 1992."

1990—Subsec. (e)(4)(B). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families".

Subsec. (f)(3). Pub. L. 101–625, §514, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Of the amounts available for financial assistance under section 1437l of this title, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1988 and not more than $2,500,000 for fiscal year 1989."

Subsec. (f)(4). Pub. L. 101–625, §415, added par. (4).

1988—Subsec. (h). Pub. L. 100–628 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

[1] *So in original.*

§1437s. Public housing homeownership and management opportunities

(a) Homeownership opportunities in general

Low-income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

(1) Formation of resident management corporation

As a condition for public housing homeownership—

(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 1437r of this title;

(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

(2) Homeownership assistance

(A) The Secretary may provide assistance from the Capital Fund to a public housing project in which homeownership activities under this section are conducted.

(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.

(C) This paragraph shall not have effect after February 4, 1991. The Secretary may not provide financial assistance under subparagraph (B), after such date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990.

(3) Conditions of purchase by a resident management corporation

(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

(i) the resident management corporation has met the conditions of paragraph (1);

(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

(iv) the public housing agency has certified that it has and will implement a plan to replace

public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

(v) the building or buildings meet the housing quality standards applicable under section 1437d(f) of this title, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

(C) This paragraph shall not have effect after February 4, 1991. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990.

(4) Conditions of resale

(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

(I) a lower income family residing in the public housing project in which the dwelling unit is located;

(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 1437f of this title, with priority given in the order in which the family appears on the waiting list.

(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

(i) Limited dividend cooperative ownership.

(ii) Condominium ownership.

(iii) Fee simple ownership.

(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

(v) Any other arrangement determined by the Secretary to be appropriate.

(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 1437f of this title, or to the public housing agency.

(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

(i) the contribution to equity paid by the owner;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(5) Use of proceeds

Notwithstanding any other provision of this chapter or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

(6) Financing

When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

(7) Capital and operating assistance

Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to provide assistance under section 1437g of this title with respect to the project. Such assistance may not exceed the allocation for the project under section 1437g of this title.

(8) Operating Fund allocation

Amounts from the Operating Fund shall not be available with respect to a building after the date of its sale by the public housing agency.

(b) Protection of nonpurchasing families

(1) Eviction prohibition

No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

(2) Tenants rights

Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this chapter.

(3) Rental assistance

If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) tenant-based assistance under section 1437f(o) of this title for as long as the family continues to reside in the building. The Secretary may adjust the payment standard for such assistance to take into account conditions under which the building was purchased.

(4) Rental and relocation assistance

If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 1437a(a)(1) of this title.

(c) Financial assistance for public housing agencies

The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

(d) Additional homeownership and management opportunities

This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 1437d(c)(4)(D) of this title, as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, and in existence before February 5, 1988.

(e) Regulations

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

(f) Repealed. Pub. L. 104–66, title I, §1071(a), Dec. 21, 1995, 109 Stat. 720

(g) Limitation

Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.

(Sept. 1, 1937, ch. 896, title I, §21, as added Pub. L. 100–242, title I, §123, Feb. 5, 1988, 101 Stat. 1842; renumbered title I, Pub. L. 100–358, §5, June 29, 1988, 102 Stat. 681; amended Pub. L. 101–625, title IV, §416, title V, §572(1), Nov. 28, 1990, 104 Stat. 4161, 4236; Pub. L. 102–550, title I, §118, Oct. 28, 1992, 106 Stat. 3695; Pub. L. 104–66, title I, §1071(a), Dec. 21, 1995, 109 Stat. 720; Pub. L. 105–276, title V, §§518(a)(2)(A), 532(b), Oct. 21, 1998, 112 Stat. 2551, 2575.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (d), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

1998—Subsec. (a)(2)(A). Pub. L. 105–276, §532(b)(1)(A), substituted "assistance from the Capital Fund" for "comprehensive improvement assistance under section 1437l of this title".

Subsec. (a)(3)(A)(v). Pub. L. 105–276, §532(b)(1)(B), substituted "housing quality standards applicable under section 1437d(f) of this title" for "minimum safety and livability standards applicable under section 1437l of this title".

Subsec. (a)(7). Pub. L. 105–276, §532(b)(1)(C), in heading, substituted "Capital and operating assistance" for "Annual contributions", in first sentence, substituted "provide assistance under section 1437g of this title" for "pay annual contributions", and at end, substituted "Such assistance may not exceed the allocation for the project under section 1437g of this title" for "Such contributions may not exceed the maximum contributions authorized in section 1437c(a) of this title."

Subsec. (a)(8). Pub. L. 105–276, §532(b)(1)(D), in heading substituted "fund allocation" for "subsidies" and in text substituted "Amounts from the Operating Fund" for "Operating subsidies".

Subsec. (b)(3). Pub. L. 105–276, §532(b)(2), in first sentence, substituted "tenant-based assistance" for "a certificate under section 1437f(b)(1) of this title or a housing voucher" and, in second sentence, substituted "payment standard for such assistance" for "fair market rent for such certificate".

Subsec. (d). Pub. L. 105–276, §532(b)(3), inserted ", as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998," after "section 1437d(c)(4)(D) of this title".

Pub. L. 105–276, §518(a)(2)(A), struck out "section 1437c(h) of this title or" after "program established under".

1995—Subsec. (f). Pub. L. 104–66 struck out heading and text of subsec. (f). Text read as follows: "The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of units sold;

"(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

"(3) the amount and type of financial assistance provided;

"(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

"(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(6) recommendations of the Secretary for additional budget authority to carry out such development;

"(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for low-income families; and

"(8) the recommendations of the Secretary for statutory and regulatory improvements to the program."

1992—Subsec. (a)(2)(C), (3)(C). Pub. L. 102–550 substituted "February 4, 1991" for "the effective date of the regulations implementing subchapter II–A of this chapter" and "after such date" for "after such effective date" and made technical amendment to reference to November 28, 1990, to reflect correction of corresponding provisions of original act.

1990—Subsec. (a). Pub. L. 101–625, §572(1), which directed substitution of "low-income families" for "lower income families", was executed by substituting "Low-income families" for "Lower income families" in introductory provisions to reflect the probable intent of Congress.

Subsec. (a)(2)(B). Pub. L. 101–625, §416(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "The Secretary, and the public housing agency owning and operating a public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership."

Subsec. (a)(2)(C). Pub. L. 101–625, §416(2), substituted "the effective date of the regulations implementing subchapter II–A of this chapter. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990" for "September 30, 1990".

Subsec. (a)(3)(C). Pub. L. 101–625, §416(3), substituted "the effective date of the regulations implementing subchapter II–A of this chapter. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990" for "September 30, 1990".

Subsec. (f)(7). Pub. L. 101–625, §572(1), substituted "low-income families" for "lower income families".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§1437t. Authority to convert public housing to vouchers

(a) Authority

A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

(b) Conversion assessment

(1) In general

To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 1437f of this title for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 1437f of this title in that market for the specific residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 1437f of this title by the agency;

(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

(2) Timing

Not later than 2 years after the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, each public housing agency shall conduct an assessment under paragraph (1) or (3) of the status of each public housing project owned by such agency and shall submit to the Secretary such assessment. A public housing agency may otherwise undertake an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c).

(3) Streamlined assessment

At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

(c) Criteria for implementation of conversion plan

A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) that one year [1] and that demonstrates that the conversion—

(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

(3) will not adversely affect the availability of affordable housing in such community.

(d) Conversion plan requirement

A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e). Each conversion plan shall—

(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

(2) be consistent with and part of the public housing agency plan;

(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

(4) provide that the public housing agency shall—

(A) notify each family residing in a public housing project (or portion) to be converted under the plan 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

(5) provide that any proceeds to the agency from the conversion will be used subject to the limitations that are applicable under section 1437p(a)(5) of this title to proceeds resulting from the disposition or demolition of public housing.

(e) Review and approval of conversion plans

The Secretary shall disapprove a conversion plan only if—

(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b);

(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

(3) the plan otherwise fails to meet the requirements of this section.

(f) Tenant-based assistance

To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 1437f of this title shall be added to the annual contribution contract administered by the public housing agency.

(Sept. 1, 1937, ch. 896, title I, §22, as added Pub. L. 101–625, title V, §515(a), Nov. 28, 1990, 104 Stat. 4196; amended Pub. L. 102–550, title I, §119, Oct. 28, 1992, 106 Stat. 3695; Pub. L. 105–276, title V, §533(a), Oct. 21, 1998, 112 Stat. 2576.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(2), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

1998—Pub. L. 105–276 amended section generally. Prior to amendment, section related to award of grants to public housing agencies to adapt public housing to help families gain better access to educational and job opportunities, use of funds for supportive services, development of facilities to accommodate them, and employment of service coordinators, applications, selection for grants, reports to Secretary and Congress, and appropriations for fiscal years 1993 and 1994.

1992—Subsec. (k). Pub. L. 102–550 amended subsec. (k) generally, substituting present provisions for provisions authorizing $25,000,000 in fiscal year 1991 and $26,100,000 in fiscal year 1992.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

SAVINGS PROVISION

Pub. L. 105–276, title V, §533(b), Oct. 21, 1998, 112 Stat. 2578, provided that: "The amendment made by subsection (a) [amending this section] shall not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937 [42 U.S.C. 1437t], as such section existed immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title]."

PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION

Pub. L. 101–625, title V, §521, Nov. 28, 1990, 104 Stat. 4205, as amended by Pub. L. 102–550, title I, §125, Oct. 28, 1992, 106 Stat. 3710, which directed Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs available for pregnant women residing in public housing, set forth preferences, limitation on grant amount, and program requirements, and required report to Congress not later than 1 year after amounts were first made available setting forth findings and conclusions and including recommendations with respect to establishment of permanent program, was repealed by Pub. L. 105–276, title V, §582(a)(9), Oct. 21, 1998, 112 Stat. 2644.

[1] *So in original.*

§1437u. Family Self-Sufficiency program

(a) Purpose

The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of assistance under sections 1437f and 1437g of this title with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

(b) Continuation of prior required programs

(1) In general

Each public housing agency that was required to administer a local Family Self-Sufficiency program on May 24, 2018, shall operate such local program for, at a minimum, the number of families the agency was required to serve on May 24, 2018, subject only to the availability under appropriations Acts of sufficient amounts for housing assistance and the requirements of paragraph (2).

(2) Reduction

The number of families for which a public housing agency is required to operate such local program under paragraph (1) shall be decreased by 1 for each family from any supported rental housing program administered by such agency that, after October 21, 1998, fulfills its obligations under the contract of participation.

(3) Exception

The Secretary shall not require a public housing agency to carry out a mandatory program for a period of time upon the request of the public housing agency and upon a determination by the Secretary that implementation is not feasible because of local circumstances, which may include—

(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(B) lack of funding for reasonable administrative costs;

(C) lack of cooperation by other units of State or local government; or

(D) any other circumstances that the Secretary may consider appropriate.

(c) Eligibility

(1) Eligible families

A family is eligible to participate in a local Family Self-Sufficiency program under this section if—

(A) at least 1 household member seeks to become and remain employed in suitable employment or to increase earnings; and

(B) the household member receives direct assistance under section 1437f of this title or resides in a unit assisted under section 1437f or 1437g of this title.

(2) Eligible entities

The following entities are eligible to administer a local Family Self-Sufficiency program under this section:

(A) A public housing agency administering housing assistance to or on behalf of an eligible family under section 1437f or 1437g of this title.

(B) The owner or sponsor of a multifamily property receiving project-based rental assistance under section 1437f of this title, in accordance with the requirements under subsection (l).

(d) Contract of participation

(1) In general

Each eligible entity carrying out a local program under this section shall enter into a contract with a household member of an eligible family, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program, shall

establish specific interim and final goals by which compliance with and performance of the contract may be measured, and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. Housing assistance may not be terminated as a consequence of either successful completion of the contract of participation or failure to complete such contract. A contract of participation shall remain in effect until the participating family exits the Family Self-Sufficiency program upon successful graduation or expiration of the contract of participation, or for other good cause.

(2) Supportive services

An eligible entity shall coordinate appropriate supportive services under this paragraph for each participating family entering into a contract of participation under paragraph (1). The supportive services shall be coordinated for the period the family is receiving assistance pursuant to section 1437f or 1437g of this title and for the duration of the contract of participation, and may include, but are not limited to—

(A) child care;

(B) transportation necessary to receive services;

(C) remedial education;

(D) education for completion of high school or attainment of a high school equivalency certificate;

(E) education in pursuit of a post-secondary degree or certification;

(F) job training and preparation;

(G) substance abuse treatment and counseling;

(H) training in financial literacy, such as training in financial management, financial coaching, and asset building, and money management;

(I) training in household management;

(J) homeownership education and assistance; and

(K) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

(3) Term and extension

Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after the first recertification of income after entering into the contract. The eligible entity shall extend the term of the contract for any family that requests an extension, upon a finding of good cause.

(4) Employment

The contract of participation shall require 1 household member of the participating family to seek and maintain suitable employment.

(5) Nonparticipation

Assistance under section 1437f or 1437g of this title for a family that elects not to participate in a Family Self-Sufficiency program shall not be delayed by reason of such election.

(e) Incentives for participation

(1) Maximum rents

During the term of the contract of participation, the amount of rent paid by any participating family shall be calculated under the rental provisions of section 1437a of this title or section 1437f(o) of this title, as applicable.

(2) Escrow savings accounts

For each participating family, an amount equal to any increase in the amount of rent paid by the family in accordance with the provisions of section 1437a or 1437f(o) of this title, as applicable, that is attributable to increases in earned income by the participating family, shall be placed in an interest-bearing escrow account established by the eligible entity on behalf of the participating

family. Notwithstanding any other provision of law, an eligible entity may use funds it controls under section 1437f or 1437g of this title for purposes of making the escrow deposit for participating families assisted under, or residing in units assisted under, section 1437f or 1437g of this title, respectively, provided such funds are offset by the increase in the amount of rent paid by the participating family. All Family Self-Sufficiency programs administered under this section shall include an escrow account. The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (d), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. An eligible entity establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by such eligible entity.

(3) Forfeited escrow

Any amount placed in an escrow account established by an eligible entity for a participating family as required under paragraph (2), that exists after the end of a contract of participation by a household member of a participating family that does not qualify to receive the escrow, shall be used by the eligible entity for the benefit of participating families in good standing.

(f) Effect of increases in family income

Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary.

(g) Program coordinating committee

(1) Functions

Each eligible entity carrying out a local program under this section shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (h), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by such eligible entity under this subsection.

(2) Membership

The program coordinating committee may consist of representatives of the eligible entity, the unit of general local government, the local agencies (if any) responsible for carrying out programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], and other organizations, such as other State and local welfare and employment agencies, public and private primary, secondary, and post-secondary education or training institutions, nonprofit service providers, and private businesses. The eligible entity may, in consultation with the chief executive officer of the unit of general local government and tenants served by the program, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(h) Action plan

(1) Required submission

The Secretary shall require each eligible entity carrying out a self-sufficiency program under this section to submit, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

(2) Development of plan

In developing the plan, the eligible entity shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (g), representatives of the current and prospective participants of the program, any local agencies responsible for programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

(3) Contents of plan

The Secretary shall require that the action plan contain at a minimum—

(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

(C) a description of the services and activities under subsection (d)(2) to be coordinated on behalf of participating families receiving direct assistance under this section through sections 1437f and 1437g of this title, which shall be provided by both public and private resources;

(D) a description of the incentives pursuant to subsection (e) offered by the eligible entity to families to encourage participation in the program;

(E) a description of how the local program will coordinate services and activities according to the needs of the families participating in the program;

(F) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

(G) a timetable for implementation of the local program;

(H) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to assistance under section 1437f or 1437g of this title notwithstanding the provisions of this section.

(i) Family Self-Sufficiency awards

(1) In general

Subject to appropriations, the Secretary shall establish a formula by which annual funds shall be awarded or as otherwise determined by the Secretary for the costs incurred by an eligible entity in administering the Family Self-Sufficiency program under this section.

(2) Eligibility for awards

The award established under paragraph (1) shall provide funding for family self-sufficiency coordinators as follows:

(A) Base award

An eligible entity serving 25 or more participants in the Family Self-Sufficiency program under this section is eligible to receive an award equal to the costs, as determined by the Secretary, of 1 full-time family self-sufficiency coordinator position. The Secretary may, by regulation or notice, determine the policy concerning the award for an eligible entity serving fewer than 25 such participants, including providing prorated awards or allowing such entities to combine their programs under this section for purposes of employing a coordinator.

(B) Additional award

An eligible entity that meets performance standards set by the Secretary is eligible to receive an additional award sufficient to cover the costs of filling an additional family self-sufficiency coordinator position if such entity has 75 or more participating families, and an additional coordinator for each additional 50 participating families, or such other ratio as may be established by the Secretary based on the award allocation evaluation under subparagraph (E).

(C) State and regional agencies

For purposes of calculating the award under this paragraph, each administratively distinct part of a State or regional eligible entity may be treated as a separate agency.

(D) Determination of number of coordinators

In determining whether an eligible entity meets a specific threshold for funding pursuant to this paragraph, the Secretary shall consider the number of participants enrolled by the eligible entity in its Family Self-Sufficiency program as well as other criteria determined by the Secretary.

(E) Award allocation evaluation

The Secretary shall submit to Congress a report evaluating the award allocation under this subsection, and make recommendations based on this evaluation and other related findings to modify such allocation, within 4 years after May 24, 2018, and not less frequently than every 4 years thereafter. The report requirement under this subparagraph shall terminate after the Secretary has submitted 2 such reports to Congress.

(3) Renewals and allocation

(A) In general

Funds allocated by the Secretary under this subsection shall be allocated in the following order of priority:

(i) First priority

Renewal of the full cost of all coordinators in the previous year at each eligible entity with an existing Family Self-Sufficiency program that meets applicable performance standards set by the Secretary.

(ii) Second priority

New or incremental coordinator funding authorized under this section.

(B) Guidance

If the first priority, as described in subparagraph (A)(i), cannot be fully satisfied, the Secretary may prorate the funding for each eligible entity, as long as—

(i) each eligible entity that has received funding for at least 1 part-time coordinator in the prior fiscal year is provided sufficient funding for at least 1 part-time coordinator as part of any such proration; and

(ii) each eligible entity that has received funding for at least 1 full-time coordinator in the prior fiscal year is provided sufficient funding for at least 1 full-time coordinator as part of any such proration.

(4) Recapture or offset

Any awards allocated under this subsection by the Secretary in a fiscal year that have not been spent by the end of the subsequent fiscal year or such other time period as determined by the Secretary may be recaptured by the Secretary and shall be available for providing additional awards pursuant to paragraph (2)(B), or may be offset as determined by the Secretary. Funds appropriated pursuant to this section shall remain available for 3 years in order to facilitate the re-use of any recaptured funds for this purpose.

(5) Performance reporting

Programs under this section shall be required to report the number of families enrolled and graduated, the number of established escrow accounts and positive escrow balances, and any other information that the Secretary may require. Program performance shall be reviewed periodically as determined by the Secretary.

(6) Incentives for innovation and high performance

The Secretary may reserve up to 5 percent of the amounts made available under this subsection to provide support to or reward Family Self-Sufficiency programs based on the rate of successful completion, increased earned income, or other factors as may be established by the Secretary.

(j) On-site facilities

Each eligible entity carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied units for the provision or coordination of supportive services under the local program.

(k) Flexibility

In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow eligible entities, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

(l) Programs for tenants in privately owned properties with project-based assistance

(1) Voluntary availability of FSS program

The owner of a privately owned property may voluntarily make a Family Self-Sufficiency program available to the tenants of such property in accordance with procedures established by the Secretary. Such procedures shall permit the owner to enter into a cooperative agreement with a local public housing agency that administers a Family Self-Sufficiency program or, at the owner's option, operate a Family Self-Sufficiency program on its own or in partnership with another owner. An owner, who voluntarily makes a Family Self-Sufficiency program available pursuant to this subsection, may access funding from any residual receipt accounts for the property to hire a family self-sufficiency coordinator or coordinators for their program.

(2) Cooperative agreement

Any cooperative agreement entered into pursuant to paragraph (1) shall require the public housing agency to open its Family Self-Sufficiency program waiting list to any eligible family residing in the owner's property who resides in a unit assisted under project-based rental assistance.

(3) Treatment of families assisted under this subsection

A public housing agency that enters into a cooperative agreement pursuant to paragraph (1) may count any family participating in its Family Self-Sufficiency program as a result of such agreement as part of the calculation of the award under subsection (i).

(4) Escrow

(A) Cooperative agreement

A cooperative agreement entered into pursuant to paragraph (1) shall provide for the calculation and tracking of the escrow for participating residents and for the owner to make available, upon request of the public housing agency, escrow for participating residents, in accordance with paragraphs (2) and (3) of subsection (e), residing in units assisted under section 1437f of this title.

(B) Calculation and tracking by owner

The owner of a privately owned property who voluntarily makes a Family Self-Sufficiency program available pursuant to paragraph (1) shall calculate and track the escrow for participating residents and make escrow for participating residents available in accordance with paragraphs (2) and (3) of subsection (e).

(5) Exception

This subsection shall not apply to properties assisted under section 1437f(o)(13) of this title.

(6) Suspension of enrollment

In any year, the Secretary may suspend the enrollment of new families in Family Self-Sufficiency programs under this subsection based on a determination that insufficient funding is available for this purpose.

(m) Reports

(1) To Secretary

Each eligible entity that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The contents of the report shall include—

(A) a description of the activities carried out under the program;

(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(D) any recommendations of the eligible entity or the appropriate program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

(2) HUD annual report

The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 3536 of this title, a report summarizing the information submitted by public housing agencies under paragraph (1) and describing any additional research needs of the Secretary to evaluate the effectiveness of the program. The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

(n) GAO report

The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

(o) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means an entity that meets the requirements under subsection (c)(2) to administer a Family Self-Sufficiency program under this section.

(2) Eligible family

The term "eligible family" means a family that meets the requirements under subsection (c)(1) to participate in the Family Self-Sufficiency program under this section.

(3) Participating family

The term "participating family" means an eligible family that is participating in the Family Self-Sufficiency program under this section.

(Sept. 1, 1937, ch. 896, title I, §23, as added Pub. L. 101–625, title V, §554(a), Nov. 28, 1990, 104 Stat. 4225; amended Pub. L. 102–550, title I, §§106, 185(b), Oct. 28, 1992, 106 Stat. 3684, 3747; Pub. L. 104–316, title I, §122(l), Oct. 19, 1996, 110 Stat. 3837; Pub. L. 104–330, title V, §501(b)(8), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §509(a), Oct. 21, 1998, 112 Stat. 2530; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(31), (f)(23)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–425, 2681–433; Pub. L. 113–128, title V, §512(ii), July 22, 2014, 128 Stat. 1721; Pub. L. 115–174, title III, §306(a), May 24, 2018, 132 Stat. 1339.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (b)(3)(A), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Title I of the Act was classified principally to former chapter 30 (former §2801 et seq.) of Title 29, Labor. Pursuant to section 3361(a) of Title 29, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of this Act to the Code, see Tables.

The Workforce Innovation and Opportunity Act, referred to in subsecs. (g)(2) and (h)(2), (3)(H), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–174, §306(a)(1), struck out "public housing and" after "coordinate use of" and substituted "sections 1437f and 1437g of this title" for "the certificate and voucher programs under section 1437f of this title".

Subsec. (b). Pub. L. 115–174, §306(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to establishment of program.

Subsec. (c). Pub. L. 115–174, §306(a)(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 115–174, §306(a)(4), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 115–174, §306(a)(6)(A), substituted "Each eligible entity" for "Each public housing agency", "a household member of an eligible family" for "each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 1437f of this title or residing in public housing administered by the agency", and "Housing assistance may not be terminated as a consequence of either successful completion of the contract of participation or failure to complete such contract. A contract of participation shall remain in effect until the participating family exits the Family Self-Sufficiency program upon successful graduation or expiration of the contract of participation, or for other good cause." for "The contract shall provide that the public housing agency may terminate or withhold assistance under section 1437f of this title and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 1437d(k) of this title, that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation)."

Subsec. (d)(2). Pub. L. 115–174, §306(a)(6)(B)(i), in introductory provisions, substituted "An eligible entity" for "A local program under this section", "shall coordinate" for "shall provide", "for each participating family" for "to each participating family", "coordinated for" for "provided during", and "pursuant to section 1437f or 1437g of this title and for the duration of the contract of participation" for "under section 1437f of this title or residing in public housing" and inserted ", but are not limited to" after "may include".

Subsec. (d)(2)(D). Pub. L. 115–174, §306(a)(6)(B)(ii), inserted "or attainment of a high school equivalency certificate" after "completion of high school".

Subsec. (d)(2)(E), (F). Pub. L. 115–174, §306(a)(6)(B)(iv), (v), added subpar. (E) and redesignated former subpar. (E) as (F). Former subpar. (F) redesignated (G).

Subsec. (d)(2)(G). Pub. L. 115–174, §306(a)(6)(B)(iii), (iv), redesignated subpar. (F) as (G) and struck out former subpar. (G) which read as follows: "training in homemaking and parenting skills;".

Subsec. (d)(2)(H). Pub. L. 115–174, §306(a)(6)(B)(vi), inserted "financial literacy, such as training in financial management, financial coaching, and asset building, and" after "training in".

Subsec. (d)(2)(J), (K). Pub. L. 115–174, §306(a)(6)(B)(iv), (vii), (viii), added subpar. (J) and redesignated former subpar. (J) as (K).

Subsec. (d)(3). Pub. L. 115–174, §306(a)(6)(C), inserted "the first recertification of income after" after "not later than 5 years after", substituted "eligible entity" for "public housing agency", and struck out "of the agency" after "upon a finding".

Subsec. (d)(4). Pub. L. 115–174, §306(a)(6)(D), amended par. (4) generally. Prior to amendment, text read as follows: "The contract of participation shall require the head of the participating family to seek suitable

employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling."

Subsec. (d)(5). Pub. L. 115–174, §306(a)(6)(E), added par. (5).

Subsec. (e). Pub. L. 115–174, §306(a)(4), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 115–174, §306(a)(7)(A), substituted "shall be calculated under the rental provisions of section 1437a of this title or section 1437f(o) of this title, as applicable." for "whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 1437f of this title may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 1437f of this title, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family."

Subsec. (e)(2). Pub. L. 115–174, §306(a)(7)(B), substituted "For each participating family, an amount equal to any increase in the amount of rent paid by the family in accordance with the provisions of section 1437a or 1437f(o) of this title, as applicable, that is attributable to increases in earned income by the participating family, shall be placed in an interest-bearing escrow account established by the eligible entity on behalf of the participating family. Notwithstanding any other provision of law, an eligible entity may use funds it controls under section 1437f or 1437g of this title for purposes of making the escrow deposit for participating families assisted under, or residing in units assisted under, section 1437f or 1437g of this title, respectively, provided such funds are offset by the increase in the amount of rent paid by the participating family." for "For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family.", "All Family Self-Sufficiency programs administered under this section shall include an escrow account." for "For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1).", "under subsection (d)" for "under subsection (c)", "An eligible entity" for "A public housing agency", and "as determined by such eligible entity" for "as determined by the public housing agency".

Subsec. (e)(3). Pub. L. 115–174, §306(a)(7)(C), amended par. (3) generally. Prior to amendment, text read as follows: "Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency."

Subsec. (f). Pub. L. 115–174, §306(a)(4), (8), redesignated subsec. (e) as (f) and struck out before period at end ", unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families)". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 115–174, §306(a)(4), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 115–174, §306(a)(9)(A), substituted "Each eligible entity" for "Each public housing agency", "subsection (h)" for "subsection (g)", and "such eligible entity" for "the public housing agency".

Subsec. (g)(2). Pub. L. 115–174, §306(a)(9)(B), substituted "eligible entity" for "public housing agency" in two places, struck out "or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act" after "under title I of the Workforce Innovation and Opportunity Act", and inserted "primary, secondary, and post-secondary" after "public and private" and "and tenants served by the program" after "the unit of general local government".

Subsec. (h). Pub. L. 115–174, §306(a)(4), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 115–174, §306(a)(10)(A), substituted "eligible entity" for "public housing agency" and "carrying out a" for "participating in the" and struck out "to the Secretary" after "to submit".

Subsec. (h)(2). Pub. L. 115–174, §306(a)(10)(B), substituted "eligible entity" for "public housing agency",

"subsection (g)" for "subsection (f)", and "the current and prospective participants of the program" for "residents of the public housing" and struck out "or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act" after "under title I of the Workforce Innovation and Opportunity Act".

Subsec. (h)(3)(C). Pub. L. 115–174, §306(a)(10)(C)(i), substituted "subsection (d)(2)" for "subsection (c)(2)", "coordinated on behalf of participating" for "provided to", and "sections 1437f and 1437g of this title" for "the section 8 and public housing programs" and inserted "direct" before "assistance".

Subsec. (h)(3)(D). Pub. L. 115–174, §306(a)(10)(C)(ii), substituted "subsection (e)" for "subsection (d)" and "eligible entity" for "public housing agency".

Subsec. (h)(3)(E). Pub. L. 115–174, §306(a)(10)(C)(iii), substituted "coordinate" for "deliver".

Subsec. (h)(3)(H). Pub. L. 115–174, §306(a)(10)(C)(iv), struck out "the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and" after "coordinated with".

Subsec. (h)(3)(I). Pub. L. 115–174, §306(a)(10)(C)(v), substituted "assistance under section 1437f or 1437g of this title" for "public housing or section 8 assistance".

Subsec. (i). Pub. L. 115–174, §306(a)(11), amended subsec. (i) generally. Prior to amendment, subsec. (i) related to allowable public housing agency administrative fees and costs.

Pub. L. 115–174, §306(a)(3), (4), redesignated subsec. (h) as (i) and struck out former subsec. (i) which related to public housing agency incentive award allocation.

Subsec. (j). Pub. L. 115–174, §306(a)(12), substituted "Each eligible entity" for "Each public housing agency" and "units" for "public housing units in public housing projects administered by the agency", inserted "or coordination" after "provision", and struck out at end "The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 1437g of this title."

Subsec. (k). Pub. L. 115–174, §306(a)(13), substituted "eligible entities" for "public housing agencies".

Subsec. (l). Pub. L. 115–174, §306(a)(17), added subsec. (l). Former subsec. (l) redesignated (m).

Subsec. (m). Pub. L. 115–174, §306(a)(16), redesignated subsec. (l) as (m). Former subsec. (m) redesignated (n).

Subsec. (m)(1). Pub. L. 115–174, §306(a)(18)(A)(i), (ii), in introductory provisions, substituted "Each eligible entity" for "Each public housing agency" and "The contents of the report shall include" for "The report shall include".

Subsec. (m)(1)(D). Pub. L. 115–174, §306(a)(18)(A)(iii), substituted "eligible entity" for "public housing agency" and struck out "local" before "program coordinating committee".

Subsec. (m)(2). Pub. L. 115–174, §306(a)(18)(B), inserted "and describing any additional research needs of the Secretary to evaluate the effectiveness of the program" after "under paragraph (1)".

Subsec. (n). Pub. L. 115–174, §306(a)(14), (16), (19), redesignated subsec. (m) as (n), substituted "shall submit" for "may submit", and struck out former subsec. (n) which related to definitions.

Subsec. (o). Pub. L. 115–174, §306(a)(15), (20), added subsec. (o) and struck out former subsec. (o) which related to effective date and regulations.

2014—Subsec. (b)(2)(A). Pub. L. 113–128, §512(ii)(1), substituted "lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Innovation and Opportunity Act" for "lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Investment Act of 1998".

Subsec. (f)(2). Pub. L. 113–128, §512(ii)(2), substituted "the local agencies (if any) responsible for carrying out programs under title I of the Workforce Innovation and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act," for "the local agencies (if any) responsible for carrying out programs under title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act,".

Subsec. (g)(2). Pub. L. 113–128, §512(ii)(3)(A), substituted "any local agencies responsible for programs under title I of the Workforce Innovation and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act" for "any local agencies responsible for programs under title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act".

Subsec. (g)(3)(H). Pub. L. 113–128, §512(ii)(3)(B), substituted "programs under title I of the Workforce Innovation and Opportunity Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area" for "programs under title I of the Workforce Investment Act of 1998 and any other relevant employment, child care, transportation, training, and education programs in the applicable area".

1998—Subsec. (b)(1)(A). Pub. L. 105–276, §509(a)(1)(A)(i), struck out "and" at end.

Subsec. (b)(1)(B). Pub. L. 105–276, §509(a)(1)(A)(ii), substituted ", subject to the limitations in paragraph (4); and" for period at end.

Subsec. (b)(1)(C). Pub. L. 105–276, §509(a)(1)(A)(iii), added subpar. (C).

Subsec. (b)(2)(A). Pub. L. 105–277, §101(f) [title VIII, §405(f)(23)(A)], struck out "the Job Training Partnership Act or" after "programs under".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(31)(A)], substituted "the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the" for "the Job Training Partnerships Act or the".

Subsec. (b)(3). Pub. L. 105–276, §509(a)(1)(B), substituted "Subject to paragraph (4), each" for "Each" in introductory provisions.

Subsec. (b)(4), (5). Pub. L. 105–276, §509(a)(1)(C), (D), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d)(3). Pub. L. 105–276, §509(a)(2), struck out heading and text of par. (3) relating to use of escrow savings accounts. Text read as follows: "Notwithstanding paragraph (3), a family that uses assistance under section 1437f(y) of this title to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary."

Subsec. (f)(1). Pub. L. 105–276, §509(a)(3), inserted "carrying out a local program under this section" after "Each public housing agency".

Subsec. (f)(2). Pub. L. 105–277, §101(f) [title VIII, §405(f)(23)(B)], struck out "the Job Training Partnership Act or" after "programs under".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(31)(B)], substituted "programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the" for "programs under the Job Training Partnership Act and the".

Subsec. (g)(2). Pub. L. 105–277, §101(f) [title VIII, §405(f)(23)(C)(i)], struck out "the Job Training Partnership Act or" after "programs under".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(31)(C)(i)], substituted "programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the" for "for programs under the Job Training Partnership Act and the".

Subsec. (g)(3)(H). Pub. L. 105–277, §101(f) [title VIII, §405(f)(23)(C)(ii)], struck out "the Job Training Partnership Act or" after "programs under".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(31)(C)(ii)], substituted "programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 and any other" for "program under the Job Training Partnership Act and any other".

1996—Subsec. (m). Pub. L. 104–316 substituted "may" for "shall" after "United States", struck out "(1) IN GENERAL.—" before "The Comptroller General", and struck out par. (2) which read as follows:

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on November 28, 1990.

"(B) A final report, not later than the expiration of the 5-year period beginning on November 28, 1990."

Subsec. (o)(2). Pub. L. 104–330 struck out heading and text of par. (2). Text read as follows: "Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities."

1992—Subsec. (b)(2). Pub. L. 102–550, §106(b), added subpars. (A) to (D) and concluding provisions and struck out former subpars. (A) to (D) which read as follows:

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate."

Subsec. (b)(4). Pub. L. 102–550, §106(c), added par. (4).

Subsec. (c)(1). Pub. L. 102–550, §106(d), in second sentence, inserted ", shall establish specific interim and final goals by which compliance with and performance of the contract may be measured," after "program" and

substituted last sentence for former last sentence which read as follows: "The contract shall provide that the public housing agency may terminate or withhold assistance under section 1437f of this title and services under paragraph (2) of this section if the family fails to comply with the requirements under the contract."

Subsec. (c)(2). Pub. L. 102–550, §106(e), struck out "to each participating family" after "paragraph (1)" in introductory provisions.

Subsec. (d). Pub. L. 102–550, §106(g)(1), substituted "Incentives for participation" for "Maximum rents and escrow savings accounts" in heading.

Subsec. (d)(2). Pub. L. 102–550, §106(f), substituted "after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency." for "only after the family is no longer a recipient of any Federal, State, or other public assistance for housing."

Subsec. (d)(3). Pub. L. 102–550, §185(b), added par. (3) relating to use of escrow savings accounts.

Pub. L. 102–550, §106(g)(2), added par. (3) relating to a plan to offer incentives.

Subsec. (g)(3)(D) to (I). Pub. L. 102–550, §106(h), added subpars. (D) and (I) and redesignated former subpars (D) to (G) as (E) to (H), respectively.

Subsec. (h)(2). Pub. L. 102–550, §106(a), amended last sentence generally. Prior to amendment, last sentence read as follows: "Of any amounts appropriated under section 1437g(c) of this title for each of fiscal years 1991 and 1992, $25,000,000 is authorized to be used for costs under this paragraph."

Subsec. (n)(3) to (6). Pub. L. 102–550, §106(i), added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and added par. (6).

Subsec. (o)(2). Pub. L. 102–550, §106(j), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 1437aa(b)(2) of this title, the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT; REGULATIONS

Pub. L. 115–174, title III, §306(b), May 24, 2018, 132 Stat. 1347, provided that: "Not later than 360 days after the date of enactment of this Act [May 24, 2018], the Secretary of Housing and Urban Development shall issue regulations to implement this section [amending this section] and any amendments made by this section, and this section and any amendments made by this section shall take effect upon such issuance." [Final rule implementing section 306 of Pub. L. 115–174 effective June 16, 2022, see 87 F.R. 30020.]

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, §405(d)(31)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(23)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Pub. L. 105–276, title V, §509(b), Oct. 21, 1998, 112 Stat. 2531, provided that: "The amendments made by this subsection [probably means subsec. (a), amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

GAO STUDY ON LINKING FEDERAL HOUSING ASSISTANCE TO ECONOMIC

SELF-SUFFICIENCY PROGRAMS

Pub. L. 101–625, title V, §554(b), Nov. 28, 1990, 104 Stat. 4231, directed Comptroller General to submit to Congress, not later than 18 months after Nov. 28, 1990, a report (1) evaluating the policy and administrative implications of requiring State and local governments to require participation in an economic self-sufficiency program as a condition of the receipt of rental assistance under 42 U.S.C. 1437f and public housing assistance, (2) determining the additional costs to public housing agencies under such programs and recommending a change in the amount of the administrative fee under 42 U.S.C. 1437f(q) to cover the additional costs of carrying out the Family Self-Sufficiency Program under this section, and (3) examining how housing and social service policies affect beneficiaries, particularly persons receiving public assistance, when such beneficiaries gain employment and experience a rise in income.

§1437v. Demolition, site revitalization, replacement housing, and tenant-based assistance grants for projects

(a) Purposes

The purpose of this section is to provide assistance to public housing agencies for the purposes of—

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) building sustainable communities.

It is also the purpose of this section to provide assistance to smaller communities for the purpose of facilitating the development of affordable housing for low-income families that is undertaken in connection with a main street revitalization or redevelopment project in such communities.

(b) Grant authority

The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.

(c) Contribution requirement

(1) In general

The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—

(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

(B) in addition to supplemental amounts provided in accordance with subparagraph (A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L), provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

(2) Supplemental funds

In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

(3) Exemption

If assistance provided under this subchapter will be used only for providing tenant-based assistance under section 1437f of this title or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).

(d) Eligible activities

(1) In general

Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(A) architectural and engineering work;

(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;

(C) the demolition, sale, or lease of the site, in whole or in part;

(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(E) payment of reasonable legal fees;

(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;

(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program, including a Neighborhood Networks initiative for the establishment and operation of computer centers in public housing for the purpose of enhancing the self-sufficiency, employability, an [1] economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(H) necessary management improvements;

(I) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site;

(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 1437f of this title;

(K) transitional security activities; and

(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

(2) Endowment trust for supportive services

In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

(e) Application and selection

(1) Application

An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) Selection criteria

The Secretary shall establish criteria for the award of grants under this section and shall include

among the factors—

(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents;

(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the applicant could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development and ongoing implementation of a revitalization program for the project, except that the Secretary may not award a grant under this section unless the applicant has involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application;

(E) the need for affordable housing in the community;

(F) the supply of other housing available and affordable to families receiving tenant-based assistance under section 1437f of this title;

(G) the amount of funds and other resources to be leveraged by the grant;

(H) the extent of the need for, and the potential impact of, the revitalization program;

(I) the extent to which the plan minimizes permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community and provides for community and supportive services to residents prior to any relocation;

(J) the extent to which the plan sustains or creates more project-based housing units available to persons eligible for public housing in markets where the plan shows there is demand for the maintenance or creation of such units;

(K) the extent to which the plan gives to existing residents priority for occupancy in dwelling units which are public housing dwelling units, or for residents who can afford to live in other units, priority for those units in the revitalized community; and

(L) such other factors as the Secretary considers appropriate.

(3) Applicability of selection criteria

The Secretary may determine not to apply certain of the selection criteria established pursuant to paragraph (2) when awarding grants for demolition only, tenant-based assistance only, or other specific categories of revitalization activities. This section may not be construed to require any application for a grant under this section to include demolition of public housing or to preclude use of grant amounts for rehabilitation or rebuilding of any housing on an existing site.

(f) Cost limits

Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(g) Disposition and replacement

Any severely distressed public housing disposed of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 1437p of this title. Severely distressed public housing demolished pursuant to a revitalization plan shall not be subject to the provisions of section 1437p of this title.

(h) Administration by other entities

The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

(i) Withdrawal of funding

If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(j) Definitions

For purposes of this section, the following definitions shall apply:

(1) Applicant

The term "applicant" means—

(A) any public housing agency that is not designated as troubled pursuant to section 1437d(j)(2) of this title;

(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 1437d(j)(3) of this title; and

(C) any public housing agency that is designated as troubled pursuant to section 1437d(j)(2) of this title and that—

(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) Severely distressed public housing

The term "severely distressed public housing" means a public housing project (or building in a project)—

(A) that—

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)(I) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance;

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area; or

(III) is lacking in sufficient appropriate transportation, supportive services, economic opportunity, schools, civic and religious institutions, and public services, resulting in severe social distress in the project;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this chapter, or the programs under sections 1437g and 1437l of this title (as in effect before the effective date under under [2] section 503(a) [2] the Quality Housing and Work Responsibility Act of 1998), because of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary's determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

(3) Supportive services

The term "supportive services" includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

(k) Grantee reporting

The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

(l) Annual report

The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;

(2) the status of projects identified as severely distressed public housing;

(3) the amount and type of financial assistance provided under and in conjunction with this section, including a specification of the amount and type of assistance provided under subsection (n);

(4) the types of projects funded, and number of affordable housing dwelling units developed with, grants under subsection (n); and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) Funding

(1) Authorization of appropriations

There are authorized to be appropriated for grants under this section $574,000,000 for fiscal year 2017.

(2) Technical assistance and program oversight

Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise, including assistance in connection with the establishment and operation of computer centers in public housing through the Neighborhoods [3] Networks initiative described in subsection (d)(1)(G). Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

(3) Set-aside for main street housing grants

Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary shall provide up to 5 percent for use only for grants under subsection (n).

(n) Grants for assisting affordable housing developed through main street projects in smaller communities

(1) Authority and use of grant amounts

The Secretary may make grants under this subsection to smaller communities. Such grant amounts shall be used by smaller communities only to provide assistance to carry out eligible affordable housing activities under paragraph (4) in connection with an eligible project under paragraph (2).

(2) Eligible project

For purposes of this subsection, the term "eligible project" means a project that—

(A) the Secretary determines, under the criteria established pursuant to paragraph (3), is a main street project;

(B) is carried out within the jurisdiction of a smaller community receiving the grant; and

(C) involves the development of affordable housing that is located in the commercial area

that is the subject of the project.

(3) Main street projects

The Secretary shall establish requirements for a project to be considered a main street project for purposes of this section, which shall require that the project—

(A) has as its purpose the revitalization or redevelopment of a historic or traditional commercial area;

(B) involves investment, or other participation, by the government for, and private entities in, the community in which the project is carried out; and

(C) complies with such historic preservation guidelines or principles as the Secretary shall identify to preserve significant historic or traditional architectural and design features in the structures or area involved in the project.

(4) Eligible affordable housing activities

For purposes of this subsection, the activities described in subsection (d)(1) shall be considered eligible affordable housing activities, except that—

(A) such activities shall be conducted with respect to affordable housing rather than with respect to severely distressed public housing projects; and

(B) eligible affordable housing activities under this subsection shall not include the activities described in subparagraphs (B) through (E), (J), or (K) of subsection (d)(1).

(5) Maximum grant amount

A grant under this subsection for a fiscal year for a single smaller community may not exceed $1,000,000.

(6) Contribution requirement

A smaller community applying for a grant under this subsection shall be considered an applicant for purposes of subsection (c) (relating to contributions by applicants), except that—

(A) such supplemental amounts shall be used only for carrying out eligible affordable housing activities; and

(B) paragraphs (1)(B) and (3) shall not apply to grants under this subsection.

(7) Applications and selection

(A) Application

Pursuant to subsection (e)(1), the Secretary shall provide for smaller communities to apply for grants under this subsection, except that the Secretary may establish such separate or additional criteria for applications for such grants as may be appropriate to carry out this subsection.

(B) Selection criteria

The Secretary shall establish selection criteria for the award of grants under this subsection, which shall be based on the selection criteria established pursuant to subsection (e)(2), with such changes as may be appropriate to carry out the purposes of this subsection.

(8) Cost limits

The cost limits established pursuant to subsection (f) shall apply to eligible affordable housing activities assisted with grant amounts under this subsection.

(9) Inapplicability of other provisions

The provisions of subsections (g) (relating to disposition and replacement of severely distressed public housing), and (h) (relating to administration of grants by other entities), shall not apply to grants under this subsection.

(10) Reporting

The Secretary shall require each smaller community receiving a grant under this subsection to submit a report regarding the use of all amounts provided under the grant.

(11) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Affordable housing

The term "affordable housing" means rental or homeownership dwelling units that—

(i) are made available for initial occupancy to low-income families, with a subset of units made available to very- and extremely-low income families; and

(ii) are subject to the same rules regarding occupant contribution toward rent or purchase and terms of rental or purchase as dwelling units in public housing projects assisted with a grant under this section.

(B) Smaller community

The term "smaller community" means a unit of general local government (as such term is defined in section 5302 of this title) that—

(i) has a population of 50,000 or fewer; and

(ii)(I) is not served by a public housing agency; or

(II) is served by a single public housing agency, which agency administers 100 or fewer public housing dwelling units.

(o) Sunset

No assistance may be provided under this section after September 30, 2017.

(Sept. 1, 1937, ch. 896, title I, §24, as added Pub. L. 102–550, title I, §120, Oct. 28, 1992, 106 Stat. 3695; amended Pub. L. 104–99, title IV, §402(d)(6)(A)(vi), Jan. 26, 1996, 110 Stat. 43; Pub. L. 104–330, title V, §501(b)(9), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §535(a), Oct. 21, 1998, 112 Stat. 2581; Pub. L. 106–377, §1(a)(1) [title II, §214(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–27; Pub. L. 108–7, div. K, title II, §215, Feb. 20, 2003, 117 Stat. 504; Pub. L. 108–186, title IV, §§402(a), (b), (d), (e), 403, Dec. 16, 2003, 117 Stat. 2693, 2694; Pub. L. 109–289, div. B, title II, §21045, as added Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 54; Pub. L. 110–161, div. K, title II, §224, Dec. 26, 2007, 121 Stat. 2437; Pub. L. 111–8, div. I, title II, §223, Mar. 11, 2009, 123 Stat. 976; Pub. L. 111–117, div. A, title II, §222, Dec. 16, 2009, 123 Stat. 3101; Pub. L. 112–55, div. C, title II, §222, Nov. 18, 2011, 125 Stat. 699; Pub. L. 113–76, div. L, title II, §234, Jan. 17, 2014, 128 Stat. 634; Pub. L. 113–235, div. K, title II, §229, Dec. 16, 2014, 128 Stat. 2756; Pub. L. 114–113, div. L, title II, §228, Dec. 18, 2015, 129 Stat. 2895; Pub. L. 115–31, div. K, title II, §226, May 5, 2017, 131 Stat. 787.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437l of this title, referred to in subsec. (j)(2)(A)(iv), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (j)(2)(A)(iv), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

2017—Subsec. (m)(1). Pub. L. 115–31, §226(1), substituted "fiscal year 2017." for "fiscal year 2016."
Subsec. (o). Pub. L. 115–31, §226(2), substituted "September 30, 2017." for "September 30, 2016."
2015—Subsec. (m)(1). Pub. L. 114–113, §228(1), substituted "fiscal year 2016." for "fiscal year 2015."
Subsec. (o). Pub. L. 114–113, §228(2), substituted "September 30, 2016." for "September 30, 2015."
2014—Subsec. (m)(1). Pub. L. 113–235, §229(1), substituted "fiscal year 2015." for "fiscal year 2014."
Pub. L. 113–76, §234(1), substituted "fiscal year 2014." for "fiscal year 2012."
Subsec. (o). Pub. L. 113–235, §229(2), substituted "September 30, 2015." for "September 30, 2014."
Pub. L. 113–76, §234(2), substituted "September 30, 2014." for "September 30, 2012."
2011—Subsec. (m)(1). Pub. L. 112–55, §222(1), substituted "fiscal year 2012." for "fiscal year 2010."
Subsec. (o). Pub. L. 112–55, §222(2), substituted "September 30, 2012." for "September 30, 2010."

2009—Subsec. (m)(1). Pub. L. 111–117, §222(1), substituted "fiscal year 2010." for "fiscal year 2009."

Pub. L. 111–8, §223(1), which directed the substitution of "2009" for "2003", was executed by making the substitution for "2008", to reflect the probable intent of Congress and the intervening amendment by Pub. L. 110–161, §224(1). See 2007 Amendment note below.

Subsec. (o). Pub. L. 111–117, §222(2), substituted "September 30, 2010." for "September 30, 2009."

Pub. L. 111–8, §223(2), which directed substitution of "September 30, 2009" for "September 30, 2007", was executed by making the substitution for "September 30, 2008", to reflect the probable intent of Congress and the intervening amendment by Pub. L. 110–161, §224(2). See 2007 Amendment note below.

2007—Subsec. (m)(1). Pub. L. 110–161, §224(1), which directed substitution of "2008" for "2003", was executed by making the substitution for "2007", to reflect the probable intent of Congress and the amendment by Pub. L. 109–289, §21045(1), as added by Pub. L. 110–5. See below.

Pub. L. 109–289, §21045(1), as added by Pub. L. 110–5, substituted "2007" for "2003".

Subsec. (o). Pub. L. 110–161, §224(2), substituted "September 30, 2008" for "September 30, 2007".

Pub. L. 109–289, §21045(2), as added by Pub. L. 110–5, substituted "September 30, 2007" for "September 30, 2006".

2003—Subsec. (a). Pub. L. 108–186, §403(a), inserted concluding provisions.

Subsec. (e)(2). Pub. L. 108–186, §402(a)(1), substituted "The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—" for "The Secretary shall establish selection criteria for the award of grants under this section and shall include such factors as—" in introductory provisions.

Subsec. (e)(2)(B). Pub. L. 108–186, §402(a)(2), struck out "large-scale" after "for managing".

Subsec. (e)(2)(D). Pub. L. 108–186, §402(a)(3), inserted "and ongoing implementation" after "development" and ", except that the Secretary may not award a grant under this section unless the applicant has involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application" before semicolon at end.

Subsec. (e)(2)(I) to (L). Pub. L. 108–186, §402(a)(4)–(6), added subpars. (I) to (K) and redesignated former subpar. (I) as (L).

Subsec. (j)(2)(A)(iii)(III). Pub. L. 108–186, §402(b), added subcl. (III).

Subsec. (l)(3). Pub. L. 108–186, §403(c)(1), substituted ", including a specification of the amount and type of assistance provided under subsection (n);" for "; and".

Subsec. (l)(4), (5). Pub. L. 108–186, §403(c)(2), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (m)(1). Pub. L. 108–186, §402(d), which directed substitution of "through 2006" for ", 2001, and 2002" could not be executed because the words ", 2001, and 2002" did not appear subsequent to amendment by Pub. L. 108–7, §215(a). See below.

Pub. L. 108–7, §215(a), substituted "$574,000,000 for fiscal year 2003" for "$600,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000, 2001, and 2002".

Subsec. (m)(3). Pub. L. 108–186, §403(d), added par. (3).

Subsec. (n). Pub. L. 108–186, §403(b)(2), added subsec. (n). Former subsec. (n) redesignated (o).

Pub. L. 108–186, §402(e), substituted "September 30, 2006" for "September 30, 2004".

Pub. L. 108–7, §215(b), substituted "September 30, 2004" for "September 30, 2002".

Subsec. (o) Pub. L. 108–186, §403(b)(1), redesignated subsec. (n) as (o).

2000—Subsec. (d)(1)(G). Pub. L. 106–377, §1(a)(1) [title II, §214(b)(1)], inserted before semicolon ", including a Neighborhood Networks initiative for the establishment and operation of computer centers in public housing for the purpose of enhancing the self-sufficiency, employability, an economic self-reliance of public housing residents by providing them with onsite computer access and training resources".

Subsec. (m)(2). Pub. L. 106–377, §1(a)(1) [title II, §214(b)(2)], inserted before period at end of first sentence ", including assistance in connection with the establishment and operation of computer centers in public housing through the Neighborhoods Networks initiative described in subsection (d)(1)(G)".

1998—Pub. L. 105–276 amended section generally. Prior to amendment, section authorized planning grants for development of revitalization programs for severely distressed public housing and implementation grants to carry out revitalization programs for such housing, authorized exceptions to general program rules, established Office of Severely Distressed Public Housing Revitalization, and required annual report to Congress.

1996—Subsec. (e). Pub. L. 104–99 temporarily substituted "Exception" for "Exceptions" in subsec. heading and struck out "(1) LONG-TERM VIABILITY.—" before "The Secretary may waive" and par. (2) which read as follows:

"(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the

preferences specified under section 1437d(c)(4)(A)(i) of this title. Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (h)(3). Pub. L. 104–330 struck out ", except that it does not include any Indian housing authority" after "section 1437a(b) of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §535(b), Oct. 21, 1998, 112 Stat. 2586, provided that: "The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which item 11 on page 104 identifies a reporting provision which, as subsequently amended, is contained in subsec. (l) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

STUDY OF ELDERLY AND DISABLED PUBLIC HOUSING NEEDS

Pub. L. 108–186, title IV, §402(c), Dec. 16, 2003, 117 Stat. 2694, required the Comptroller General to submit a report to Congress regarding the extent of severely distressed elderly and disabled public housing and recommendations for improving that housing not later than 18 months after Dec. 18, 2003.

[1] So in original. Probably should be "and".

[2] So in original.

[3] So in original. Probably should be "Neighborhood".

§1437w. Transfer of management of certain housing to independent manager at request of residents

(a) Authority

The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and

(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b), determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) Request for transfer

The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) Capital and operating assistance

Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 1437g of this title for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 1437g of this title. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) Contract between Secretary and manager

(1) Requirements

Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) Terms

A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this chapter applicable to public housing projects.

(e) Compliance with public housing agency plan

A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) Demolition and disposition by manager

A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) Limitation on PHA liability

A public housing agency that is not a manager for specified housing shall not be liable for any act

or failure to act by a manager or resident council for the specified housing.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Eligible management entity

The term "eligible management entity" means, with respect to any public housing project, any of the following entities:

(A) Nonprofit organization

A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) For-profit entity

A for-profit entity that has demonstrated experience in providing low-income housing.

(C) State or local government

A State or local government, including an agency or instrumentality thereof.

(D) Public housing agency

A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) Manager

The term "manager" means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) Nonprofit

The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) Private nonprofit organization

The term "private nonprofit organization" means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) Public nonprofit organization

The term "public nonprofit organization" means any public entity that is nonprofit in character.

(6) Specified housing

The term "specified housing" means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

(Sept. 1, 1937, ch. 896, title I, §25, as added Pub. L. 105–276, title V, §534, Oct. 21, 1998, 112 Stat. 2579.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1437w, act Sept. 1, 1937, ch. 896, title I, §25, as added Pub. L. 102–550, title I, §121(b), Oct. 28, 1992, 106 Stat. 3701; amended Pub. L. 104–330, title V, §501(b)(10), Oct. 26, 1996, 110 Stat. 4042, known as the Choice in Public Housing Management Act of 1992, related to choice in public housing management, prior to repeal by Pub. L. 105–276, title V, §§503, 534, Oct. 21, 1998, 112 Stat. 2521, 2579, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1437x. Environmental reviews

(a) In general

(1) Release of funds

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this subchapter, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) Implementation

The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) Procedure

The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

(c) Certification

A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general

local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

(d) Approval by States

In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

(Sept. 1, 1937, ch. 896, title I, §26, as added Pub. L. 103–233, title III, §305(b), Apr. 11, 1994, 108 Stat. 371; amended Pub. L. 104–330, title V, §501(b)(11), Oct. 26, 1996, 110 Stat. 4042.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b), and (c)(4)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1996—Subsecs. (a)(1), (b). Pub. L. 104–330 struck out "(including an Indian housing authority)" after "public housing agency".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§1437y. Provision of information to law enforcement and other agencies

Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the "Service"), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is not lawfully present in the United States, and shall ensure that each contract for assistance entered into under section 1437d or 1437f of this title with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is not lawfully present in the United States.

(Sept. 1, 1937, ch. 896, title I, §27, as added Pub. L. 104–193, title IV, §404(d), Aug. 22, 1996, 110 Stat. 2267; amended Pub. L. 105–33, title V, §5564, Aug. 5, 1997, 111 Stat. 639.)

EDITORIAL NOTES

CODIFICATION

Another section 27 of act Sept. 1, 1937, was renumbered section 28, and is classified to section 1437z of this title.

AMENDMENTS

1997—Pub. L. 105–33 substituted "not lawfully present in the United States" for "unlawfully in the United States" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, see section 5582 of Pub. L. 105–33, set out as a note under section 1367 of Title 8, Aliens and Nationality.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§1437z. Exchange of information with law enforcement agencies

Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 1437d or 1437f of this title with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this chapter, if the officer—

(1) furnishes the public housing agency with the name of the recipient; and

(2) notifies the agency that—

(A) such recipient—

(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(ii) is violating a condition of probation or parole imposed under Federal or State law; or

(iii) has information that is necessary for the officer to conduct the officer's official duties;

(B) the location or apprehension of the recipient is within such officer's official duties; and

(C) the request is made in the proper exercise of the officer's official duties.

(Sept. 1, 1937, ch. 896, title I, §28, formerly §27, as added Pub. L. 104–193, title IX, §903(b), Aug. 22, 1996, 110 Stat. 2348; renumbered §28, Pub. L. 105–65, title V, §562(a)(1), Oct. 27, 1997, 111 Stat. 1416.)

§1437z–1. Civil money penalties against section 1437f owners

(a) In general

(1) Effect on other remedies

The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) Failure of Secretary

The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) Violations of housing assistance payment contracts for which penalty may be imposed

(1) Liable parties

The Secretary may impose a civil money penalty under this section on—

(A) any owner of a property receiving project-based assistance under section 8 [42 U.S.C. 1437f];

(B) any general partner of a partnership owner of that property; and

(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) Violations

A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

(A) failure to provide decent, safe, and sanitary housing pursuant to section 8 [42 U.S.C. 1437f]; or

(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) Amount of penalty

The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

(c) Agency procedures

(1) Establishment

The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

(2) Final orders

(A) In general

If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

(B) Effect of review

If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) Failure to review

If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

(A) the gravity of the offense;
(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);
(C) the ability of the violator to pay the penalty;
(D) any injury to tenants;
(E) any injury to the public;
(F) any benefits received by the violator as a result of the violation;
(G) deterrence of future violations; and
(H) such other factors as the Secretary may establish by regulation.

(4) Payment of penalty

No payment of a civil money penalty levied under this section shall be payable out of project income.

(d) Judicial review of agency determination

Judicial review of determinations made under this section shall be carried out in accordance with section 1735f–15(e) of title 12.

(e) Remedies for noncompliance

(1) Judicial intervention

(A) In general

If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

(B) Fees and expenses

Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(2) Nonreviewability of determination or order

In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) Deposit of penalties

(1) In general

Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this chapter, as determined by the Secretary.

(2) Exception

Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) Definitions

In this section—

(1) the term "agent employed to manage the property that has an identity of interest" means an entity—

(A) that has management responsibility for a project;

(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(C) over which such ownership entity exerts effective control; and

(2) the term "knowing" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(Sept. 1, 1937, ch. 896, title I, §29, as added Pub. L. 105–65, title V, §562(a)(2), Oct. 27, 1997, 111 Stat. 1416.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–65, title V, §562(b), Oct. 27, 1997, 111 Stat. 1419, provided that: "The amendments made by subsection (a) [enacting this section and amending section 1437z of this title] shall apply only with respect to—

"(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date."

REGULATIONS

Pub. L. 105–65, title V, §562(c), Oct. 27, 1997, 111 Stat. 1419, provided that:

"(1) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall implement the amendments made by this section [enacting this section and amending section 1437z of this title] by regulation issued after notice and opportunity for public comment.

"(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of the term 'agent employed to manage such property that has an identity of interest'.

"(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act [Oct. 27, 1997]."

§1437z–2. Public housing mortgages and security interests

(a) General authorization

The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) Terms and conditions

In making any authorization under subsection (a), the Secretary may consider—

(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

(2) the ability of the public housing agency to make payments on the mortgage or security interest; and

(3) such other criteria as the Secretary may specify.

(c) No Federal liability

No action taken under this section shall result in any liability to the Federal Government.

(Sept. 1, 1937, ch. 896, title I, §30, as added Pub. L. 105–276, title V, §516, Oct. 21, 1998, 112 Stat.

2550.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1437z–3. Pet ownership in public housing

(a) Ownership conditions

A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) Reasonable requirements

The reasonable requirements referred to in subsection (a) may include—

(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

(2) limitations on the number of animals in a unit, based on unit size;

(3) prohibitions on—

(A) types of animals that are classified as dangerous; and

(B) individual animals, based on certain factors, including the size and weight of the animal; and

(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) Pet ownership in public housing designated for occupancy by elderly or handicapped families

For purposes of this section, the term "public housing" has the meaning given the term in section 1437a(b) of this title, except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 1701r–1(d) of title 12.

(d) Regulations

This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5 applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(Sept. 1, 1937, ch. 896, title I, §31, as added Pub. L. 105–276, title V, §526, Oct. 21, 1998, 112 Stat. 2568.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of

Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1437z–4. Resident homeownership programs

(a) In general

A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) Participating units

A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

(c) Eligible purchasers

(1) Low-income requirement

Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) Other requirements

A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) Right of first refusal

In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

(e) Protection of nonpurchasing residents

If a public housing resident does not exercise the right of first refusal under subsection (d) with respect to the public housing unit in which the resident resides, the public housing agency—

(1) shall notify the resident residing in the unit 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(A) the public housing unit will be sold;

(B) the transfer of possession of the unit will occur until the resident is relocated; and

(C) each resident displaced by such action will be offered comparable housing—

(i) that meets housing quality standards;

(ii) that is located in an area that is generally not less desirable than the location of the displaced resident's housing; and

(iii) which may include—

(I) tenant-based assistance, except that the requirement under this subclause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only

upon the relocation of such resident into such housing;

(II) project-based assistance; or

(III) occupancy in a unit owned, operated, or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);

(4) shall provide any necessary counseling for the displaced resident; and

(5) shall not transfer possession of the unit until the resident is relocated.

(f) Financing and assistance

A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

(g) Downpayment requirement

(1) In general

Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) Direct family contribution

In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(h) Ownership interests

A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a public housing agency providing financing.

(i) Resale

(1) Authority and limitation

A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

(2) Considerations

The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made

by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

(j) Net proceeds

The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

(k) Homeownership assistance

From amounts distributed to a public housing agency under the Capital Fund under section 1437g(d) of this title, or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

(l) Inapplicability of disposition requirements

The provisions of section 1437p of this title shall not apply to disposition of public housing dwelling units under a homeownership program under this section.

(Sept. 1, 1937, ch. 896, title I, §32, as added Pub. L. 105–276, title V, §536, Oct. 21, 1998, 112 Stat. 2586.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1437z–5. Required conversion of distressed public housing to tenant-based assistance

(a) Identification of units

Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

(1) The project is on the same or contiguous sites.

(2) The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992).

(3) The project—

(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or

(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 1437f of this title for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

(b) Consultation

Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

(c) Plan for removal of units from inventories of PHAs

(1) Development

Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

(2) Approval

Each plan required under paragraph (1) shall—

(A) be included as part of the public housing agency plan;

(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

(C) include a description of any disposition and demolition plan for the public housing units.

(3) Extensions

The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(4) Review by Secretary

(A) Failure to identify projects

If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

(B) Erroneous identification of projects

If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

(d) Conversion to tenant-based assistance

(1) In general

To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority available to a public housing agency to provide assistance under this chapter to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

(2) Conversion requirements

Each agency carrying out a plan under subsection (c) for removal of public housing dwelling units from the inventory of the agency shall—

(A) notify each family residing in a public housing project to be converted under the plan 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards; and

(II) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding

offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

(D) ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

(E) provide any actual and reasonable relocation expenses for families displaced by such action.

(e) Cessation of unnecessary spending

Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a), the Secretary may direct the agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

(f) Use of budget authority

Notwithstanding any other provision of law, if a project or projects are identified pursuant to subsection (a), the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 1437l of this title (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 1437l of this title, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to such project or projects;

(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 1437c(j)(2) of this title, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998; and

(4) in the case of an agency receiving assistance pursuant to the formulas under section 1437g of this title, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

(g) Removal by Secretary

The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

(h) Administration

(1) In general

The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the

administration of this section.

(2) Applicability of section 1437p

Section 1437p of this title shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.

(Sept. 1, 1937, ch. 896, title I, §33, as added Pub. L. 105–276, title V, §537(a), Oct. 21, 1998, 112 Stat. 2588.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title I of the Housing and Community Development Act of 1992, referred to in subsec. (c)(2)(B), is title I of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3681. For complete classification of title I to the Code, see Tables.

Section 1437l of this title, referred to in subsec. (f)(1), (2), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (f)(1), (3), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

TRANSITION

Pub. L. 105–276, title V, §537(c), Oct. 21, 1998, 112 Stat. 2592, provided that:

"(1) USE OF AMOUNTS.—Any amounts made available to a public housing agency to carry out section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (enacted as section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134; 110 Stat. 1321–279)) [former 42 U.S.C. 1437l note] may be used, to the extent or in such amounts as are or have been provided in advance in appropriation Acts, to carry out section 33 of the United States Housing Act of 1937 [42 U.S.C. 1437z–5] (as added by subsection (a) of this section).

"(2) SAVINGS PROVISION.—Notwithstanding the amendments made by this section [enacting this section and repealing provisions set out as a note under section 1437l of this title], section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 [1437l] note) and any regulations implementing such section, as in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act."

§1437z–6. Services for public and Indian housing residents

(a) In general

To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, recipients under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.] (notwithstanding section 502 of such Act [25 U.S.C. 4181]) on behalf of residents of housing assisted under such Act, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of

providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents and residents of housing assisted under such Act or assist such residents in becoming economically self-sufficient.

(b) Eligible activities

Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project or the property of a recipient under such Act or housing assisted under such Act that are designed to promote the self-sufficiency of public housing residents or residents of housing assisted under such Act or provide supportive services for such residents, including activities relating to—

(1) physical improvements to a public housing project or residents of housing assisted under such Act in order to provide space for supportive services for residents;

(2) the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;

(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

(5) resident management activities and resident participation activities; and

(6) other activities designed to improve the economic self-sufficiency of residents.

(c) Funding distribution

(1) In general

Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

(2) Factors for distribution

Factors for distribution under paragraph (1) shall include—

(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

(B) the ability of the applicant to leverage additional resources for the provision of services; and

(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

(d) Matching requirement

The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—

(1) funds from other Federal sources;

(2) funds from any State, local, or tribal government sources;

(3) funds from private contributions; and

(4) the value of any in-kind services or administrative costs provided to the applicant.

(e) Funding for resident organizations

To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to

utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.

(Sept. 1, 1937, ch. 896, title I, §34, as added Pub. L. 105–276, title V, §538(a), Oct. 21, 1998, 112 Stat. 2592; amended Pub. L. 106–377, §1(a)(1) [title II, §221(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A–29.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsecs. (a) and (b), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

AMENDMENTS

2000—Pub. L. 106–377, §1(a)(1) [title II, §221(a)(1)], substituted "public and Indian housing" for "public housing" in section catchline.

Subsec. (a). Pub. L. 106–377, §1(a)(1) [title II, §221(a)(2)], inserted "recipients under the Native American Housing Assistance and Self-Determination Act of 1996 (notwithstanding section 502 of such Act) on behalf of residents of housing assisted under such Act," after "on behalf of public housing residents," and inserted "and residents of housing assisted under such Act" after "supportive services to public housing residents".

Subsec. (b). Pub. L. 106–377, §1(a)(1) [title II, §221(a)(3)(A), (B)], in introductory provisions, inserted "or the property of a recipient under such Act or housing assisted under such Act" after "public housing project" and "or residents of housing assisted under such Act" after "public housing residents".

Subsec. (b)(1). Pub. L. 106–377, §1(a)(1) [title II, §221(a)(3)(C)], inserted "or residents of housing assisted under such Act" after "public housing project".

Subsec. (d)(2). Pub. L. 106–377, §1(a)(1) [title II, §221(a)(4)], substituted "State, local, or tribal government" for "State or local government".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

ASSESSMENT AND REPORT BY SECRETARY

Pub. L. 105–276, title V, §538(b), Oct. 21, 1998, 112 Stat. 2594, as amended by Pub. L. 106–377, §1(a)(1) [title II, §221(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–29, provided that: "Not later than 3 years after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [Oct. 21, 1998], the Secretary of Housing and Urban Development shall—

> "(1) conduct an evaluation and assessment of grants carried out by resident organizations, and particularly of the effect of the grants on living conditions in public housing and housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]; and
>
> "(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

"This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

§1437z–7. Mixed-finance public housing

(a) Authority

A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

(b) Assistance

(1) Forms

A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 1437g of this title, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

(2) Use

To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project.

(c) Compliance with public housing requirements

The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this chapter relating to public housing during the period required by under [1] this chapter, unless otherwise specified in this section. For purposes of this chapter, any reference to public housing owned or operated by a public housing agency shall include dwelling units in a mixed finance project that are assisted by the agency with capital or operating assistance.

(d) Mixed-finance projects

(1) In general

For purposes of this section, the term "mixed-finance project" means a project that meets the requirements of paragraph (2) and is financially assisted by private resources, which may include low-income housing tax credits, in addition to amounts provided under this chapter.

(2) Types of projects

The term includes a project that is developed—

(A) by a public housing agency or by an entity affiliated with a public housing agency;

(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(i)(7) of title 26; or

(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

(e) Structure of projects

Each mixed-finance project shall be developed—

(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total

financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

(f) Taxation

(1) In general

A public housing agency may elect to exempt all public housing units in a mixed-finance project—

(A) from the provisions of section 1437d(d) of this title, and instead subject such units to local real estate taxes; and

(B) from the finding of need and cooperative agreement provisions under section 1437c(e)(1)(ii) and 1437c(e)(2) of this title, but only if the development of the units is not inconsistent with the jurisdiction's comprehensive housing affordability strategy.

(2) Low-income housing tax credit

With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of title 26, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section, provided that such levels for public housing residents do not exceed the amounts allowable under section 1437a of this title.

(g) Use of savings

Notwithstanding any other provision of this chapter, to the extent deemed appropriate by the Secretary, to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

(h) Effect of certain contract terms

If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this chapter for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 1437g of this title or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this chapter regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.

(Sept. 1, 1937, ch. 896, title I, §35, as added Pub. L. 105–276, title V, §539[(a)], Oct. 21, 1998, 112 Stat. 2594.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

REGULATIONS

Pub. L. 105–276, title V, §539(b), Oct. 21, 1998, 112 Stat. 2596, provided that: "The Secretary shall issue

such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)] (as amended by this Act)."

[1] *So in original.*

§1437z–8. Collection of information on tenants in tax credit projects

(a) In general

Each State agency administering tax credits under section 42 of title 26 shall furnish to the Secretary of Housing and Urban Development, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 1437f(o) of this title or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits through such agency. Such State agencies shall, to the extent feasible, collect such information through existing reporting processes and in a manner that minimizes burdens on property owners. In the case of any household that continues to reside in the same dwelling unit, information provided by the household in a previous year may be used if the information is of a category that is not subject to change or if information for the current year is not readily available to the owner of the property.

(b) Standards

The Secretary shall establish standards and definitions for the information collected under subsection (a), provide States with technical assistance in establishing systems to compile and submit such information, and, in coordination with other Federal agencies administering housing programs, establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs.

(c) Public availability

The Secretary shall, not less than annually, compile and make publicly available the information submitted to the Secretary pursuant to subsection (a).

(d) Authorization of appropriations

There is authorized to be appropriated for the cost of activities required under subsections (b) and (c) $2,500,000 for fiscal year 2009 and $900,000 for each of fiscal years 2010 through 2013.

(Sept. 1, 1937, ch. 896, title I, §36, as added Pub. L. 110–289, div. B, title VIII, §2835(d), July 30, 2008, 122 Stat. 2874.)

§1437z–9. Data exchange standards for improved interoperability

(a) Designation

The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, designate data exchange standards to govern, under this chapter—

(1) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

(2) Federal reporting and data exchange required under applicable law.

(b) Requirements

The data exchange standards required by subsection (a) shall, to the maximum extent practicable—

(1) incorporate a widely accepted, nonproprietary, searchable, computer-readable format, such as the eXtensible Markup Language;

(2) contain interoperable standards developed and maintained by intergovernmental

partnerships, such as the National Information Exchange Model;

(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance;

(4) be consistent with and implement applicable accounting principles;

(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and

(6) be capable of being continually upgraded as necessary.

(c) Rules of construction

Nothing in this section requires a change to existing data exchange standards for Federal reporting found to be effective and efficient.

(Sept. 1, 1937, ch. 896, title I, §37, as added Pub. L. 114–201, title V, §503(a), July 29, 2016, 130 Stat. 811.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 114–201, title V, §503(b), July 29, 2016, 130 Stat. 812, provided that:

"(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [July 29, 2016], the Secretary of Housing and Urban Development shall issue a proposed rule to carry out the amendments made by subsection (a) [enacting this section].

"(2) REQUIREMENTS.—The rule shall—

"(A) identify federally required data exchanges;

"(B) include specification and timing of exchanges to be standardized;

"(C) address the factors used in determining whether and when to standardize data exchanges;

"(D) specify State implementation options; and

"(E) describe future milestones."

§1437z–10. Small public housing agencies

(a) Definitions

In this section:

(1) Housing voucher program

The term "housing voucher program" means a program for tenant-based assistance under section 1437f of this title.

(2) Small public housing agency

The term "small public housing agency" means a public housing agency—

(A) for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 1437f(o) of this title administered by the agency is 550 or fewer; and

(B) that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.

(3) Troubled small public housing agency

The term "troubled small public housing agency" means a small public housing agency designated by the Secretary as a troubled small public housing agency under subsection (c)(3).

(b) Applicability

Except as otherwise provided in this section, a small public housing agency shall be subject to the same requirements as a public housing agency.

(c) Program inspections and evaluations

(1) Public housing projects

(A) Frequency of inspections by Secretary

The Secretary shall carry out an inspection of the physical condition of a small public housing agency's public housing projects not more frequently than once every 3 years, unless the agency has been designated by the Secretary as a troubled small public housing agency based on deficiencies in the physical condition of its public housing projects. Nothing contained in this subparagraph relieves the Secretary from conducting lead safety inspections or assessments in accordance with procedures established by the Secretary under section 4822 of this title.

(B) Standards

The Secretary shall apply to small public housing agencies the same standards for the acceptable condition of public housing projects that apply to projects assisted under section 1437f of this title.

(2) Housing voucher program

Except as required by section 1437f(o)(8)(F) of this title, a small public housing agency administering assistance under section 1437f(o) of this title shall make periodic physical inspections of each assisted dwelling unit not less frequently than once every 3 years to determine whether the unit is maintained in accordance with the requirements under section 1437f(o)(8)(A) of this title. Nothing contained in this paragraph relieves a small public housing agency from conducting lead safety inspections or assessments in accordance with procedures established by the Secretary under section 4822 of this title.

(3) Troubled small public housing agencies

(A) Public housing program

Notwithstanding any other provision of law, the Secretary may designate a small public housing agency as a troubled small public housing agency with respect to the public housing program of the small public housing agency if the Secretary determines that the agency has failed to maintain the public housing units of the small public housing agency in a satisfactory physical condition, based upon an inspection conducted by the Secretary.

(B) Housing voucher program

Notwithstanding any other provision of law, the Secretary may designate a small public housing agency as a troubled small public housing agency with respect to the housing voucher program of the small public housing agency if the Secretary determines that the agency has failed to comply with the inspection requirements under paragraph (2).

(C) Appeals

(i) Establishment

The Secretary shall establish an appeals process under which a small public housing agency may dispute a designation as a troubled small public housing agency.

(ii) Official

The appeals process established under clause (i) shall provide for a decision by an official who has not been involved, and is not subordinate to a person who has been involved, in the original determination to designate a small public housing agency as a troubled small public housing agency.

(D) Corrective action agreement

(i) Agreement required

Not later than 60 days after the date on which a small public housing agency is designated as a troubled public housing agency under subparagraph (A) or (B), the Secretary and the small public housing agency shall enter into a corrective action agreement under which the small public housing agency shall undertake actions to correct the deficiencies upon which the designation is based.

(ii) Terms of agreement

A corrective action agreement entered into under clause (i) shall—

(I) have a term of 1 year, and shall be renewable at the option of the Secretary;

(II) provide, where feasible, for technical assistance to assist the public housing agency in curing its deficiencies;

(III) provide for—

(aa) reconsideration of the designation of the small public housing agency as a troubled small public housing agency not less frequently than annually; and

(bb) termination of the agreement when the Secretary determines that the small public housing agency is no longer a troubled small public housing agency; and

(IV) provide that in the event of substantial noncompliance by the small public housing agency under the agreement, the Secretary may—

(aa) contract with another public housing agency or a private entity to manage the public housing of the troubled small public housing agency;

(bb) withhold funds otherwise distributable to the troubled small public housing agency;

(cc) assume possession of, and direct responsibility for, managing the public housing of the troubled small public housing agency;

(dd) petition for the appointment of a receiver, in accordance with section 1437d(j)(3)(A)(ii) of this title; and

(ee) exercise any other remedy available to the Secretary in the event of default under the public housing annual contributions contract entered into by the small public housing agency under section 1437c of this title.

(E) Emergency actions

Nothing in this paragraph may be construed to prohibit the Secretary from taking any emergency action necessary to protect Federal financial resources or the health or safety of residents of public housing projects.

(d) Reduction of administrative burdens

(1) Exemption

Notwithstanding any other provision of law, a small public housing agency shall be exempt from any environmental review requirements with respect to a development or modernization project having a total cost of not more than $100,000.

(2) Streamlined procedures

The Secretary shall, by rule, establish streamlined procedures for environmental reviews of small public housing agency development and modernization projects having a total cost of more than $100,000.

(Sept. 1, 1937, ch. 896, title I, §38, as added Pub. L. 115–174, title II, §209(a), May 24, 2018, 132 Stat. 1313.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 60 days after May 24, 2018, see section 209(d) of Pub. L. 115–174, set out as an Effective Date of 2018 Amendment note under section 1437g of this title.

SUBCHAPTER II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

§§1437aa to 1437ee. Repealed. Pub. L. 104–330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041

Section 1437aa, act Sept. 1, 1937, ch. 896, title II, §201, as added June 29, 1988, Pub. L. 100–358, §2, 102 Stat. 676; amended Nov. 28, 1990, Pub. L. 101–625, title V, §572(2), 104 Stat. 4236; Oct. 28, 1992, Pub. L. 102–550, title I, §122(a), 106 Stat. 3708, related to establishment of separate program of assisted housing for Indians and Alaska Natives.

Section 1437bb, act Sept. 1, 1937, ch. 896, title II, §202, as added June 29, 1988, Pub. L. 100–358, §2, 102 Stat. 676; amended Nov. 28, 1990, Pub. L. 101–625, title V, §§516, 572(1), 104 Stat. 4199, 4236; Oct. 28, 1992, Pub. L. 102–550, title I, §122(b), 106 Stat. 3709, related to mutual help homeownership opportunity program.

Section 1437cc, act Sept. 1, 1937, ch. 896, title II, §203, as added June 29, 1988, Pub. L. 100–358, §2, 102 Stat. 679; amended Nov. 28, 1990, Pub. L. 101–625, title V, §572(2), 104 Stat. 4236; Oct. 28, 1992, Pub. L. 102–550, title I, §122(c), 106 Stat. 3709, related to public housing maximum contributions, provision of related facilities and services, and accessibility to physically handicapped persons.

Section 1437dd, act Sept. 1, 1937, ch. 896, title II, §204, as added June 29, 1988, Pub. L. 100–358, §2, 102 Stat. 679; amended Nov. 28, 1990, Pub. L. 101–625, title V, §572(1), 104 Stat. 4236, related to annual report under section 3536 of this title.

Section 1437ee, act Sept. 1, 1937, ch. 896, title II, §205, as added June 29, 1988, Pub. L. 100–358, §2, 102 Stat. 680, related to issuance of regulations to carry out this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§1437ff. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 101–625, title IX, §959, Nov. 28, 1990, 104 Stat. 4423, which related to waiver of matching funds requirements in Indian housing programs, was transferred to section 4104 of Title 25, Indians.

SUBCHAPTER II–A—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP

EDITORIAL NOTES

CODIFICATION

Pub. L. 104–330, title V, §501(c)(1), Oct. 26, 1996, 110 Stat. 4042, added subchapter heading and struck out former subchapter heading which read as follows: "HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP".

§1437aaa. Program authority

(a) In general

The Secretary is authorized to make—

(1) planning grants to help applicants to develop homeownership programs in accordance with

this subchapter; and

(2) implementation grants to carry out homeownership programs in accordance with this subchapter.

(b) Authority to reserve housing assistance

In connection with a grant under this subchapter, the Secretary may reserve authority to provide assistance under section 1437f of this title to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(Sept. 1, 1937, ch. 896, title III, §301, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4148; amended Pub. L. 102–550, title I, §181(a)(2)(A), Oct. 28, 1992, 106 Stat. 3735.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–550 struck out subsec. (c) which read as follows: "There are authorized to be appropriated for grants under this subchapter $68,000,000 for fiscal year 1991 and $380,000,000 for fiscal year 1992. Any amount appropriated pursuant to this subsection shall remain available until expended."

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 101–625, title IV, §401, Nov. 28, 1990, 104 Stat. 4148, provided that: "This title [enacting this subchapter and subchapter IV (§12871 et seq.) of chapter 130 of this title, amending sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section and sections 1437c and 1437aa of this title] may be cited as the 'Homeownership and Opportunity Through HOPE Act'."

ESTABLISHMENT AND IMPLEMENTATION OF REQUIREMENTS BY SECRETARY

Pub. L. 101–625, title IV, §418, Nov. 28, 1990, 104 Stat. 4161, provided that: "Not later than the expiration of the 180-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 [this subchapter] first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle [subtitle A (§§411–419) of title IV of Pub. L. 101–625, enacting this subchapter, amending sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title, and enacting provisions set out as notes under sections 1437c and 1437aa of this title]. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice."

§1437aaa–1. Planning grants

(a) Grants

The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subchapter. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) Eligible activities

Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance for applicants related to development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 4822(a) of this title;
(5) preliminary architectural and engineering work;
(6) tenant and homebuyer counseling and training;
(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;
(8) development of security plans; and
(9) preparation of an application for an implementation grant under this subchapter.

(c) Application

(1) Form and procedures

An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—
(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;
(B) a description of the applicant and a statement of its qualifications;
(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;
(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and
(E) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 794 of title 29, and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(d) Selection criteria

The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—
(1) the qualifications or potential capabilities of the applicant;
(2) the extent of tenant interest in the development of a homeownership program for the project;
(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;
(4) national geographic diversity among projects for which applicants are selected to receive assistance; and
(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subchapter in an effective and efficient manner.

(Sept. 1, 1937, ch. 896, title III, §302, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4149; amended Pub. L. 102–550, title X, §1012(h)(1), Oct. 28, 1992, 106 Stat. 3906.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (c)(2)(E), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(E), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (c)(2)(E), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1992—Subsec. (b)(4) to (9). Pub. L. 102–550 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

§1437aaa–2. Implementation grants

(a) Grants

The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subchapter.

(b) Eligible activities

Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subchapter, including the following activities:

(1) Architectural and engineering work.

(2) Implementation of the homeownership program, including acquisition of the public housing project from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subchapter.

(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 4822(a) of this title.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 1437aaa–1 of this title for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance from the Operating Fund, with adjustments comparable to those that would have been made under section 1437g of this title, and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program.

(11) Implementation of a replacement housing plan.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) Matching funding

(1) In general

Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses and replacement housing, shall be provided from non-Federal sources to carry out the homeownership program.

(2) Form

Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 5306(b) of this title or section 5306(d) of this title;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 5306(b) of this title or section 5306(d) of this title;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subchapter;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subchapter; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(3) Reduction of requirement

The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12750(d)].

(d) Application

(1) Form and procedure

An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 1437f of this title, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

(D) a description of the proposed homeownership program, consistent with section 1437aaa–3 of this title and the other requirements of this subchapter, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 1437aaa–3(b) of this title;

(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

(I) the estimated sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705] that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 794 of title 29, and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(e) Selection criteria

The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705(b)(7)];

(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

(8) the extent to which a sufficient supply of affordable rental housing exists in the locality, so that the implementation of the homeownership program will not reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) Location within participating jurisdictions

The Secretary may approve applications for grants under this subchapter only for public housing projects located within the boundaries of jurisdictions—

(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

(g) Approval

The Secretary shall notify each applicant, not later than 6 months after the date of the submission

of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 [42 U.S.C. 1437f] assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(Sept. 1, 1937, ch. 896, title III, §303, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4150; amended Pub. L. 102–550, title I, §181(b), (c), (g)(1), title X, §1012(h)(2), Oct. 28, 1992, 106 Stat. 3735, 3736, 3906; Pub. L. 105–276, title V, §519(c)(1), Oct. 21, 1998, 112 Stat. 2561.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b) (introductory provisions) and (c)(2)(C), (E), was in the original "this subtitle", and was translated as reading "this title", meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101–625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

The Fair Housing Act, referred to in subsec. (d)(2)(M), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I of chapter 45 (§3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(M), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(M), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (f)(1), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title III of the Act enacted subchapter III (§12851 et seq.) of chapter 130 of this title and sections 1735f–17 and 1735f–18 of Title 12, Banks and Banking, amended sections 1703, 1708, 1709, 1715d, 1715z–20, 1721, and 1735f–9 of Title 12, and enacted provisions set out as notes under sections 1703, 1709, 1713, and 1735f–18 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(10). Pub. L. 105–276 substituted "such assistance from the Operating Fund" for "such assistance under section 1437g of this title".

1992—Subsec. (b)(2). Pub. L. 102–550, §181(g)(1)(A), struck out "(not including scattered site single family housing of a public housing agency)" after "public housing project".

Subsec. (b)(4) to (8). Pub. L. 102–550, §1012(h)(2), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 102–550, §1012(h)(2)(A), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Pub. L. 102–550, §181(g)(1)(B), which directed insertion of ", and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program" before period at end of section "303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–2(b)(9))", was executed by making the insertion before period at end of subsec. (b)(9) of this section, which is section 303 of the United States Housing Act of 1937, to reflect the probable intent of Congress.

Subsec. (b)(10) to (14). Pub. L. 102–550, §1012(h)(2)(A), redesignated pars. (9) to (13) as (10) to (14), respectively.

Subsec. (c)(1). Pub. L. 102–550, §181(b)(1), inserted "and replacement housing" after "expenses".

Subsec. (c)(3). Pub. L. 102–550, §181(b)(2), added par. (3).

Subsec. (e)(8). Pub. L. 102–550, §181(c), struck out "of the type assisted under this subchapter" after "rental housing" and "appreciably" before "reduce".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§1437aaa–3. Homeownership program requirements

(a) In general

A homeownership program under this subchapter shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) Affordability

A homeownership program under this subchapter shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) Plan

A homeownership program under this subchapter shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;
(2) providing relocation assistance to families who elect to move;
(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;
(4) providing ongoing training and counseling for homebuyers and homeowners; and
(5) replacing units in eligible projects covered by a homeownership program.

(d) Acquisition and rehabilitation limitations

Acquisition or rehabilitation of public housing projects under a homeownership program under this subchapter may not consist of acquisition or rehabilitation of less than the whole public housing project in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) Financing

(1) In general

The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(2) Prohibition against pledges

Property transferred under this subchapter shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subchapter.

(3) Opportunity to cure

Any lender that provides financing in connection with a homeownership program under this subchapter shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) Housing quality standards

The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this subchapter.

(g) Repealed. Pub. L. 105–276, title V, §531(b)(1), Oct. 21, 1998, 112 Stat. 2573

(h) Protection of non-purchasing families

(1) In general

No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subchapter.

(2) Replacement assistance

If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 1437a(a) of this title or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 [42 U.S.C. 1437f] assistance for use in other housing.

(3) Relocation assistance

The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(4) Other rights

Tenants renting a unit in a project transferred under this subchapter shall have all rights provided to tenants of public housing under this chapter.

(Sept. 1, 1937, ch. 896, title III, §304, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4153; amended Pub. L. 102–550, title I, §181(g)(1)(A), Oct. 28, 1992, 106 Stat. 3736; Pub. L. 104–19, title I, §1002(b), July 27, 1995, 109 Stat. 236; Pub. L. 105–276, title V, §531(b)(1), Oct. 21, 1998, 112 Stat. 2573.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

This subchapter, referred to in subsec. (e)(3), was in the original "this subtitle", and was translated as reading "this title", meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101–625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–276 struck out subsec. (g) which prohibited transfer of projects without plan for replacement housing. See 1995 Amendment note below.

1995—Subsec. (g). Pub. L. 104–19 struck out subsec. (g) which prohibited transfer of projects without plan for replacement housing.

1992—Subsec. (d). Pub. L. 102–550 struck out "(not including scattered site single family housing of a public housing agency)" after "housing project".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 531(b)(1) of Pub. L. 105–276 effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by Secretary after Sept. 30, 1995, see section 531(b)(2) of Pub. L. 105–276, set out as a note below.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–19 effective for applications for demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken on, before, or after Sept. 30, 1995, and on or before Sept. 30, 1998, see section 1002(d) of Pub. L. 104–19, as amended, set out as a note under section 1437c of this title.

HOMEOWNERSHIP REPLACEMENT PLAN

Pub. L. 105–276, title V, §531(b), Oct. 21, 1998, 112 Stat. 2573, provided that:

"(1) IN GENERAL.—Notwithstanding subsections (b) and (c) of section 1002 of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 [amending this section and enacting provision set out as a note under section 1437c of this title] (Public Law 104–19; 109 Stat. 236), subsection (g) of section 304 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–3(g)) is repealed.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995."

§1437aaa–4. Other program requirements

(a) Sale by public housing agency to applicant or other entity required

Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

(b) Preferences

In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(c) Cost limitations

The Secretary may establish cost limitations on eligible activities under this subchapter, subject to the provisions of this subchapter.

(d) Annual contributions

Notwithstanding the purchase of a public housing project under this section, or the purchase of a

unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 1437c(a) of this title.

(e) Amounts from Operating Fund allocation

Amounts from an allocation from the Operating Fund under section 1437g of this title shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

(f) Use of proceeds from sales to eligible families

The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(g) Restrictions on resale by homeowners

(1) In general

(A) Transfer permitted

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) Right to purchase

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) Promissory note required

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 years or less

In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a

maximum amount which this appreciation may not exceed.

(3) 6–20 years

In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) Use of recaptured funds

Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subchapter, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(h) Third party rights

The requirements under this subchapter regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(i) Dollar limitation on economic development activities

Not more than an aggregate of $250,000 from amounts made available under sections 1437aaa–1 and 1437aaa–2 of this title may be used for economic development activities under sections 1437aaa–1(b)(6) [1] and 1437aaa–2(b)(9) [1] of this title for any project.

(j) Timely homeownership

Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(k) Capability of resident management corporations and resident councils

To be eligible to receive a grant under section 1437aaa–2 of this title, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

(l) Records and audit of recipients of assistance

(1) In general

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subchapter (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with

which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by the Secretary

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subchapter.

(3) Access by the Comptroller General

The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subchapter.

(Sept. 1, 1937, ch. 896, title III, §305, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4155; amended Pub. L. 105–276, title V, §519(c)(2), Oct. 21, 1998, 112 Stat. 2561.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (g)(4), was in the original "this subtitle", and was translated as reading "this title", meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101–625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

Section 1437aaa–1(b)(6) of this title, referred to in subsec. (i), was redesignated section 1437aaa–1(b)(7) of this title by Pub. L. 102–550, title X, §1012(h)(1)(A), Oct. 28, 1992, 106 Stat. 3906.

Section 1437aaa–2(b)(9) of this title, referred to in subsec. (i), was redesignated section 1437aaa–2(b)(10) of this title by Pub. L. 102–550, title X, §1012(h)(2)(A), Oct. 28, 1992, 106 Stat. 3906.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–276 substituted "Amounts from an allocation from the Operating Fund" for "Operating subsidies".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

[1] *See References in Text note below.*

§1437aaa–5. Definitions

For purposes of this subchapter:

(1) The term "applicant" means the following entities that may represent the tenants of the project:

(A) A public housing agency.

(B) A resident management corporation, established in accordance with requirements of the Secretary under section 1437r of this title.

(C) A resident council.

(D) A cooperative association.

(E) A public or private nonprofit organization.

(F) A public body, including an agency or instrumentality thereof.

(2) The term "eligible family" means—

(A) a family or individual who is a tenant in the public housing project on the date the Secretary approves an implementation grant;

(B) a low-income family; or

(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

(3) The term "homeownership program" means a program for homeownership meeting the requirements under this subchapter.

(4) The term "recipient" means an applicant approved to receive a grant under this subchapter or such other entity specified in the approved application that will assume the obligations of the recipient under this subchapter.

(5) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(Sept. 1, 1937, ch. 896, title III, §306, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4158; amended Pub. L. 104–330, title V, §501(c)(2), Oct. 26, 1996, 110 Stat. 4042.)

EDITORIAL NOTES

AMENDMENTS

1996—Par. (1)(A). Pub. L. 104–330, §501(c)(2)(A), struck out "(including an Indian housing authority)" after "agency".

Par. (2)(A). Pub. L. 104–330, §501(c)(2)(B), struck out "or Indian" after "public".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§1437aaa–6. Relationship to other homeownership opportunities

The program authorized under this subchapter shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 1437c(h) [1] of this title.

(Sept. 1, 1937, ch. 896, title III, §307, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4159; amended Pub. L. 104–330, title V, §501(c)(3), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105–276, title V, §518(a)(2)(C), Oct. 21, 1998, 112 Stat. 2551.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437c(h) of this title, referred to in text, was repealed and a new section 1437c(h), relating to audits, was added by Pub. L. 105–276, title V, §§518(a)(1)(A), 566, Oct. 21, 1998, 112 Stat. 2551, 2632. See 1998 Amendment note below.

AMENDMENTS

1998—Pub. L. 105–276, which directed amendment of text by striking out "section 5(h) and" in original (a reference to section 1437c(h) of this title), could not be executed because the word "and" does not appear.

1996—Pub. L. 104–330 struck out "and subchapter II of this chapter" after "section 1437c(h) of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

[1] *See References in Text note below.*

§1437aaa–7. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this subchapter, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Sept. 1, 1937, ch. 896, title III, §308, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4159.)

§1437aaa–8. Annual report

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type, and cost of public housing units sold pursuant to this subchapter;

(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this subchapter;

(3) the amount and type of financial assistance provided under and in conjunction with this subchapter;

(4) the amount of financial assistance provided under this subchapter that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

(Sept. 1, 1937, ch. 896, title III, §309, as added Pub. L. 101–625, title IV, §411, Nov. 28, 1990, 104 Stat. 4159.)

SUBCHAPTER II–B—HOME RULE FLEXIBLE GRANT DEMONSTRATION

§1437bbb. Purpose

The purpose of this subchapter is to demonstrate the effectiveness of authorizing local governments and municipalities, in coordination with the public housing agencies for such jurisdictions—

(1) to receive and combine program allocations of covered housing assistance; and

(2) to design creative approaches for providing and administering Federal housing assistance based on the particular needs of the jurisdictions that—

(A) provide incentives to low-income families with children whose head of the household is employed, seeking employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;

(B) reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;

(C) increase the stock of affordable housing and housing choices for low-income families;

(D) increase homeownership among low-income families;

(E) reduce geographic concentration of assisted families;

(F) reduce homelessness through providing permanent housing solutions;

(G) improve program management; and

(H) achieve such other purposes with respect to low-income families, as determined by the participating local governments and municipalities in coordination with the public housing agencies; [1]

(Sept. 1, 1937, ch. 896, title IV, §401, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2616.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Act Sept. 1, 1937, ch. 896, title IV, §411, as added by Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2624, provided that: "This title [enacting this subchapter] shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [Oct. 21, 1998]."

[1] *So in original. The semicolon probably should be a period.*

§1437bbb–1. Flexible grant program

(a) Authority and use

The Secretary shall carry out a demonstration program in accordance with the purposes under section 1437bbb of this title and the provisions of this subchapter. A jurisdiction approved by the Secretary for participation in the program may receive and combine and enter into performance-based contracts for the use of amounts of covered housing assistance, in the manner determined appropriate by the participating jurisdiction, during the period of the jurisdiction's participation—

(1) to provide housing assistance and services for low-income families in a manner that facilitates the transition of such families to work;

(2) to reduce homelessness through providing permanent housing solutions;

(3) to increase homeownership among low-income families; or

(4) for other housing purposes for low-income families determined by the participating jurisdiction.

(b) Period of participation

A jurisdiction may participate in the demonstration program under this subchapter for a period consisting of not less than 1 nor more than 5 fiscal years.

(c) Participating jurisdictions

(1) In general

Subject to paragraph (2), during the 4-year period consisting of fiscal years 1999 through 2002, the Secretary may approve for participation in the program under this subchapter not more than an

aggregate of 100 jurisdictions over the entire term of the demonstration program. A jurisdiction that was approved for participation in the demonstration program under this subchapter in a fiscal year and that is continuing such participation in any subsequent fiscal year shall count as a single jurisdiction for purposes of the numerical limitation under this paragraph.

(2) Exclusion of high performing agencies

Notwithstanding any other provision of this subchapter other than paragraph (4) of this subsection, the Secretary may approve for participation in the demonstration program under this subchapter only jurisdictions served by public housing agencies that—

(A) are not designated as high-performing agencies, pursuant to their most recent scores under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies), as of the time of approval; and

(B) have a most recent score under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies), as of the time of approval, that is among the lowest 40 percent of the scores of all agencies.

(3) Limitation on troubled and non-troubled PHAs

Of the jurisdictions approved by the Secretary for participation in the demonstration program under this subchapter—

(A) not more than 55 may be jurisdictions served by a public housing agency that, at the time of approval, is designated as a troubled agency under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies); and

(B) not more than 45 may be jurisdictions served by a public housing agency that, at the time of approval, is not designated as a troubled agency under the public housing management assessment program under section 1437d(j)(2) of this title (or any successor assessment program for public housing agencies).

(4) Exception

If the City of Indianapolis, Indiana submits an application for participation in the program under this subchapter and, upon review of the application under section 1437bbb–5(b) of this title, the Secretary determines that such application is approvable under this subchapter, the Secretary shall approve such application, notwithstanding the second sentence of section 1437bbb–5(b)(2) of this title. Such City shall count for purposes of the numerical limitations on jurisdictions under paragraphs (1) and (3) of this subsection, but the provisions of paragraph (2) of this subsection (relating to exclusion of high-performing agencies) shall not apply to such City.

(Sept. 1, 1937, ch. 896, title IV, §402, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2617.)

§1437bbb–2. Program allocation and covered housing assistance

(a) Program allocation

In each fiscal year, the amount made available to each participating jurisdiction under the demonstration program under this subchapter shall be equal to the sum of the amounts of covered housing assistance that would otherwise be made available under the provisions of this chapter to the public housing agency for the jurisdiction.

(b) Covered housing assistance

For purposes of this subchapter, the term "covered housing assistance" means—

(1) operating assistance under section 1437g of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(2) modernization assistance under section 1437l of this title (as in effect before the effective

date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(3) assistance for the certificate and voucher programs under section 1437f of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(4) assistance from the Operating Fund under section 1437g(e) of this title;

(5) assistance from the Capital Fund under section 1437g(d) of this title; and

(6) tenant-based assistance under section 1437f of this title (as amended by the Quality Housing and Work Responsibility Act of 1998).

(Sept. 1, 1937, ch. 896, title IV, §403, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2618.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b), is title V of Pub. L. 105–276, Oct. 21, 1998, 112 Stat. 2518. Section 503(a) of the Act is set out as an Effective Date of 1998 Amendment note under section 1437 of this title. For complete classification of this Act to the Code, see Tables.

Section 1437l of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 105–276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

§1437bbb–3. Applicability of requirements under programs for covered housing assistance

(a) In general

In each fiscal year of the demonstration program under this subchapter, amounts made available to a participating jurisdiction under the demonstration program shall be subject to the same terms and conditions as such amounts would be subject to if made available under the provisions of this chapter pursuant to which covered housing assistance is otherwise made available under this chapter to the public housing agency for the jurisdiction, except that—

(1) the Secretary may waive any such term or condition identified by the jurisdiction to the extent that the Secretary determines such action to be appropriate to carry out the purposes of the demonstration program under this subchapter; and

(2) the participating jurisdiction may combine the amounts made available and use the amounts for any activity eligible under the programs under sections 1437f and 1437g of this title.

(b) Number of families assisted

In carrying out the demonstration program under this subchapter, each participating jurisdiction shall assist substantially the same total number of eligible low-income families as would have otherwise been served by the public housing agency for the jurisdiction had the jurisdiction not participated in the demonstration program under this subchapter.

(c) Protection of recipients

This subchapter may not be construed to authorize the termination of assistance to any recipient receiving assistance under this chapter before October 21, 1998, as a result of the implementation of the demonstration program under this subchapter.

(d) Effect on ability to compete for other programs

This subchapter may not be construed to affect the ability of any applying or participating jurisdiction (or a public housing agency for any such jurisdiction) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

(Sept. 1, 1937, ch. 896, title IV, §404, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2619.)

§1437bbb–4. Program requirements

(a) Applicability of certain provisions

Notwithstanding section 1437bbb–3(a)(1) of this title, the Secretary may not waive, with respect to any participating jurisdiction, any of the following provisions:

(1) The first sentence of paragraph (1) of section 1437a(a) of this title (relating to eligibility of low-income families).

(2) Section 1437n of this title (relating to income eligibility and targeting of assistance).

(3) Paragraph (2) of section 1437a(a) of this title (relating to rental payments for public housing families).

(4) Paragraphs (2) and (3) of section 1437f(o) of this title (to the extent such paragraphs limit the amount of rent paid by families assisted with tenant-based assistance).

(5) Section 1437p of this title (relating to demolition or disposition of public housing).

(b) Compliance with assistance plan

A participating jurisdiction shall provide assistance using amounts received pursuant to this subchapter in the manner set forth in the plan of the jurisdiction approved by the Secretary under section 1437bbb–5(a)(2) of this title.

(Sept. 1, 1937, ch. 896, title IV, §405, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2619.)

§1437bbb–5. Application

(a) In general

The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this subchapter. An application—

(1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;

(2) shall include a plan for the provision of housing assistance with amounts received pursuant to this subchapter that—

(A) is developed by the jurisdiction;

(B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and

(C) identifies each term or condition for which the jurisdiction is requesting waiver under section 1437bbb–3(a)(1) of this title;

(3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 1437bbb and 1437bbb–1(a) of this title, respectively;

(4) shall propose standards for measuring performance in using assistance provided pursuant to this subchapter based on the performance standards under subsection (b)(4);

(5) shall propose the length of the period for participation of the jurisdiction is [1] in the demonstration program under this subchapter;

(6) shall—

(A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and

(B) in the case of the application of a consortia of units of general local government (as provided under section 1437bbb–8(1)(B) of this title), include the signed consent of the appropriate executive officials of each unit included in the consortia;

(7) shall include information sufficient, in the determination of the Secretary—

(A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the HOME investment partnerships program, and the programs for assistance for the homeless under the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.];

(B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;

(C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and

(D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this subchapter;

(9) shall—

(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of subchapter I, in the case of determination under subsection (b)(4)(B).

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

(b) Review, approval, and performance standards

(1) Review

The Secretary shall review each application for participation in the demonstration program under this subchapter and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this subchapter. If the Secretary determines that the application of a jurisdiction is approvable under this subchapter, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this subchapter, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this subchapter, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

(2) Approval

The Secretary may approve jurisdictions for participation in the demonstration program under this subchapter, but only from among applications that the Secretary has determined under

paragraph [2] are approvable under this subchapter and only in accordance with section 1437bbb–1(c) of this title. The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

(B) increasing housing choices for low-income families.

(3) Agreement

The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this subchapter providing for assistance pursuant to this subchapter for a period in accordance with section 1437bbb–1(b) of this title and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this subchapter. The Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized under this subchapter unless the Secretary and jurisdiction enter into an agreement under this paragraph.

(4) Performance standards

(A) Establishment

The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 1437bbb of this title, which may include standards for—

(i) moving dependent low-income families to economic self-sufficiency;

(ii) reducing the per-family cost of providing housing assistance;

(iii) expanding the stock of affordable housing and housing choices for low-income families;

(iv) improving program management;

(v) increasing the number of homeownership opportunities for low-income families;

(vi) reducing homelessness through providing permanent housing resources;

(vii) reducing geographic concentration of assisted families; and

(viii) any other performance goals that the Secretary and the participating jurisdiction may establish.

(B) Failure to comply

If, at any time during the participation of a jurisdiction in the program under this subchapter, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this subchapter and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10).

(5) Troubled agencies

The Secretary may establish requirements for the approval of applications under this section submitted by public housing agencies designated under section 1437d(j)(2) of this title as troubled, which may include additional or different criteria determined by the Secretary to be more appropriate for such agencies.

(c) Status of PHAs

This subchapter may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this subchapter.

(d) PHA plans

In carrying out this subchapter, the Secretary may provide for a streamlined public housing agency

plan and planning process under section 1437c–1 of this title for participating jurisdictions.

(Sept. 1, 1937, ch. 896, title IV, §406, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2620; amended Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675.)

EDITORIAL NOTES

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(7)(A), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, which is classified principally to chapter 119 (§11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(7)(A). Pub. L. 106–400 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

[1] So in original.

[2] So in original. Probably should be preceded by "this".

§1437bbb–6. Training

The Secretary, in consultation with representatives of public and assisted housing interests, may provide training and technical assistance relating to providing assistance under this subchapter and may conduct detailed evaluations of up to 30 jurisdictions for the purpose of identifying replicable program models that are successful at carrying out the purposes of this subchapter.

(Sept. 1, 1937, ch. 896, title IV, §407, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2623.)

§1437bbb–7. Accountability

(a) Maintenance of records

Each participating jurisdiction shall maintain such records as the Secretary may require to—

(1) document the amounts received by the jurisdiction under this chapter and the disposition of such amounts under the demonstration program under this subchapter;

(2) ensure compliance by the jurisdiction with this subchapter; and

(3) evaluate the performance of the jurisdiction under the demonstration program under this subchapter.

(b) Reports

Each participating jurisdiction shall annually submit to the Secretary a report in a form and at a time specified by the Secretary, which shall include—

(1) documentation of the use of amounts made available to the jurisdiction under this subchapter;

(2) any information as the Secretary may request to assist the Secretary in evaluating the demonstration program under this subchapter; and

(3) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this subchapter.

(c) Access to documents by Secretary and Comptroller General

The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by a participating

jurisdiction that relate to the demonstration program under this subchapter.

(d) Performance review and evaluation

(1) Performance review

Based on the performance standards established under section 1437bbb–5(b)(4) of this title, the Secretary shall monitor the performance of participating jurisdictions in providing assistance under this subchapter.

(2) Status report

Not later than 60 days after the conclusion of the second year of the demonstration program under this subchapter, the Secretary shall submit to Congress an interim report on the status of the demonstration program and the progress each participating jurisdiction in achieving the purposes of the demonstration program under section 1437bbb of this title.

(Sept. 1, 1937, ch. 896, title IV, §408, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2623.)

§1437bbb–8. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Jurisdiction

The term "jurisdiction" means—

(A) a unit of general local government (as such term is defined in section 12704 of this title) that has boundaries, for purposes of carrying out this subchapter, that—

(i) wholly contain the area within which a public housing agency is authorized to operate; and

(ii) do not contain any areas contained within the boundaries of any other participating jurisdiction; and

(B) a consortia of such units of general local government, organized for purposes of this subchapter.

(2) Participating jurisdiction

The term "participating jurisdiction" means, with respect to a period for which such an agreement is made, a jurisdiction that has entered into an agreement under section 1437bbb–5(b)(3) of this title to receive assistance pursuant to this subchapter for such fiscal year.

(Sept. 1, 1937, ch. 896, title IV, §409, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112 Stat. 2624.)

§1437bbb–9. Termination and evaluation

(a) Termination

The demonstration program under this subchapter shall terminate not less than 2 and not more than 5 years after the date on which the demonstration program is commenced.

(b) Evaluation

Not later than 6 months after the termination of the demonstration program under this subchapter, the Secretary shall submit to the Congress a final report, which shall include—

(1) an evaluation [1] the effectiveness of the activities carried out under the demonstration program; and

(2) any findings and recommendations of the Secretary for any appropriate legislative action.

(Sept. 1, 1937, ch. 896, title IV, §410, as added Pub. L. 105–276, title V, §561, Oct. 21, 1998, 112

Stat. 2624.)

[1] *So in original. Probably should be followed by "of".*

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§1438. Repealed. Pub. L. 105–276, title V, §582(a)(15), Oct. 21, 1998, 112 Stat. 2644

Section, Pub. L. 93–383, title II, §209, Aug. 22, 1974, 88 Stat. 669; Pub. L. 98–479, title II, §201(g), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 102–550, title VI, §625(b), Oct. 28, 1992, 106 Stat. 3820, related to special low-income housing projects for elderly or disabled families.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§1439. Local housing assistance plan

(a) Applicability of approved plan to housing assistance application; procedure upon receipt of application by Secretary of Housing and Urban Development; definitions

(1) The Secretary of Housing and Urban Development, upon receiving an application for housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.],[1] section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or,[2] if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government the opportunity, during the thirty-day period beginning on the date of such notification, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

Upon receiving an application for such housing assistance, the Secretary shall assure that funds made available under this section shall be utilized to the maximum extent practicable to meet the needs and goals identified in the unit of local government's housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistance plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reasons therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph (1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term "housing assistance plan" means a housing assistance plan submitted and approved under section 5304 of this title or, in the case of a unit of general local government not participating under title I of this Act [42 U.S.C. 5301 et seq.], a housing plan approved by the Secretary as meeting the requirements of this section. In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.

(b) Housing assistance applications subject to procedures

The provisions of subsection (a) shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

(c) Repealed. Pub. L. 105–276, title V, §551(1), Oct. 21, 1998, 112 Stat. 2610

(d) Allocation and reservation of housing assistance funds; purposes; prohibited reallocation of unutilized funds; enumerated uses for retained funds; competition for reservation and obligation of funds

(1)(A)(i) Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) the first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) in each fiscal year. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1), the Secretary shall apply the formula, to the extent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents. The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 1441a(c) [3] of title 12. Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)] may not be provided to any public housing agency that has been disqualified from providing such assistance.

(ii) Assistance under section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)] shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum

extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705]. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(o) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.].

(B) The formula allocation requirements of subparagraph (A) shall not apply to—

(i) assistance that is approved in appropriation Acts for use under sections [4] 9 [42 U.S.C. 1437g], or the rental rehabilitation grant program under section 17,[3] of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545] with respect to such assistance; or

(ii) other assistance referred to in subsection (a) that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, and assistance in support of the property disposition and loan management functions of the Secretary.

(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.

(2) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof.

(3)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(iii) housing needs resulting from the settlement of litigation; and

(iv) housing in support of desegregation efforts.

(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1).

(4)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula contained in that paragraph and then is reserved and obligated pursuant to a competition.

(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria for the selection of recipients of assistance. The criteria shall be contained in—

(i) a regulation promulgated by the Secretary after notice and public comment; or
(ii) to the extent authorized by law, a notice published in the Federal Register.

(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

(D) This paragraph shall not apply to assistance referred to in paragraph (4).[3]

(e) Assistance payments for properties in Jefferson County, Texas

From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)] on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in Jefferson County, Texas. If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act [42 U.S.C. 1437f] or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.

(Pub. L. 93–383, title II, §213, Aug. 22, 1974, 88 Stat. 674; Pub. L. 95–128, title II, §207, Oct. 12, 1977, 91 Stat. 1130; Pub. L. 96–153, title II, §204, Dec. 21, 1979, 93 Stat. 1108; Pub. L. 96–399, title II, §202(d), Oct. 8, 1980, 94 Stat. 1629; Pub. L. 97–35, title III, §321(e), Aug. 13, 1981, 95 Stat. 399; Pub. L. 98–181, title I [title II, §201(a)(1), (2)], Nov. 30, 1983, 97 Stat. 1175; Pub. L. 98–479, title I, §102(e), Oct. 17, 1984, 98 Stat. 2222; Pub. L. 100–242, title V, §522(a), Feb. 5, 1988, 101 Stat. 1938; Pub. L. 101–235, title I, §§101(a)–(c), (e), 104(a), Dec. 15, 1989, 103 Stat. 1988–1990, 1998; Pub. L. 101–494, §5, Oct. 31, 1990, 104 Stat. 1186; Pub. L. 101–625, title V, §§556, 576, title VIII, §§801(b), 804(e), Nov. 28, 1990, 104 Stat. 4233, 4238, 4303, 4323; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1591; Pub. L. 102–550, title I, §154, Oct. 28, 1992, 106 Stat. 3718; Pub. L. 104–330, title V, §501(d)(3), Oct. 26, 1996, 110 Stat. 4043; Pub. L. 105–276, title V, §§522(b)(2), 551, Oct. 21, 1998, 112 Stat. 2564, 2610.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to this chapter (§1437 et seq.). Section 17 of the United States Housing Act of 1937, referred to in subsec. (d)(1)(B)(i), which was classified to section 1437o of this title, was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (a)(1), is section 101 of Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

This Act, referred to in subsec. (a)(5), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Housing and Urban Development Act of 1968, referred to in subsec. (b)(2), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476. Title IV of the Housing and Urban Development Act of 1968 which was classified principally to chapter 48 (§3901 et seq.) of this title, was omitted from the Code pursuant to section 4528 of this title, which terminated the authority to guarantee bonds, debentures, notes, or other obligations under such title IV, after Dec. 31, 1970. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Housing and Urban Development Act of 1970, referred to in subsec. (b)(2), is Pub. L. 91–609, Dec. 31,

1970, 84 Stat. 1770. Title VII of the Housing and Urban Development Act of 1970, known as the Urban Growth and New Community Development Act of 1970, is classified principally to chapter 59 (§4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of Title 12.

Section 1441a(c) of title 12, referred to in subsec. (d)(1)(A)(i), was repealed by Pub. L. 111–203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (d)(1)(A)(ii), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the "HOME Investments Partnership Act", is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Paragraph (4), referred to in subsec. (d)(4)(D), was redesignated paragraph (3) of subsec. (d) by Pub. L. 105–276, title V, §551(2)(C), Oct. 21, 1998, 112 Stat. 2610.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–276, §551(1), struck out subsec. (c) which read as follows: "For areas in which an approved local housing assistance plan is not applicable the Secretary shall not approve an application for housing assistance unless he determines that there is a need for such assistance, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted. The Secretary shall afford the unit of general local government in which the assistance is to be provided an opportunity, during a 30-day period following receipt of an application by him, to provide comments or information relevant to the determination required to be made by the Secretary under this subsection."

Subsec. (d)(1)(A)(i). Pub. L. 105–276, §551(2)(A)(i), inserted at end "Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 may not be provided to any public housing agency that has been disqualified from providing such assistance."

Subsec. (d)(1)(A)(ii). Pub. L. 105–276, §551(2)(A)(ii), substituted "8(o)" for "8(b)(1)" in two places.

Subsec. (d)(1)(B)(i). Pub. L. 105–276, §522(b)(2), which directed the amendment of subsec. (d)(1)(B)(ii), by striking out "or 14", was executed by striking out "or 14" after "9" in subsec. (d)(1)(B)(i) to reflect the probable intent of Congress.

Subsec. (d)(2) to (5). Pub. L. 105–276, §551(2)(B), (C), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: "Not later than sixty days after approval in an appropriation Act, the Secretary shall allocate from the amounts available for use in nonmetropolitan areas an amount of authority for assistance under section 8(d) of the United States Housing Act of 1937 determined in consultation with the Secretary of Agriculture for use in connection with section 1490m of this title during the fiscal year for which such authority is approved. The amount of assistance allocated to nonmetropolitan areas pursuant to this section in any fiscal year shall not be less than 20 nor more than 25 per centum of the total amount of the assistance that is subject to allocation under paragraph (1)(A)."

1996—Subsec. (d)(1)(B)(ii). Pub. L. 104–330 substituted "public housing" for "public and Indian housing".

1992—Subsec. (e). Pub. L. 102–389 and Pub. L. 102–550 amended subsec. (e) identically, substituting "Jefferson County, Texas" for "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project".

1990—Subsec. (a)(1). Pub. L. 101–625, §801(b), struck out "section 202 of the Housing Act of 1959" before ", if the unit".

Subsec. (a)(5). Pub. L. 101–625, §576, inserted at end "In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children."

Subsec. (d)(1)(A). Pub. L. 101–625, §556, designated existing provisions as cl. (i) and added cl. (ii).

Pub. L. 101–494 inserted after first sentence "The Secretary may allocate assistance under the preceding

sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) in each fiscal year."

Subsec. (d)(1)(A)(i). Pub. L. 101–625, §804(e), which directed amendment of subpar. (A) by inserting after the period at end "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 1441a(c) of title 12.", was executed by making the insertion after the period at end of cl. (i), to reflect the probable intent of Congress and the intervening amendment by Pub. L. 101–625, §556. See above.

1989—Subsec. (a)(1). Pub. L. 101–235, §101(e), struck out "section 235 or 236 of the National Housing Act," before "section 101 of the Housing and Urban Development Act of 1965".

Subsec. (d)(1). Pub. L. 101–235, §101(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary shall allocate assistance referred to in subsection (a) of this section (other than assistance approved in appropriation Acts for use under sections 9, 14, and 17 of the United States Housing Act of 1937) the first time it is available for reservation on the basis of a formula which is contained in a regulation prescribed by the Secretary, and which is based on the relative needs of different States, areas, and communities as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in such regulation. Any amounts allocated to a State or areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts within that same fiscal year."

Subsec. (d)(2). Pub. L. 101–235, §101(b), substituted "of the assistance that is subject to allocation under paragraph (1)(A)" for "of such assistance".

Subsec. (d)(4). Pub. L. 101–235, §104(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development may not retain more than 15 per centum of the financial assistance which becomes available under programs described in subsection (a)(1) of this section during any fiscal year. Any such financial assistance which is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

"(A) unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

"(B) support for the needs of the handicapped or for minority enterprise;

"(C) providing for assisted housing as a result of the settlement of litigation;

"(D) small research and demonstration projects;

"(E) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and

"(F) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary, including assistance for infrastructure in connection with the Indian Housing Program."

Subsec. (d)(5). Pub. L. 101–235, §101(c), added par. (5).

1988—Subsec. (e). Pub. L. 100–242 added subsec. (e).

1984—Subsec. (d)(2). Pub. L. 98–479 substituted "section 1490m of this title" for "section 1490l of this title".

1983—Subsec. (a)(1). Pub. L. 98–181, §201(a)(1), inserted provision following subpar. (B) requiring that funds be utilized to meet the needs and goals identified in the unit of local government's housing assistance plan.

Subsec. (d)(1). Pub. L. 98–181, §201(a)(2), amended par. (1) generally, inserting provision respecting assistance approved in appropriation Acts for sections 9 and 17 of the United States Housing Act of 1937 uses, requiring allocation of assistance to be based on a formula contained in a regulation, making the relative needs provision applicable to different States, striking out requirement that Secretary assure, in carrying out national housing and community development objectives, that funds available for housing assistance programs be allocated or reserved in accordance with goals described in approved housing assistance plans, and striking out provision respecting allocation of funds for nonmetropolitan areas, which was reenacted as last sentence of par. (2).

Subsec. (d)(2). Pub. L. 98–181, §201(a)(2), amended par. (2) generally, inserting provision respecting allocation of nonmetropolitan area funds for use in connection with section 1490l of this title; reenacting as second sentence provision respecting amount of funds allocated for nonmetropolitan areas, which formerly constituted last sentence of par. (1); and striking out former provision respecting reservation of housing

assistance funds for new community developments approved under title IV of the Housing and Urban Development Act of 1968 and title VII of the Housing and Urban Development Act of 1970 for persons of low- and moderate-income.

1981—Subsec. (d)(4). Pub. L. 97–35 added par. (4).

1980—Subsec. (d)(1). Pub. L. 96–399 substituted "carrying out section 14 of such Act" for "modernization of low-income housing projects".

1979—Subsec. (d)(1). Pub. L. 96–153 inserted provisions limiting allocation of assistance other than that approved in appropriation acts for use on and after Oct. 1, 1979 for modernization of low-income housing projects and inserted provision that any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.

1977—Subsec. (d)(1). Pub. L. 95–128 inserted provision requiring the Secretary to assure that funds available for subsec. (a) housing assistance programs shall be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 5304 of this title and shall be utilized to meet needs reflected in data referred to in the preceding sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 801(b) of Pub. L. 101–625 effective Oct. 1, 1991, with respect to projects approved on or after such date, and subject to issuance of regulations, see section 801(c) of Pub. L. 101–625, set out as a note under section 1701q of Title 12, Banks and Banking.

Amendment by section 801(b) of Pub. L. 101–625 deemed enacted Nov. 5, 1990, see title II of Pub. L. 101–507, set out as a note under section 1701q of Title 12.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–235, title I, §104(b), Dec. 15, 1989, 103 Stat. 1998, provided that: "Any assistance made available under section 213(d)(4) of the Housing and Community Development Act of 1974 [42 U.S.C. 1439(d)(4)] before October 1, 1990, or pursuant to a commitment for such assistance entered into before such date, shall be governed by the provisions of section 213(d)(4) as such section existed before the date of the enactment of this Act [Dec. 15, 1989]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

[1] So in original. The comma probably should be "or".

[2] So in original. The word "or" and the comma probably should not appear.

[3] See References in Text note below.

[4] So in original. Probably should be "section".

§1440. State housing finance and development agencies

(a) Statement of purpose; participation by private and nonprofit developers in activities assisted

It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum participation by private and nonprofit developers in activities assisted under this section.

(b) Determination of eligibility for assistance; definitions

(1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a).

(2) For the purpose of this section—

(A) the term "State housing finance or State development agency" means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;

(B) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(C) the term "Secretary" means the Secretary of Housing and Urban Development.

(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed

(1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a), except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act [42 U.S.C. 5301 et seq.] or under any other program determined to be acceptable by the Secretary for this purpose.

(2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 331/3 per centum of the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h)(2), except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such

guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(5) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section as he considers reasonable.

(6) There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under paragraph (2) of this subsection, and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by $60,000,000 on July 1, 1975. The aggregate principal amount of the obligations which may be guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(d) Requirements for guaranteed obligations

The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under subsection (c) will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(e) Revolving fund for payment of liabilities incurred pursuant to guarantees and payment of obligations issued to Secretary of the Treasury; composition; availability, issuance of obligations to Secretary of the Treasury for implementation of guarantees; amount, maturity, rate of interest, and purchase by Secretary of the Treasury of obligations; payment of expenses and charges

(1) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under subsection (c) and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. Such revolving fund shall be comprised of (A) receipts from fees and charges; (B) recoveries under security, subrogation, and other rights; (C) repayments, interest income, and any other receipts obtained in connection with guarantees made under subsection (c); (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and (E) such sums, which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by subsection (c). The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include purchases of the obligations hereunder.

(3) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this subsection, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any

property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(f) Technical assistance to agencies for planning and execution of development activities

The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State housing finance or State development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this section.

(g) Labor standards

All laborers and mechanics employed by contractors or subcontractors in housing or development activities assisted under this section shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40: *Provided*, That this section shall apply to the construction of residential property only if such property is designed for residential use for eight or more families. No assistance shall be extended under this section with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 3145 of title 40.

(h) Protection of guarantees issued by United States; inclusion by purchaser in gross income of interest paid on obligations issued by agencies

(1) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary, in addition to any authority otherwise vested to him, shall—

(A) have the power, notwithstanding any other provision of law, in connection with any guarantee under this section, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State housing finance or State development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided a guarantee pursuant to this section. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this section.

(2) With respect to any obligation issued by a State housing finance or State development agency for which the issuer has elected to receive the benefits of the assistance provided under this section, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(Pub. L. 93–383, title VIII, §802(a)–(h), Aug. 22, 1974, 88 Stat. 722–724; Pub. L. 98–479, title II, §203(l)(4), Oct. 17, 1984, 98 Stat. 2231.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(1), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act

of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (g), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (g), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1984—Subsec. (e)(2). Pub. L. 98–479 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act" and "such chapter" for "that Act".

CHAPTER 8A—SLUM CLEARANCE, URBAN RENEWAL, AND FARM HOUSING

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SUBCHAPTER I—GENERAL PROVISIONS

§1441. Congressional declaration of national housing policy

The Congress declares that the general welfare and security of the Nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to

the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation. The Congress further declares that such production is necessary to enable the housing industry to make its full contribution toward an economy of maximum employment, production, and purchasing power. The policy to be followed in attaining the national housing objective established shall be: (1) private enterprise shall be encouraged to serve as large a part of the total need as it can; (2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need; (3) appropriate local public bodies shall be encouraged and assisted to undertake positive programs of encouraging and assisting the development of well-planned, integrated residential neighborhoods, the development and redevelopment of communities, and the production, at lower costs, of housing of sound standards of design, construction, livability, and size for adequate family life; (4) governmental assistance to eliminate substandard and other inadequate housing through the clearance of slums and blighted areas, to facilitate community development and redevelopment, and to provide adequate housing for urban and rural nonfarm families with incomes so low that they are not being decently housed in new or existing housing shall be extended to those localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely upon private enterprise, and without such aid; and (5) governmental assistance for decent, safe, and sanitary farm dwellings and related facilities shall be extended where the farm owner demonstrates that he lacks sufficient resources to provide such housing on his own account and is unable to secure necessary credit for such housing from other sources on terms and conditions which he could reasonably be expected to fulfill. The Department of Housing and Urban Development, and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing, shall exercise their powers, functions, and duties under this or any other law, consistently with the national housing policy declared by this Act and in such manner as will facilitate sustained progress in attaining the national housing objective hereby established, and in such manner as will encourage and assist (1) the production of housing of sound standards of design, construction, livability, and size for adequate family life; (2) the reduction of the costs of housing without sacrifice of such sound standards; (3) the use of new designs, materials, techniques, and methods in residential construction, the use of standardized dimensions and methods of assembly of home-building materials and equipment, and the increase of efficiency in residential construction and maintenance; (4) the development of well-planned, integrated, residential neighborhoods and the development and redevelopment of communities; and (5) the stabilization of the housing industry at a high annual volume of residential construction.

(July 15, 1949, ch. 338, §2, 63 Stat. 413; Pub. L. 90–19, §6(a), May 25, 1967, 81 Stat. 21.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, known as the Housing Act of 1949, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1967—Pub. L. 90–19 substituted "The Department of Housing and Urban Development" for "The Housing and Home Finance Agency and its constituent agencies".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–285, §1, Aug. 2, 2004, 118 Stat. 917, provided that: "This Act [amending section 1472 of this title, enacting provisions set out as a note under section 1472 of this title, and amending provisions set out as a note under section 12805 of this title] may be cited as the 'Helping Hands for Homeownership Act of 2004'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–181, title I [title V, §501], Nov. 30, 1983, 97 Stat. 1240, provided that: "This title [enacting sections 1490k to 1490o of this title, amending sections 1471, 1472, 1474, 1476, 1479 to 1481, 1483 to 1487, 1490, 1490a, 1490c, 1490e, 1490f, and 1490j of this title, repealing sections 1482, 1490g, and 1490i of this title, and enacting provisions set out as notes under sections 1472 and 1490a of this title] may be cited as the 'Rural Housing Amendments of 1983'."

SHORT TITLE

Act July 15, 1949, ch. 338, §1, 63 Stat. 413, provided: "That this Act [enacting this chapter, sections 1421a and 1433 of this title, and sections 1701d–1, 1701f–1, 1701h, and 1701i of Title 12, Banks and Banking, amending sections 1401, 1402, 1406, 1409 to 1411, 1413 to 1416, and 1422 to 1430 of this title and sections 1701e, 1701f, 1703, 1709, and 1738 of Title 12, and amending provisions set out as a note under section 1701e of Title 12] may be cited as the 'Housing Act of 1949'."

NATIONAL COMMISSION ON NEIGHBORHOODS

Pub. L. 95–24, title II, §§201–208, Apr. 30, 1977, 91 Stat. 56–59, as amended by Pub. L. 95–557, title III, §315, Oct. 31, 1978, 92 Stat. 2099, known as the "National Neighborhood Policy Act", established the National Commission on Neighborhoods, which was to undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization, and to make recommendations for modifications in Federal, State, and local laws, policies and programs necessary to facilitate neighborhood preservation and revitalization. The Commission was to submit to the Congress and the President a comprehensive report on its study and investigation not later than fifteen months after the date on which funds first became available to carry out the Act, and was to cease to exist thirty days after the submission of that report.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], National Housing Act [12 U.S.C. 1701 et seq.], United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], Housing Act of 1949 [see Short Title note set out above], Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note set out under section 3331 of this title], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of this title.

EXECUTIVE DOCUMENTS

EQUAL OPPORTUNITY IN HOUSING

Executive order relating to equal opportunity in housing, see Ex. Ord. No. 11063, Nov. 20, 1962, 27 F.R. 11527, as amended, set out as a note under section 1982 of this title.

§1441a. National housing goals

(a) Congressional findings and reaffirmation of goals

The Congress finds that the supply of the Nation's housing is not increasing rapidly enough to meet the national housing goal, established in the Housing Act of 1949 [42 U.S.C. 1441 et seq.], of the "realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family". The Congress reaffirms this national housing goal and determines that it can be substantially achieved within the next decade by the construction or rehabilitation of twenty-six million housing units, six million of these for low and moderate income families.

(b) Additional Congressional findings

The Congress further finds that policies designed to contribute to the achievement of the national housing goal have not directed sufficient attention and resources to the preservation of existing housing and neighborhoods, that the deterioration and abandonment of housing for the Nation's lower income families has accelerated over the last decade, and that this acceleration has contributed to neighborhood disintegration and has partially negated the progress toward achieving the national housing goal which has been made primarily through new housing construction.

(c) Congressional declaration of purposes

The Congress declares that if the national housing goal is to be achieved, a greater effort must be made to encourage the preservation of existing housing and neighborhoods through such measures as housing preservation, moderate rehabilitation, and improvements in housing management and maintenance, in conjunction with the provision of adequate municipal services. Such an effort should concentrate, to a greater extent than it has in the past, on housing and neighborhoods where deterioration is evident but has not yet become acute.

(Pub. L. 90–448, title XVI, §1601, Aug. 1, 1968, 82 Stat. 601; Pub. L. 93–383, title VIII, §801(1), (2), Aug. 22, 1974, 88 Stat. 721.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (a), is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Housing Act of 1949 which comprises this chapter.

AMENDMENTS

1974—Pub. L. 93–383 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§1441b. Plan for elimination of all substandard housing and realization of national housing goal; report by President to Congress

Not later than January 15, 1969, the President shall make a report to the Congress setting forth a plan, to be carried out over a period of ten years (June 30, 1968, to June 30, 1978), for the elimination of all substandard housing and the realization of the goal referred to in section 1441a of this title. Such plan shall—

(1) indicate the number of new or rehabilitated housing units which it is anticipated will have to be provided, with or without Government assistance, during each fiscal year of the ten-year period, in order to achieve the objectives of the plan, showing the number of such units which it is anticipated will have to be provided under each of the various Federal programs designed to assist in the provision of housing;

(2) indicate the reduction in the number of occupied substandard housing units which it is anticipated will have to occur during each fiscal year of the ten-year period in order to achieve the objectives of the plan;

(3) provide an estimate of the cost of carrying out the plan for each of the various Federal programs and for each fiscal year during the ten-year period to the extent that such costs will be reflected in the Federal budget;

(4) make recommendations with respect to the legislative and administrative actions necessary or desirable to achieve the objectives of the plan; and

(5) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

Such report shall, in addition, contain a projection of the residential mortgage market needs and prospects during the coming year, including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such year, together with such recommendations as may be deemed appropriate for encouraging the availability of such funds.

(Pub. L. 90–448, title XVI, §1602, Aug. 1, 1968, 82 Stat. 601.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Housing Act of 1949 which comprises this chapter.

§1441c. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–448, title XVI, §1603, Aug. 1, 1968, 82 Stat. 602; Pub. L. 91–152, title IV, §412(a), Dec. 24, 1969, 83 Stat. 398; Pub. L. 93–383, title VIII, §801(3), Aug. 22, 1974, 88 Stat. 722; Pub. L. 95–557, title IX, §906, Oct. 31, 1978, 92 Stat. 2127; Pub. L. 96–399, title III, §312, Oct. 8, 1980, 94 Stat. 1644, which required the President to transmit to Congress an annual report on housing needs, conservation, production, and rehabilitation, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 13 on page 31 of House Document No. 103–7.

§1442. Repealed. Aug. 31, 1954, ch. 1158, §7, 68 Stat. 1026

Section, act July 15, 1949, ch. 338, title VI, §607, 63 Stat. 441, related to housing census. See section 141 of Title 13, Census.

§1443. Provisions as controlling over other laws

Insofar as the provisions of any other law are inconsistent with the provisions of this Act, the provisions of this Act shall be controlling.

(July 15, 1949, ch. 338, title VI, §610, 63 Stat. 443.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, known as the Housing Act of 1949, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

§1444. Separability

Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its applications to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

(July 15, 1949, ch. 338, title VI, §611, 63 Stat. 443.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, known as the Housing Act of 1949, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

§1445. Repealed. Aug. 9, 1955, ch. 690, §4(1), 69 Stat. 625

Section, act July 15, 1949, ch. 338, title VI, §612, 63 Stat. 444, related to striking or subversive employees of the Housing and Home Finance Agency and the Department of Agriculture, withholding of their wages, and penalties. See sections 3333 and 7311 of Title 5, Government Organization and Employees, and section 1918 of Title 18, Crimes and Criminal Procedure.

§1446. Transferred

EDITORIAL NOTES

CODIFICATION

Section, act Aug. 2, 1954, ch. 649, title VIII, §814, 68 Stat. 647, as amended, which related to keeping of records, provided for their contents, and authorized examination and audit thereof, was transferred to section 1434 of this title.

SUBCHAPTER II—SLUM CLEARANCE AND URBAN RENEWAL

PART A—URBAN RENEWAL PROJECTS, DEMOLITION PROGRAMS, AND CODE ENFORCEMENT PROGRAMS

§§1450, 1451. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1450, act July 15, 1949, ch. 338, title I, §100, as added Aug. 2, 1954, ch. 649, title III, §302, 68 Stat. 622; amended Sept. 23, 1959, Pub. L. 86–372, title IV, §417(1), 73 Stat. 676, which related to the Urban Renewal Fund, was omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

Section 1451, acts July 15, 1949, ch. 338, title I, §101, 63 Stat. 414; Aug. 2, 1954, ch. 649, title III, §303, 68 Stat. 623; Aug. 11, 1955, ch. 783, title I, §108(a), 69 Stat. 638; Aug. 7, 1956, ch. 1029, title IV, §402, 70 Stat. 1103; Sept. 23, 1959, Pub. L. 86–372, title I, §110(a)(3), (4), title IV, §§401, 417(2), 73 Stat. 659, 670, 677; June 30, 1961, Pub. L. 87–70, title I, §101(b), title III, §314(a), 75 Stat. 153, 172; Sept. 2, 1964, Pub. L. 88–560, title III, §§301(a), 302, 78 Stat. 785; Aug. 10, 1965, Pub. L. 89–117, title I, §101(f), title III, §§302(a)(1), (b), 305(b), 79 Stat. 453, 474, 476; Sept. 9, 1965, Pub. L. 89–174, §7(d), 79 Stat. 670; May 25, 1967, Pub. L. 90–19, §6(b), (c), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §513, 82 Stat. 525; Dec. 24, 1969, Pub. L. 91–152, title II, §217(a), 83 Stat. 390; Apr. 30, 1977, Pub. L. 95–24, title I, §105(a), 91 Stat. 56, which related to local programs under this subchapter, was omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under this subchapter after Jan. 1, 1975.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMENDMENT OF CONTRACTS FOR INCORPORATION OF CERTAIN COST PROVISIONS

Pub. L. 88–560, title III, §301(d), Sept. 2, 1964, 78 Stat. 785, provided that any contract for a capital grant under this subchapter executed prior to Sept. 2, 1964, could be amended to incorporate the provisions of section 1460(c) of this title for costs incurred on or after such date.

COMPLETION OF PROJECTS ENTERED INTO PRIOR TO AUGUST 2, 1954

Act Aug. 2, 1954, ch. 649, title III, §312, 68 Stat. 629, as amended by Pub. L. 90–19, §10(a), May 25, 1967, 81 Stat. 22, provided that notwithstanding the amendments by title III of the 1954 Act to this subchapter, the Secretary of Housing and Urban Development was required to continue to extend financial assistance for the completion of any project covered by any Federal aid contract executed, or prior approval granted, by him under this subchapter before Aug. 2, 1954, in accordance with the provisions of this subchapter in force immediately prior to Aug. 2, 1954.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12075

Ex. Ord. No. 12075, Aug. 16, 1978, 43 F.R. 36877, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which established the Interagency Coordinating Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §14, Aug. 17, 1982, 47 F.R. 36099, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

§1451a. Repealed. Aug. 2, 1954, ch. 649, title III, §313, 68 Stat. 629

Section, acts July 31, 1953, ch. 302, title I, §101, 67 Stat. 305; June 24, 1954, ch. 359, title I, §101, 68 Stat. 283, provided that the authority under this subchapter should be used to the utmost in connection with slum rehabilitation needs.

§1452. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts July 15, 1949, ch. 338, title I, §102, 63 Stat. 414; Aug. 2, 1954, ch. 649, title III, §304, 68 Stat. 624; Aug. 7, 1956, ch. 1029, title III, §§301, 303, 70 Stat. 1097, 1099; Sept. 23, 1959, Pub. L. 86–372, title IV, §§402–404, 73 Stat. 671; June 30, 1961, Pub. L. 87–70, title III, §§302(a), 314(b), 75 Stat. 166, 172; Sept. 2, 1964, Pub. L. 88–560, title III, §303(a), 78 Stat. 785; Aug. 10, 1965, Pub. L. 89–117, title III, §303, 79 Stat. 475; May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §507(a), 82 Stat. 522; Dec. 24, 1969, Pub. L. 91–152, title II, §208, 83 Stat. 387; Oct. 17, 1984, Pub. L. 98–479, title II, §203(d)(1), 98 Stat. 2229, which provided for temporary and definitive loans and advances for surveys and plans to local public agencies under this subchapter, as well as establishing requirements for advances for General Neighborhood Renewal Plans and the issuance and sale of notes and obligations under this subchapter, was omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under this subchapter after Jan. 1, 1975.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMENDMENT OF LOAN CONTRACTS OUTSTANDING ON AUGUST 1, 1968

Pub. L. 90–448, title V, §507(b), Aug. 1, 1968, 82 Stat. 522, provided that loan contracts under this subchapter outstanding on Aug. 1, 1968, could be amended to incorporate the amendment to this section by section 507(a) of Pub. L. 90–448, without regard to the provision in section 1460(g) of this title.

TEMPORARY RELIEF FROM INTEREST RATE CONFLICT BETWEEN FEDERAL AND STATE

LAW

Pub. L. 91–351, title VII, §702, July 24, 1970, 84 Stat. 462, provided that notwithstanding any other law, from July 24, 1970, until July 1, 1972, loans to local public agencies under this subchapter and to local public housing agencies under the United States Housing Act of 1937, section 1401 et seq. of this title, may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, bear interest at a rate less than the applicable going Federal rate but not less than 6 percent per year.

§1452a. Repealed. Pub. L. 91–609, title V, §503(2), Dec. 31, 1970, 84 Stat. 1785

Section, acts Aug. 2, 1954, ch. 649, title III, §314, 68 Stat. 629; Sept. 2, 1964, Pub. L. 88–560, title III, §313, 78 Stat. 792; May 25, 1967, Pub. L. 90–19, §10(a), (c), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90–448, title XVII, §1702, 82 Stat. 603, provided for grants for preventing and eliminating slums and urban blight; preferences; reports, summaries, and information material; aggregate amount; and advance or progress payments. See sections 1701z–1 to 1701z–4 of Title 12, Banks and Banking.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 91–609, title V, §503, Dec. 31, 1970, 84 Stat. 1785, provided that the repeal of this section is effective July 1, 1971, except that such repeal shall not affect contracts, commitments, reservations, or other obligations entered into pursuant to this section prior to that date.

§1452b. Repealed. Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128

Section, Pub. L. 88–560, title III, §312, Sept. 2, 1964, 78 Stat. 790; Pub. L. 89–117, title III, §§311(e), 312, Aug. 10, 1965, 79 Stat. 479; Pub. L. 90–19, §21(b), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title V, §509, title VIII, §807(b), Aug. 1, 1968, 82 Stat. 523, 544; Pub. L. 91–152, title II, §207, Dec. 24, 1969, 83 Stat. 387; Pub. L. 93–85, §4, Aug. 10, 1973, 87 Stat. 221; Pub. L. 93–117, §10, Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title I, §116(e), Aug. 22, 1974, 88 Stat. 652; Pub. L. 94–50, title III, §301, July 2, 1975, 89 Stat. 256; Pub. L. 94–375, §12, Aug. 3, 1976, 90 Stat. 1074; Pub. L. 95–128, title I, §111, Oct. 12, 1977, 91 Stat. 1127; Pub. L. 95–557, title I, §101(a), (b), Oct. 31, 1978, 92 Stat. 2080, 2081; Pub. L. 96–71, §4, Sept. 28, 1979, 93 Stat. 502; Pub. L. 96–105, §4, Nov. 8, 1979, 93 Stat. 795; Pub. L. 96–153, title I, §101, Dec. 21, 1979, 93 Stat. 1101; Pub. L. 96–372, §5, Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96–399, title I, §114, Oct. 8, 1980, 94 Stat. 1622; Pub. L. 97–35, title III, §311, Aug. 13, 1981, 95 Stat. 397; Pub. L. 98–109, §3, Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title I, §124], Nov. 30, 1983, 97 Stat. 1174; Pub. L. 99–120, §2, Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §2, Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §2, Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §2, Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3008, Apr. 7, 1986, 100 Stat. 105; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §518, Feb. 5, 1988, 101 Stat. 1937, authorized Secretary to make loans to owners and tenants of property to finance rehabilitation of such property.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(2), (b)(1) of this title.

§1452c. Nullification of right of redemption of single family mortgagors under

rehabilitation loan program

(a) In general

Whenever with respect to a single family mortgage securing a loan under section 1452b [1] of this title, the Secretary of Housing and Urban Development or its foreclosure agent forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to any interests senior to the interests of the Secretary. With respect to properties that are vacant and abandoned, notwithstanding any State law to the contrary, there shall be no right of redemption (including all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with such single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(b) Foreclosure by others

Whenever with respect to a single family mortgage on a property that also has a single family mortgage securing a loan under section 1452b [1] of this title, a mortgagee forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the Secretary of Housing and Urban Development, if the Secretary is purchaser at the foreclosure sale, shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the mortgagee. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) if the mortgagor or any other person subsequent to the foreclosure sale to the Secretary in connection with a property that secured a single family mortgage for a loan under section 1452b [1] of this title. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the Secretary, who is the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(c) Verification of title

The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(1) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(2) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in paragraph (1) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(d) Definitions

For purposes of this section:

(1) The term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(2) The term "single family mortgage" means a mortgage that covers property that includes a 1- to 4-family residence.

(Pub. L. 101–235, title VII, §701, Dec. 15, 1989, 103 Stat. 2055.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1452b of this title, referred to in subsecs. (a) and (b), was repealed by Pub. L. 101–625, title II, §289(b)(1), Nov. 28, 1990, 104 Stat. 4128.

CODIFICATION

Section was enacted as part of the Department of Housing and Urban Development Reform Act of 1989, and not as part of the Housing Act of 1949 which comprises this chapter.

[1] *See References in Text note below.*

§1453. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts July 15, 1949, ch. 338, title I, §103, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, §305, 68 Stat. 625; Aug. 11, 1955, ch. 783, title I, §106(a), 69 Stat. 637; July 12, 1957, Pub. L. 85–104, title III, §§301, 302(1), 71 Stat. 299; Sept. 23, 1959, Pub. L. 86–372, title IV, §§405, 417(1), 73 Stat. 672, 676; June 30, 1961, Pub. L. 87–70, title III, §§301(a), 303, 75 Stat. 165, 166; Sept. 2, 1964, Pub. L. 88–560, title III, §304, 78 Stat. 785; Aug. 10, 1965, Pub. L. 89–117, title III, §§304, 313(a), 79 Stat. 475, 479; Nov. 3, 1966, Pub. L. 89–754, title I, §113, title VII, §704, 80 Stat. 1260, 1281; May 25, 1967, Pub. L. 90–19, §6(b), (d), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §§502, 506, 82 Stat. 521, 522; Dec. 24, 1969, Pub. L. 91–152, title II, §201, 83 Stat. 385; Dec. 31, 1970, Pub. L. 91–609, title II, §201, title VII, §741(a), 84 Stat. 1776, 1805; Oct. 18, 1972, Pub. L. 92–503, §4, 86 Stat. 906; Oct. 2, 1973, Pub. L. 93–117, §5, 87 Stat. 422; Aug. 22, 1974, Pub. L. 93–383, title I, §116(c), 88 Stat. 652, which related to grants for urban renewal projects, was omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

§1453a. Administrative priority for applications relating to activities in areas affected by base closings

The Secretary of Housing and Urban Development, in processing applications for assistance under section 103 of the Housing Act of 1949 [42 U.S.C. 1453], section 111 of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3311], section 708(a)(1) and (2) of the Housing and Urban Development Act of 1965 [42 U.S.C. 3108(a)(1), (2)] (for grants authorized under sections 702 and 703 of such Act) [42 U.S.C. 3102, 3103], section 312 of the Housing Act of 1964 [42 U.S.C. 1452b], section 701(b) of the Housing Act of 1954,[1] and section 708 of the Housing Act of 1961 [42 U.S.C. 1500d], shall give a priority to any State or unit of local government or agency thereof which is severely and adversely affected by a reduction in the level of expenditure or employment at any Department of Defense installation located in or near such State or unit of local government.

(Pub. L. 93–117, §14, Oct. 2, 1973, 87 Stat. 423.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 103 of the Housing Act of 1949 [42 U.S.C. 1453], section 111 of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3311], sections 702 and 703 of the Housing and Urban

Development Act of 1965 [42 U.S.C. 3102, 3103], and section 708 of the Housing Act of 1961 [42 U.S.C. 1500d], referred to in text, were omitted from the Code pursuant to section 5316 of this title which terminated the authority to make grants or loans under those sections after Jan. 1, 1975.

Section 701 of the Housing Act of 1954, referred to in text, is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

CODIFICATION

Section was not enacted as part of title I of the Housing Act of 1949 which comprises this subchapter.

[1] *See References in Text note below.*

§§1454, 1455. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1454, acts July 15, 1949, ch. 338, title I, §104, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, §306, 68 Stat. 625; Aug. 7, 1956, ch. 1029, title III, §306, 70 Stat. 1101; July 12, 1957, Pub. L. 85–104, title III, §302(2), 71 Stat. 300; June 30, 1961, Pub. L. 87–70, title III, §301(b), 75 Stat. 166, which related to requirements for local grants-in-aid, was omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

Section 1455, acts July 15, 1949, ch. 338, title I, §105, 63 Stat. 416; Aug. 2, 1954, ch. 649, title III, §307, 68 Stat. 625; Aug. 7, 1956, ch. 1029, title III, §302(a)(1), 70 Stat. 1097; Sept. 23, 1959, Pub. L. 86–372, title IV, §§406, 407, 73 Stat. 673; June 30, 1961, Pub. L. 87–70, title III, §315, 75 Stat. 172; Sept. 2, 1964, Pub. L. 88–560, title III, §305(a)(1), (b), 78 Stat. 786; Aug. 10, 1965, Pub. L. 89–117, title III, §305(a), 79 Stat. 475; Nov. 3, 1966, Pub. L. 89–754, title VII, §§703(a), 706, 80 Stat. 1281; May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §512, 82 Stat. 524; Dec. 24, 1969, Pub. L. 91–152, title II, §§209, 210, 83 Stat. 388; Oct. 17, 1984, Pub. L. 98–479, title II, §204(c)(1), 98 Stat. 2233, which related to requirements for loan or capital grant contracts, was omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

§1455a. Repealed. Pub. L. 93–383, title II, §204, Aug. 22, 1974, 88 Stat. 668

Section, act Aug. 2, 1954, ch. 649, title VIII, §815, 68 Stat. 647, required submission of specifications by applicants prior to award of any contract for construction of a project and submission of data with respect to acquisition of land prior to authorization to purchase such land.

§§1456 to 1460. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

Section 1456, acts July 15, 1949, ch. 338, title I, §106, 63 Stat. 417; June 3, 1952, ch. 362, 66 Stat. 98; June 30, 1953, ch. 170, §22, 67 Stat. 127; Aug. 2, 1954, ch. 649, title III, §308, title VIII, §802(e), 68 Stat. 625, 643; Aug. 11, 1955, ch. 783, title I, §106(b), 69 Stat. 637; Aug. 7, 1956, ch. 1029, title III, §§304, 305, 70 Stat. 1100; July 12, 1957, Pub. L. 85–104, title III, §§303, 304, 71 Stat. 300; Sept. 23, 1959, Pub. L. 86–372, title IV, §§408, 409(a)(1), (b), 410, 417(1), 73 Stat. 673, 674, 676; June 30, 1961, Pub. L. 87–70, title III, §304, 75 Stat. 167; Sept. 2, 1964, Pub. L. 88–560, title III, §310(c), 78 Stat. 790; Aug. 10, 1965, Pub. L. 89–117, title III, §306, 79 Stat. 476; Nov. 3, 1966, Pub. L. 89–754, title X, §1020(a), 80 Stat. 1295; May 25,

1967, Pub. L. 90–19, §6(b), (e), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §508(a), 82 Stat. 522; Dec. 31, 1970, Pub. L. 91–609, title II, §213(a), 84 Stat. 1779; Nov. 30, 1983, Pub. L. 98–181, title I [title I, §126(b)(1)], 97 Stat. 1175; Oct. 17, 1984, Pub. L. 98–479, title II, §203(d)(2), 98 Stat. 2229, related to duties of Secretary of Housing and Urban Development under this subchapter.

Section 1457, acts July 15, 1949, ch. 338, title I, §107, 63 Stat. 419; Aug. 2, 1954, ch. 649, title III, §309, 68 Stat. 626; Sept. 23, 1959, Pub. L. 86–372, title IV, §411, 73 Stat. 674; June 30, 1961, Pub. L. 87–70, title III, §306(a), 75 Stat. 168; Sept. 2, 1964, Pub. L. 88–560, title III, §306, 78 Stat. 786; May 25, 1967, Pub. L. 90–19, §6(b), (f), 81 Stat. 21, 22; Aug. 1, 1968, Pub. L. 90–448, title V, §505, 82 Stat. 522, related to property to be used for public housing or housing for low or moderate income families or individuals.

Section 1458, acts July 15, 1949, ch. 338, title I, §108, 63 Stat. 419; May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Dec. 31, 1970, Pub. L. 91–609, title II, §206, 84 Stat. 1777, related to disposition of surplus Federal real property, sale at fair market value, and disposition of net proceeds thereof.

Section 1459, acts July 15, 1949, ch. 338, title I, §109, 63 Stat. 419; Aug. 2, 1954, ch. 649, title III, §310, 68 Stat. 626; May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21, related to protection of labor standards.

Section 1460, acts July 15, 1949, ch. 338, title I, §110, 63 Stat. 420; June 30, 1953, ch. 170, §24(a), 67 Stat. 127; Aug. 2, 1954, ch. 649, title III, §311, 68 Stat. 626; Aug. 11, 1955, ch. 783, title I, §166(c), 69 Stat. 637; Aug. 7, 1956, ch. 1029, title III, 302(a)(2), (b)–(d), 70 Stat. 1097; July 12, 1957, Pub. L. 85–104, title III, §§302(3)–(5), 305, 306, 71 Stat. 300, 301; Sept. 23, 1959, Pub. L. 86–372, title IV, §§412–414(a), 415, 416, 417(3), 73 Stat. 675, 677; June 30, 1961, Pub. L. 87–70, title III, §§301(c), 306(b), 307, 308, 314(c), 75 Stat. 166, 168, 172; Sept. 2, 1964, Pub. L. 88–560, title III, §§301(b), (c), 303(b), 307–309, 311(a), 78 Stat. 785, 787, 788, 790; Aug. 10, 1965, Pub. L. 89–117, title III, §§307–309, 310(a), 311(b), 314(a), 79 Stat. 476–479; Nov. 3, 1966, Pub. L. 89–754, title VI, §§601, 602, title VII, §§701, 702, 80 Stat. 1278, 1280, 1281; May 25, 1967, Pub. L. 90–19, §6(b), (g), 81 Stat. 21, 22; Aug. 1, 1968, Pub. L. 90–448, title V, §§504, 508(b), 511, title XVII, §1722(a)–(c), 82 Stat. 521, 523, 524, 610; Dec. 24, 1969, Pub. L. 91–152, title II, §§202(a), 203(a), 204, 206, 83 Stat. 385–387; Dec. 31, 1970, Pub. L. 91–609, title II, §213(b), title VII, §741(c), title VIII, §801(b), 84 Stat. 1779, 1805, defined terms as used in this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF HOUSING AND BUILDING CODES, ZONING, TAX POLICIES, AND DEVELOPMENT STANDARDS

Pub. L. 89–117, title III, §301, Aug. 10, 1965, 79 Stat. 474, as amended by Pub. L. 90–19, §22(a), (d), May 25, 1967, 81 Stat. 26, 27; Pub. L. 90–118, Oct. 31, 1967, 81 Stat. 338, which provided for study of housing and building codes, zoning, tax policies, and development standards, was repealed effective July 1, 1971, by Pub. L. 91–609, title V, §503(5), Dec. 31, 1970, 84 Stat. 1786.

AMENDMENT OF CONTRACTS

Pub. L. 89–117, title III, §310(b), Aug. 10, 1965, 79 Stat. 477, provided that any contract for a capital grant under this subchapter, executed prior to Aug. 10, 1965, could be amended to incorporate amendment to section 1460(e) of this title by section 310(a) of Pub. L. 89–117 as to costs incurred on or after Aug. 10, 1965.

Pub. L. 89–117, title III, §314(b), Aug. 10, 1965, 79 Stat. 480, provided that any contract under this subchapter executed prior to Aug. 10, 1965, would, at request of municipality involved, be amended to reflect amendment to section 1460(d) of this title by section 314(a) of Pub. L. 89–117.

Pub. L. 88–560, title III, §311(b), Sept. 2, 1964, 78 Stat. 790, provided that any contract under this subchapter executed prior to Sept. 2, 1964, could be amended to provide for payment of increased amounts authorized by section 311(a) of Pub. L. 88–560, which amended section 1460(e) of this title, with respect to any uncompleted project, including acquisitions involving expenditures by local public agencies that could not otherwise be included in costs of such project.

RELOCATION PAYMENTS FOR EXPENSES OR LOSSES INCURRED PRIOR TO SEPTEMBER 23, 1959

Pub. L. 86–372, title IV, §409(a)(2), Sept. 23, 1959, 73 Stat. 674, prohibited relocation payments under section 1456(f) of this title for expenses or losses incurred prior to Sept. 23, 1959, except to the extent that such payments were authorized by such section as it existed prior to such date.

WAIVER OF REQUIREMENTS OF SECTION 1460(D) FOR CERTAIN ASSISTANCE PROVIDED DURING THE PERIOD FROM JULY 1, 1957, THROUGH DECEMBER 31, 1957

Pub. L. 86–372, title IV, §414(b), Sept. 23, 1959, 73 Stat. 675, provided that the requirement of section

1460(d) of this title that the assistance provided by a State, municipality, or other public body under that subsection, in order to qualify as a local grant-in-aid, had to be in connection with a project on which a contract for capital grant had been made under this subchapter, did not apply to assistance provided from July 1, 1957, through Dec. 31, 1957, in connection with urban renewal activities which were extended Federal recognition within 60 days after the provision of such assistance was initiated.

§1461. Repealed. Aug. 2, 1954, ch. 649, title III, §313, 68 Stat. 629

Section, acts July 31, 1953, ch. 302, title I, §101, 67 Stat. 305; June 24, 1954, ch. 359, title I, §101, 68 Stat. 283, related to conditions precedent to approval of local slum clearance programs.

§§1462 to 1464. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

Section 1462, act July 15, 1949, ch. 338, title I, §111, as added Aug. 7, 1956, ch. 1029, title III, §307(a), 70 Stat. 1101; amended May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title XI, §1106(c), 82 Stat. 567, related to disaster areas, urban renewal assistance, and nonapplicability of certain requirements under this subchapter.

Section 1463, act July 15, 1949, ch. 338, title I, §112, as added Sept. 23, 1959, Pub. L. 86–372, title IV, §418, 73 Stat. 677; amended June 30, 1961, Pub. L. 87–70, title III, §309, 75 Stat. 169; Nov. 3, 1966, Pub. L. 89–754, title VII, §705, 80 Stat. 1281; May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Dec. 24, 1969, Pub. L. 91–152, title II, §203(b), 83 Stat. 386, related to financial assistance for urban renewal projects in areas involving colleges, universities, or hospitals.

Section 1464, act July 15, 1949, ch. 338, title I, §113, as added May 1, 1961, Pub. L. 87–27, §14, 75 Stat. 57; amended May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21, related to redevelopment areas.

§1465. Repealed. Pub. L. 91–646, title II, §220(a)(5), Jan. 2, 1971, 84 Stat. 1903

Section, act July 15, 1949, ch. 338, title I, §114, as added Sept. 2, 1964, Pub. L. 88–560, title III, §310(a), 78 Stat. 788; amended Aug. 10, 1965, Pub. L. 89–117, title I, §101(i), title IV, §404(b), (c)(1), 79 Stat. 453, 486; May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §516, 82 Stat. 526; Dec. 31, 1970, Pub. L. 91–609, title II, §212, 84 Stat. 1779, related to relocation assistance, providing as follows: subsec. (a), financial assistance to displaced individuals, families, businesses, and nonprofit organizations; subsec. (b), payments to business concerns or nonprofit organizations, considerations, and maximum amounts; subsec. (c), payments to individuals and families, considerations, computation of amount, maximum amounts, and restrictions; subsec. (d), payments to individuals, families, business concerns, and nonprofit organizations for recording fees, transfer taxes, incidental expenses, penalty costs, and pro rata taxes; and subsec. (e), rules and regulations, finality of administrative decisions, and promptness of payments. See chapter 61 (section 4601 et seq.) of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as an Effective Date note under section 4601 of this title.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91–646 as not

affected by such repeal, see section 220(b) of Pub. L. 91–646, set out as a note under section 4621 of this title.

§1466. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 15, 1949, ch. 338, title I, §115, as added Aug. 10, 1965, Pub. L. 89–117, title I, §106(a), 79 Stat. 457; amended May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §503, 82 Stat. 521; Dec. 24, 1969, Pub. L. 91–152, title II, §205, 83 Stat. 387, which related to rehabilitation grants, was omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMENDMENT OF CONTRACTS EXECUTED PRIOR TO ENACTMENT OF SECTION

Pub. L. 89–117, title I, §106(b), Aug. 10, 1965, 79 Stat. 458, provided that any contract with a local public agency executed under this subchapter before Aug. 10, 1965, could be amended to provide for grants authorized by this section.

§§1467 to 1468a. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title which terminated authority to make grants or loans under this subchapter after Jan. 1, 1975.

Section 1467, act July 15, 1949, ch. 388, title I, §116, as added Aug. 10, 1965, Pub. L. 89–117, title III, §311(a), 79 Stat. 477; amended May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §510, 82 Stat. 524; Dec. 24, 1969, Pub. L. 91–152, title II, §202(b), 83 Stat. 386, related to grants to cities, other municipalities, counties, and Indian tribes, etc., for demolition of unsafe structures.

Section 1468, act July 15, 1949, ch. 338, title I, §117, as added Aug. 10, 1965, Pub. L. 89–117, title III, §311(a), 79 Stat. 478; amended May 25, 1967, Pub. L. 90–19, §6(b), 81 Stat. 21; Aug. 1, 1968, Pub. L. 90–448, title V, §515, 82 Stat. 525; Dec. 24, 1969, Pub. L. 91–152, title II, §202(c), 83 Stat. 386, related to grants to cities, other municipalities, counties, and Indian tribes, etc., for code enforcement.

Section 1468a, act July 15, 1949, ch. 338, title I, §118, as added Aug. 1, 1968, Pub. L. 90–448, title V, §514, 82 Stat. 525; amended Dec. 24, 1969, Pub. L. 91–152, title II, §202(d), 83 Stat. 386, related to interim assistance for blighted areas, grants to cities, other municipalities, counties, and Indian tribes, etc., and encouragement of employment of unemployed and underemployed residents.

PART B—NEIGHBORHOOD DEVELOPMENT PROGRAMS

§§1469 to 1469c. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title which terminated authority to make grants or

loans under this subchapter after Jan. 1, 1975.

Section 1469, act July 15, 1949, ch. 338, title I, §131, as added Aug. 1, 1968, Pub. L. 90–448, title V, §501(b), 82 Stat. 518, set forth the declaration of this part.

Section 1469a, act July 15, 1949, ch. 338, title I, §132, as added Aug. 1, 1968, Pub. L. 90–448, title V, §501(b), 82 Stat. 519, related to financing of undertakings and activities and the payment of excess of sale price and imputed capital value of land or other property leased or retained over the gross project cost.

Section 1469b, acts July 15, 1949, ch. 338, title I, §133, as added Aug. 1, 1968, Pub. L. 90–448, title V, §501(b), 82 Stat. 519; amended Dec. 24, 1969, Pub. L. 91–152, title II, §203(c), 83 Stat. 386, related to local grants-in-aid.

Section 1469c, act July 15, 1949, ch. 338, title I, §134, as added Aug. 1, 1968, Pub. L. 90–448, title V, §501(b), 82 Stat. 520, contained general provisions relating to workable program requirements, transient housing, removal of buildings, financial assistance for subsequent annual increments, and modification of urban renewal plans.

STATUTORY NOTES AND RELATED SUBSIDIARIES

NEIGHBORHOOD DEVELOPMENT PROGRAMS BY DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Pub. L. 90–448, title V, §501(c), Aug. 1, 1968, 82 Stat. 520, provided that notwithstanding any requirement or condition to the contrary in section 6 or 20(i) of the District of Columbia Redevelopment Act of 1945 (act Aug. 2, 1946, ch. 736, 60 Stat. 790, as amended), or any other law, the District of Columbia Redevelopment Land Agency was authorized to plan and undertake neighborhood development programs under this part, which programs would be regarded as complying with sections 6 and 20(i) of that Act and any other provision of law, if those programs were in compliance with this part.

SUBCHAPTER III—FARM HOUSING

§1471. Financial assistance by Secretary of Agriculture

(a) Authorization and purposes of assistance

The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized, subject to the terms and conditions of this subchapter, to extend financial assistance, through the Farmers Home Administration, (1) to owners of farms in the United States and in the Territories of Alaska and Hawaii and in the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, to enable them to construct, improve, alter, repair, or replace dwellings and other farm buildings on their farms, and to purchase buildings and land constituting a minimum adequate site, in order to provide them, their tenants, lessees, sharecroppers, and laborers with decent, safe, and sanitary living conditions and adequate farm buildings as specified in this subchapter, and (2) to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings and to rural residents, including persons who reside in reservations or villages of Indian tribes, for such purposes and for the purchase of buildings and the purchase of land constituting a minimum adequate site, in order to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations, and (3) to elderly or handicapped persons or families who are or will be the owners of land in rural areas for the construction, improvement, alteration, or repair of dwellings and related facilities, the purchase of dwellings and related facilities and the purchase of land constituting a minimum adequate site, in order to provide them with adequate dwellings and related facilities for their own use, and (4) to an owner described in clause (1), (2), or (3) for refinancing indebtedness which—

(A) was incurred for an eligible purpose described in such clause, and

(B)(i) if not refinanced, is likely to result (because of circumstances beyond the control of the applicant) at an early date in the loss of the applicant's necessary dwelling or essential farm service

buildings, or

(ii) if combined (in the case of a dwelling that the Secretary finds not to be decent, safe, and sanitary) with a loan for improvement, rehabilitation, or repairs and not refinanced, is likely to result in the applicant's continuing to be deprived of a decent, safe, and sanitary dwelling.

(5) [1] DEFINITIONS.—For purposes of this subchapter, the terms "repair", "repairs", "rehabilitate", and "rehabilitation" include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 4851b of this title.

(b) Definitions

(1) For the purpose of this subchapter, the term "farm" shall mean a parcel or parcels of land operated as a single unit which is used for the production of one or more agricultural commodities and which customarily produces or is capable of producing such commodities for sale and for home use of a gross annual value of not less than the equivalent of a gross annual value of $400 in 1944, as determined by the Secretary. The Secretary shall promptly determine whether any parcel or parcels of land constitute a farm for the purposes of this subchapter whenever requested to do so by any interested Federal, State, or local public agency, and his determination shall be conclusive.

(2) For the purposes of this subchapter, the terms "owner" and "mortgage" shall be deemed to include, respectively, the lessee of, and other security interest in, any leasehold interest which the Secretary determines has an unexpired term (A) in the case of a loan, for a period sufficiently beyond the repayment period of the loan to provide adequate security and a reasonable probability of accomplishing the objectives for which the loan is made, and (B) in the case of a grant for a period sufficient to accomplish the objectives for which the grant is made.

(3) For the purposes of this subchapter, the term "elderly or handicapped persons or families" means families which consist of two or more persons, the head of which (or his or her spouse) is at least sixty-two years of age or is handicapped. Such term also means a single person who is at least sixty-two years of age or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions, or if such person has a developmental disability as defined in section 15002 of this title. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, eligibility of families and persons for admission to and occupancy of housing constructed with assistance under this subchapter. Notwithstanding the preceding provisions of this paragraph, such term also includes two or more elderly (sixty-two years of age or over) or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to the care or well-being of such persons, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this subchapter, with the deceased member of the family at the time of his or her death.

(4) For the purpose of this subchapter, the terms "low income families or persons" and "very low-income families or persons" means those families and persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]. Notwithstanding the preceding sentence, the maximum income levels established for purposes of this subchapter for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this subchapter for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size.

(5)(A) For the purpose of this subchapter, the terms "income" and "adjusted income" have the meanings given by sections 3(b)(4) and 3(b)(5), respectively, of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(4), (5)].

(B) For purposes of this subchapter, the term "income" does not include dividends received from the Alaska Permanent Fund by a person who was under the age of 18 years when that person qualified for the dividend.

(6) For the purposes of this subchapter, the term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) [25 U.S.C. 5301 et seq.] or was considered an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter.

(7) For the purposes of this subchapter, the term "rural resident" shall include a family or a person who is a renter of a dwelling unit in a rural area.

(8) For the purposes of this subchapter, the term "adequate dwelling" means a decent, safe, and sanitary dwelling unit.

(c) Conditions of eligibility

In order to be eligible for the assistance authorized by subsection (a), the applicant must show (1) that he is the owner of a farm which is without a decent, safe, and sanitary dwelling for himself and his family and necessary resident farm labor, or for the family of the operating tenant, lessee, or sharecropper, or without other farm buildings adequate for the type of farming in which he engages or desires to engage, or that he is the owner of other real estate in a rural area or a rural resident without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations, or that the applicant is an elderly or handicapped person or family in a rural area without an adequate dwelling or related facility for its own use, or that he is the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in clause (4) of subsection (a); (2) that he is without sufficient resources to provide the necessary housing and buildings on his own account; and (3) that he is unable to secure the credit necessary for such housing and buildings from other sources upon terms and conditions which he could reasonably be expected to fulfill. If an applicant is a State or local public agency or Indian tribe—

(A) the provisions of clause (3) shall not apply to its application; and

(B) the applicant shall be eligible to participate in any program under this subchapter if the persons or families to be served by the applicant with the assistance being sought would be eligible to participate in such program.

(d) Additional definitions

As used in this subchapter (except in sections 1473 and 1474(b) of this title) the terms "farm", "farm dwelling", and "farm housing" shall include dwellings or other essential buildings of eligible applicants.

(e) Prepayment of taxes, insurance, and other expenses; advances to account of borrower: interest, time for repayment

The Secretary shall establish procedures under which borrowers under this subchapter are required to make periodic payments for the purpose of taxes, insurance, and other necessary expenses as the Secretary may deem appropriate. Notwithstanding any other provision of law, such payments shall not be considered public funds. The Secretary shall direct the disbursement of the funds at the appropriate time or times for the purposes for which the funds were escrowed. The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds, subject to appropriations to the extent that additional budget authority is necessary to carry out this sentence. If the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay the costs in full, which advances shall be charged to the account of the borrower, bear interest, and be payable in a timely fashion as determined by the Secretary. The Secretary shall notify a borrower in writing when loan payments are delinquent.

(f) Increase in loan limits

With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this subchapter for the purchase of a dwelling unit, the Secretary may increase such

amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of title 12) therein.

(g) Avoidance of involuntary displacement of families and businesses

The programs authorized by this subchapter shall be carried out, consistent with program goals and objectives, so that the involuntary displacement of families and businesses is avoided.

(h) Eligibility of resident aliens

The Secretary may not restrict the availability of assistance under this subchapter for any alien for whom assistance may not be restricted under section 1436a of this title.

(i) Loan packaging by nonprofit organizations as a "development cost"

For the purposes of this subchapter, the term "development cost" shall include the packaging of loan and grant applications and actions related thereto by public and private nonprofit organizations tax exempt under title 26.

(j) Program transfers

Notwithstanding any other provision of law, the Secretary shall not transfer any program authorized by this subchapter to the Rural Development Administration.

(July 15, 1949, ch. 338, title V, §501, 63 Stat. 432; Pub. L. 87–70, title VIII, §§801(a), 803, June 30, 1961, 75 Stat. 186; Pub. L. 87–723, §4(a)(1), Sept. 28, 1962, 76 Stat. 670; Pub. L. 89–117, title X, §1001, Aug. 10, 1965, 79 Stat. 497; Pub. L. 89–754, title VIII, §§801, 807, Nov. 3, 1966, 80 Stat. 1282; Pub. L. 91–609, title VIII, §802, Dec. 31, 1970, 84 Stat. 1806; Pub. L. 93–383, title V, §§501–503, 505(a), 520, Aug. 22, 1974, 88 Stat. 692, 693, 699; Pub. L. 95–128, title V, §§503, 507(a)(1), (2), (b), Oct. 12, 1977, 91 Stat. 1139–1141; Pub. L. 95–619, title II, §248(c), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96–153, title V, §§502(b), 506, Dec. 21, 1979, 93 Stat. 1134, 1136; Pub. L. 96–399, title V, §§506, 507(a), (h), 512, Oct. 8, 1980, 94 Stat. 1669–1671; Pub. L. 98–181, title I [title V, §502], Nov. 30, 1983, 97 Stat. 1240; Pub. L. 98–479, title I, §105(a), title II, §203(d)(3), Oct. 17, 1984, 98 Stat. 2226, 2229; Pub. L. 99–272, title XIV, §14001(b)(3), Apr. 7, 1986, 100 Stat. 328; Pub. L. 100–242, title III, §§302(a), (b)(1), 303, 315, 316(a), Feb. 5, 1988, 101 Stat. 1893, 1894, 1897; Pub. L. 101–625, title VII, §§702, 703, Nov. 28, 1990, 104 Stat. 4282, 4283; Pub. L. 102–550, title VII, §714, title X, §1012(m), Oct. 28, 1992, 106 Stat. 3842, 3907; Pub. L. 104–193, title IV, §441(b), Aug. 22, 1996, 110 Stat. 2276; Pub. L. 106–402, title IV, §401(b)(8), Oct. 30, 2000, 114 Stat. 1738; Pub. L. 107–76, title VII, §752, Nov. 28, 2001, 115 Stat. 740; Pub. L. 108–199, div. A, title VII, §768, Jan. 23, 2004, 118 Stat. 40.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(4), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (b)(6), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

Chapter 67 of title 31, referred to in subsec. (b)(6), was repealed by Pub. L. 99–272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327, effective Oct. 18, 1986.

AMENDMENTS

2004—Subsec. (b)(5)(B). Pub. L. 108–199 struck out "for fiscal years 2002 and 2003," after "this subchapter,".

2001—Subsec. (b)(5). Pub. L. 107–76 designated existing provisions as subpar. (A) and added subpar. (B).

2000—Subsec. (b)(3). Pub. L. 106–402 substituted "developmental disability as defined in section 15002 of

this title" for "developmental disability as defined in section 6001(7) of this title".

1996—Subsec. (h). Pub. L. 104–193 struck out par. (1) designation, struck out "by the Secretary of Housing and Urban Development" before "under section 1436a of this title", and struck out par. (2) which read as follows: "In carrying out any restriction established by the Secretary on the availability of assistance under this subchapter for any alien, the Secretary shall follow procedures comparable to the procedures established in section 1436a of this title."

1992—Subsec. (a). Pub. L. 102–550, §1012(m), added par. (5).

Subsec. (j). Pub. L. 102–550, §714, added subsec. (j).

1990—Subsec. (b)(4). Pub. L. 101–625, §702, inserted at end "The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size."

Subsec. (e). Pub. L. 101–625, §703, inserted after third sentence "The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds, subject to appropriations to the extent that additional budget authority is necessary to carry out this sentence."

1988—Subsec. (b)(3). Pub. L. 100–242, §316(a), substituted "has a developmental disability as defined in section 6001(7) of this title" for "is a developmentally disabled individual as defined in section 6001(7) of this title".

Subsec. (b)(4). Pub. L. 100–242, §302(b)(1), inserted provisions at end relating to maximum income levels established for families and persons in the Virgin Islands to be not less than the highest such levels established for families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Subsec. (e). Pub. L. 100–242, §303, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Secretary may establish procedures whereby borrowers under this subchapter may make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary may deem appropriate. Such payments shall be disbursed by the Secretary at the appropriate time or times for the purposes for which such payments are made, and after October 1, 1977, if the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay these costs in full, which advances shall be charged to the account of the borrower and bear interest and be payable in a timely fashion not to exceed two years, as determined by the Secretary. The Secretary shall notify a borrower in writing when his loan payments are delinquent."

Subsec. (h). Pub. L. 100–242, §302(a), added subsec. (h).

Subsec. (i). Pub. L. 100–242, §315, added subsec. (i).

1986—Subsec. (b)(6). Pub. L. 99–272 substituted "or was considered an eligible recipient under chapter 67 of title 31 prior to the repeal of such chapter" for "or under chapter 67 of title 31".

1984—Subsec. (b)(4). Pub. L. 98–479, §105(a), struck out "by the Secretary of Housing and Urban Development" before "under the United States Housing Act of 1937."

Subsec. (b)(6). Pub. L. 98–479, §203(d)(3), substituted "chapter 67 of title 31" for "the State and Local Fiscal Assistance Act of 1972 (Public Law 92–512)".

1983—Subsec. (b)(4). Pub. L. 98–181, §502(a), amended par. (4) generally, substituting definition of low and very low-income families or persons as those whose incomes do not exceed levels established by the Secretary under the United States Housing Act of 1937 for definition of persons of low income as those whose incomes do not exceed 80 per centum of the area median income, except when it is impracticable to use such median income or variations are necessary because of other factors.

Subsec. (b)(5). Pub. L. 98–181, §502(b), amended par. (5) generally, substituting definition of income and adjusted income as having the meanings given by sections 3(b)(4) and 3(b)(5) of the United States Housing Act of 1937 for definition of income as income from all sources of each household member, as determined in accordance with criteria prescribed by the Secretary.

1980—Subsec. (a)(2). Pub. L. 96–399, §507(a), inserted reference to persons residing in reservations or villages of Indian tribes.

Subsec. (b)(6) to (8). Pub. L. 96–399, §506, added pars. (6) to (8).

Subsec. (c). Pub. L. 96–399, §507(h), inserted "or Indian tribe" after "local public agency" in second sentence.

Subsec. (g). Pub. L. 96–399, §512, added subsec. (g).

1979—Subsec. (a)(4). Pub. L. 96–153, §506, redesignated former subpar. (B) as (B)(i) and (ii), and in subpar. (B)(i) as so redesignated, inserted reference to circumstances beyond the applicant's control, and in

subpar. (B)(ii) as so redesignated, substituted reference to deprivation of decent, safe, and sanitary dwelling for reference to continuing hardship, and struck out subpar. (C) which authorized refinancing indebtedness provided the indebtedness was incurred at least 5 years prior to the application for assistance.

Subsec. (b)(4), (5). Pub. L. 96–153, §502(b), added pars. (4) and (5).

1978—Subsec. (f). Pub. L. 95–619 added subsec. (f).

1977—Subsec. (a)(3). Pub. L. 95–128, §507(a)(1), substituted "elderly or handicapped persons or families" for "elderly persons".

Subsec. (b)(3). Pub. L. 95–128, §507(b), substituted definition of "elderly or handicapped persons or families" for prior definition of "elderly persons" as persons who are 62 years of age or over.

Subsec. (c)(1). Pub. L. 95–128, §507(a)(2), substituted "the applicant is an elderly or handicapped person or family in a rural area without an adequate dwelling or related facility for its own use" for "he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use".

Subsec. (e). Pub. L. 95–128, §503, substituted as a second sentence "Such payments shall be disbursed by the Secretary at the appropriate time or times for the purposes for which such payments are made, and after October 1, 1977, if the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay these costs in full, which advances shall be charged to the account of the borrower and bear interest and be payable in a timely fashion not to exceed two years, as determined by the Secretary" for "Such payments shall be held in escrow by the Secretary and paid out by him at the appropriate time or times for the purposes for which such payments are made".

1974—Subsec. (a)(1). Pub. L. 93–383, §501, inserted references to the territories and possessions of the United States and the Trust Territory of the Pacific Islands.

Subsec. (a)(4)(B). Pub. L. 93–383, §502(1), inserted provisions relating to combining of indebtedness with a loan for improvement, rehabilitation, or repairs.

Subsec. (a)(4)(C). Pub. L. 93–383, §502(2), substituted provisions relating to incursion of indebtedness by the applicant at least five years prior to his applying under this clause for provisions relating to indebtedness not held or insured by the United States or any agency.

Subsec. (a)(4)(D). Pub. L. 93–383, §502(2), struck out subpar. (D) which related to indebtedness incurred prior to enactment of clause.

Subsec. (b)(2). Pub. L. 93–383, §503, substituted "this subchapter" for "sections 1472 and 1474 of this title".

Subsec. (c). Pub. L. 93–383, §520, inserted provisions relating to applications of a State or local public agency.

Subsec. (e). Pub. L. 93–383, §505(a), added subsec. (e).

1970—Subsec. (b)(2). Pub. L. 91–609 substituted "sections 1472 and 1473 of this title, the terms 'owner' and 'mortgage' shall be deemed to include, respectively, the lessee of" for "this subchapter, the terms 'owner', 'farm', and 'mortgage' shall be deemed to include, respectively, the lessee of, the land included in". The words ", the land included in" were improvidently omitted.

1966—Subsec. (a)(1) to (3). Pub. L. 89–754, §801, struck out "previously occupied" before "buildings and land" in cl. (1), "buildings and the purchase of land" in cl. (2), and "dwellings and related facilities" in cl. (3).

Subsec. (a)(4). Pub. L. 89–754, §807(a), added cl. (4).

Subsec. (c)(1). Pub. L. 89–754, §807(b), inserted as a condition of eligibility that the applicant be the owner of a farm or other real estate in a rural area who needs refinancing of indebtedness described in subsec. (a)(4) of this section.

1965—Subsec. (a). Pub. L. 89–117, §1001(a), authorized the extension of formal assistance to owners of farms to purchase previously occupied buildings and land constituting a minimum adequate site, to owners of other real estate in rural areas for the construction, improvement, alteration, or repair of dwellings, related facilities, and farm buildings, and to rural residents for such purposes and for the purchase of previously occupied buildings and the purchase of land constituting a minimum adequate site.

Subsec. (c). Pub. L. 89–117, §1001(b), inserted "or a rural resident" in cl. (1) after "or that he is the owner of other real estate in a rural area".

1962—Subsec. (a)(3). Pub. L. 87–723, §4(a)(1)(A), added cl. (3).

Subsec. (b)(3). Pub. L. 87–723, §4(a)(1)(B), added par. (3).

Subsec. (c)(1). Pub. L. 87–723, §4(a)(1)(C), inserted provisions requiring the applicant for assistance to show in the alternative that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use.

1961—Subsec. (a). Pub. L. 87–70, §803(a), authorized assistance to owners of other real estate in rural areas to enable them to provide dwellings and related facilities for their own use and buildings adequate for their farming operations.

Subsec. (b). Pub. L. 87–70, §801(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 87–70, §803(b), permitted the applicant to show that he is the owner of other real estate in a rural area without an adequate dwelling or related facilities for his own use or buildings adequate for his farming operations.

Subsec. (d). Pub. L. 87–70, §803(c), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title III, §302(b)(2), Feb. 5, 1988, 101 Stat. 1894, provided that: "The amendment made by paragraph (1) [amending this section] shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 [this subchapter] made on or after the date of the enactment of this Act [Feb. 5, 1988]."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99–272.

PERFORMANCE GOALS FOR FARMERS HOME ADMINISTRATION

Pub. L. 102–550, title IX, §925(b), Oct. 28, 1992, 106 Stat. 3885, provided that:

"(1) IN GENERAL.—The Secretary of Agriculture may establish performance goals for the major housing programs of the Farmers Home Administration in order to measure progress towards meeting the objectives of national housing policy.

"(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

"(3) REPORT.—The Secretary of Agriculture shall prepare a report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

"(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the report under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal."

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under section 925(b)(3) of Pub. L. 102–550, set out above, is listed in item 12 on page 47), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

[1] *So in original.*

§1472. Loans for housing and buildings on adequate farms

(a) Terms of loan

(1) If the Secretary determines that an applicant is eligible for assistance as provided in section 1471 of this title and that the applicant has the ability to repay in full the sum to be loaned, with interest, giving due consideration to the income and earning capacity of the applicant and his family from the farm and other sources, and the maintenance of a reasonable standard of living for the owner and the occupants of said farm, a loan may be made by the Secretary to said applicant for a period of not to exceed thirty-three years from the making of the loan with interest. The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability. At the borrower's option, the borrower may prepay to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 1471(e) of this title.

(2) The Secretary may extend the period of any loan made under this section if the Secretary determines that such extension is necessary to permit the making of such loan to any person whose income does not exceed 60 per centum of the median income for the area and who would otherwise be denied such loan because the payments required under a shorter period would exceed the financial capacity of such person. The aggregate period for which any loan may be extended under this paragraph may not exceed 5 years.

(3)(A) Notwithstanding any other provision of this subchapter, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

(B) For purposes of this paragraph, the term "community land trust" means a community housing development organization as such term is defined in section 12704 of this title (except that the requirements under section 12704(6)(C) of this title and section 12704(6)(D) of this title shall not apply for purposes of this paragraph)—

(i) that is not sponsored by a for-profit organization;

(ii) that is established to carry out the activities under clause (iii);

(iii) that—

(I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

(III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and

(iv) that has its corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization.

(b) Provisions of loan instrument

The instruments under which the loan is made and the security given shall—

(1) provide for security upon the applicant's equity in the farm or such other security or collateral, if any, as may be found necessary by the Secretary reasonably to assure repayment of the indebtedness;

(2) provide for the repayment of principal and interest in accordance with schedules and repayment plans prescribed by the Secretary, except that any prepayment of a loan made or insured under section 1484 or 1485 of this title shall be subject to the provisions of subsection (c);

(3) except for guaranteed loans, contain the agreement of the borrower that he will, at the request of the Secretary, proceed with diligence to refinance the balance of the indebtedness through cooperative or other responsible private credit sources whenever the Secretary determines, in the light of the borrower's circumstances, including his earning capacity and the income from the farm, that he is able to do so upon reasonable terms and conditions;

(4) be in such form and contain such covenants as the Secretary shall prescribe to secure the payment of the loan with interest, protect the security, and assure that the farm will be maintained in repair and that waste and exhaustion of the farm will be prevented.

(c) Prepayment and refinancing provisions

(1)(A) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 1484 or 1485 of this title pursuant to a contract entered into after December 21, 1979, but before December 15, 1989, unless the Secretary takes appropriate action which will obligate the borrower (and successors in interest thereof) to utilize the assisted housing and related facilities for the purposes specified in section 1484 or 1485 of this title, as the case may be, for a period of—

(i) fifteen years from the date on which the loan was made in the case of a loan made or insured pursuant to a contract entered into after December 21, 1979, but before December 15, 1989, and utilized for housing and related facilities which have not received assistance under section 1490a(a)(1)(B), (a)(2), or (5) of this title or section 1437f of this title; or

(ii) twenty years from the date on which the loan was made in the case of any other such loan;

or until the Secretary determines (prior to the end of such period) that there is no longer a need for such housing and related facilities to be so utilized or that Federal or other financial assistance provided to the residents of such housing will no longer be provided.

(B) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any initial loan made or insured under section 1485 of this title pursuant to a contract entered into on or after December 15, 1989.

(2) If any loan which was made or insured under section 1484 or 1485 of this title pursuant to a contract entered into prior to December 15, 1989, is prepaid or refinanced on or after October 8, 1980, and tenants of the housing and related facilities financed with such loan are displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of such prepayment or refinancing, the Secretary shall provide such tenants a priority for relocation in alternative housing assisted pursuant to this subchapter.

(3) NOTICE OF OFFER TO PREPAY.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 1484 or 1485 of this title, the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

(4)(A) AGREEMENT BY BORROWER TO EXTEND LOW INCOME USE.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 1484 or 1485 of this title pursuant to a contract entered into prior to December 15, 1989, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

(B) ASSISTANCE AVAILABLE TO BORROWER TO EXTEND LOW INCOME USE.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

(i) Increase in the rate of return on investment.

(ii) Reduction of the interest rate on the loan through the provision of interest credits under section 1490a(a)(1)(B) of this title, or additional assistance or an increase in assistance provided under section 1490a(a)(5) of this title.

(iii) Additional rental assistance, or an increase in assistance provided under existing contracts, under section 1490a(a)(2) or 1490a(a)(5) of this title or under section 1437f of this title.

(iv) An equity loan to the borrower under paragraphs (1) and (2) of section 1485(c) of this title or under paragraphs (1) and (2) of section 1484(j) [1] of this title, except that an equity loan referred to in this clause may not be made available after August 6, 1996, unless the Secretary determines that the other incentives available under this subparagraph are not adequate to provide a fair return

on the investment of the borrower, to prevent prepayment of the loan insured under section 1484 or 1485 of this title, or to prevent the displacement of tenants of the housing for which the loan was made.

(v) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 1490a(a)(2) of this title or under section 1437f of this title, or current tenants of projects not assisted under section 1490a(a)(5) of this title.

(vi) In the case of a project that has received rental assistance under section 1437f of this title, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.

(C) APPROVAL OF ASSISTANCE.—The Secretary may approve assistance under subparagraph (B) for assisted housing only if the restrictive period has expired for any loan for the housing made or insured under section 1484 or 1485 of this title pursuant to a contract entered into after December 21, 1979, but before December 15, 1989, and the Secretary determines that the combination of assistance provided—

(i) is necessary to provide a fair return on the investment of the borrower; and

(ii) is the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection.

(5)(A) OFFER TO SELL TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

(i) IN GENERAL.—If the Secretary determines after a reasonable period that an agreement will not be entered into with a borrower under paragraph (4), the Secretary shall require the borrower (except as provided in subparagraph (G)) to offer to sell the assisted housing and related facilities involved to any qualified nonprofit organization or public agency at a fair market value determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the borrower. If the 2 appraisers fail to agree on the fair market value, the Secretary and the borrower shall jointly select a third appraiser, whose appraisal shall be binding on the Secretary and the borrower.

(ii) PERIOD FOR WHICH REQUIREMENT APPLICABLE.—If, upon the expiration of 180 days after an offer is made to sell housing and related facilities under clause (i), no qualified nonprofit organization or public agency has made a bona fide offer to purchase, the Secretary may accept the offer to prepay, or may request refinancing in accordance with subsection (b)(3) of, the loan. This clause shall apply only when funds are available for purposes of carrying out a transfer under this paragraph.

(B) QUALIFIED NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

(i) LOCAL NONPROFIT ORGANIZATION OR PUBLIC AGENCY.—A local nonprofit organization or public agency may purchase housing and related facilities under this paragraph only if—

(I) the organization or agency is determined by the Secretary to be capable of managing the housing and related facilities (either directly or through a contract) for the remaining useful life of the housing and related facilities; and

(II) the organization or agency has entered into an agreement that obligates it (and successors in interest thereof) to maintain the housing and related facilities as affordable for very low-income families or persons and low income families or persons for the remaining useful life of the housing and related facilities.

(ii) NATIONAL OR REGIONAL NONPROFIT ORGANIZATION.—If the Secretary determines that there is no local nonprofit organization or public agency qualified to purchase the housing and related facilities involved, the Secretary shall require the borrower to offer to sell the assisted housing and related facilities to an existing qualified national or regional nonprofit organization.

(iii) SELECTION OF QUALIFIED PURCHASER.—The Secretary shall promulgate regulations that establish criteria for selecting a qualified nonprofit organization or public agency to purchase housing and related facilities when more than 1 such organization or agency has made a bona fide offer. Such regulations shall give a priority to those organizations or agencies with the greatest experience in developing or managing low income housing or community development projects and with the longest record of service to the community.

(C) FINANCING OF SALE.—To facilitate the sale described in subparagraph (A), the Secretary shall—

(i) to the extent provided in appropriation Acts, make an advance to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to cover any direct costs (other than the purchase price) incurred by the organization or agency in purchasing and assuming responsibility for the housing and related facilities involved;

(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 1484 or 1485 of this title;

(iii) to the extent provided in appropriation Acts, transfer any rental assistance payments that are received under section 1490a(a)(2)(A) of this title or under section 1437f of this title, or any assistance payments received under section 1490a(a)(5) of this title, with respect to the housing and related facilities involved; and

(iv) to the extent provided in appropriation Acts, provide a loan under section 1485(c)(3) of this title to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to enable the organization or agency to purchase the housing and related facilities involved.

(D) RENT LIMITATION AND ASSISTANCE.—The Secretary shall, to the extent provided in appropriation Acts, provide to each nonprofit organization or public agency purchasing housing and related facilities under this paragraph financial assistance (in the form of monthly payments or forgiveness of debt) in an amount necessary to ensure that the monthly rent payment made by each low income family or person residing in the housing does not exceed the maximum rent permitted under section 1490a(a)(2)(A) of this title or, in the case of housing assisted under section 1490a(a)(5) of this title, does not exceed the rents established for the project under such section.

(E) RESTRICTION ON SUBSEQUENT TRANSFERS.—Except as provided in subparagraph (B)(ii), the Secretary may not approve the transfer of any housing and related facilities purchased under this paragraph during the remaining useful life of the housing and related facilities, unless the Secretary determines that—

(i) the transfer will further the provision of housing and related facilities for low income families or persons; or

(ii) there is no longer a need for such housing and related facilities by low income families or persons.

(F) GENERAL RESTRICTION ON PREPAYMENTS AND REFINANCINGS.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 1484 or 1485 of this title pursuant to a contract entered into prior to December 15, 1989, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following February 5, 1988, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

(G) EXCEPTION.—This paragraph shall not apply to any offer to prepay, or any request to

refinance in accordance with subsection (b)(3), any loan made or insured under section 1484 or 1485 of this title pursuant to a contract entered into prior to December 15, 1989, if—

(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

(I) to utilize the assisted housing and related facilities for the purposes specified in section 1484 or 1485 of this title, as the case may be, for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

(II) upon termination of the period described in paragraph (1)(B), to offer to sell the assisted housing and related facilities to a qualified nonprofit organization or public agency in accordance with this paragraph; or

(ii) the Secretary determines that housing opportunities of minorities will not be materially affected as a result of the prepayment or refinancing, and that—

(I) the borrower (and any successor in interest thereof) are obligated to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment or refinancing; or

(II) there is an adequate supply of safe, decent, and affordable rental housing within the market area of the housing and related facilities and sufficient actions have been taken to ensure that the rental housing will be made available to each tenant upon displacement.

(H) FUNDING.—

(i) BUDGET LIMITATION.—Not more than 5,000 dwelling units may be transferred under this paragraph in any fiscal year, and the budget authority that may be provided under this paragraph for any fiscal year may not exceed the amounts required to carry out this paragraph with respect to such number.

(ii) REIMBURSEMENT OF RURAL HOUSING INSURANCE FUND.—There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse the Fund for financial assistance provided under this paragraph, paragraph (4), and section 1487(j)(7) of this title.

(I) DEFINITIONS.—For purposes of this paragraph:

(i) LOCAL NONPROFIT ORGANIZATION.—The term "local nonprofit organization" means a nonprofit organization that—

(I) has a broad based board reflecting various interests in the community or trade area; and

(II) is a not-for-profit charitable organization whose principal purposes include developing or managing low income housing or community development projects.

(ii) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any private organization—

(I) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(II) that is approved by the Secretary as to financial responsibility; and

(III) that does not have among its officers or directorate persons or parties with a material interest (or persons or parties related to any person or party with such an interest) in loans financed under section 1485 of this title that have been prepaid.

(J) REGULATIONS.—Notwithstanding section 1490n of this title, the Secretary shall issue final regulations to carry out this paragraph not later than 60 days after February 5, 1988. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

(d) Dwelling units available to very low-income families or persons

On and after November 30, 1983—

(1) not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons; and

(2) not less than 30 percent of the funds allocated to each State under this section shall be available only for very low-income families or persons.

(e) Manufactured homes; qualifications for loans made or insured; energy conservation requirements

(1) A loan which may be made or insured under this section with respect to housing shall be made or insured with respect to a manufactured home or with respect to a manufactured home and lot, whether such home or such home and lot is real property, personal property, or mixed real and personal property, if—

(A) the manufactured home meets the standards prescribed pursuant to title VI of the Housing and Community Development Act of 1974 [42 U.S.C. 5401 et seq.];

(B) the manufactured home, or the manufactured home and lot, meets the installation, structural, and site requirements which would apply under title II of the National Housing Act [12 U.S.C. 1707 et seq.]; and

(C) the manufactured home meets the energy conserving requirements established under paragraph (2), or until the energy conserving requirements are established under paragraph (2), the manufactured home meets the energy conserving requirements applicable to housing other than manufactured housing financed under this subchapter.

(2) Energy conserving requirements established by the Secretary for the purpose of paragraph (1)(C) shall—

(A) reduce the operating costs for a borrower by maximizing the energy savings and be cost-effective over the life of the manufactured home or the term of the loan, whichever is shorter, taking into account variations in climate, types of energy used, the cost to modify the home to meet such requirements, and the estimated value of the energy saved over the term of the mortgage; and

(B) be established so that the increase in the annual loan payment resulting from the added energy conserving requirements in excess of those required by the standards prescribed under title VI of the Housing and Community Development Act of 1974 [42 U.S.C. 5401 et seq.] shall not exceed the projected savings in annual energy costs.

(3) A loan that may be made or insured under this section with respect to a manufactured home on a permanent foundation, or a manufactured home on a permanent foundation and a lot, shall be repayable over the same period as would be applicable under section 203(b) of the National Housing Act [12 U.S.C. 1709(b)].

(f) Remote rural areas

(1) Loan supplements

The Secretary may supplement any loan under this section to finance housing located in a remote rural area or on tribal allotted or Indian trust land with a grant in an amount not greater than the amount by which the reasonable land acquisition and construction costs of the security property exceeds the appraised value of such property.

(2) Prohibition

The Secretary may not refuse to make, insure, or guarantee a loan that otherwise meets the requirements under this section solely on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote or on tribal allotted or Indian trust land.

(g) Deferred mortgage demonstration

(1) Authority

With respect to families or persons otherwise eligible for assistance under subsection (d) but

having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes and insurance. Deferred mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 25 percent of the amount of the payment due at 1 percent interest and shall be subject to recapture.

(2) Interest

Interest on principal deferred shall be set at 1 percent and any interest payments deferred under this subsection shall not be treated as principal in calculating indebtedness.

(3) Funding

Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1993 and 1994 for loans under this section may be used to carry out this subsection.

(h) Doug Bereuter section 502 single family housing loan guarantee program

(1) Short title

This subsection may be cited as the "Doug Bereuter Section 502 Single Family Housing Loan Guarantee Act".

(2) Authority

The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 1487(d) of this title, and the last sentence of section 1490a(a)(1)(A) of this title, except as modified by the provisions of this subsection. Loans shall be guaranteed under this subsection in an amount equal to 90 percent of the loan.

(3) Eligible borrowers

Loans guaranteed pursuant to this subsection shall be made only to borrowers who are low or moderate income families or persons, whose incomes do not exceed 115 percent of the median income of the area, as determined by the Secretary.

(4) Eligible housing

Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is—

(A) to be used as the principal residence of the borrower;

(B) eligible for assistance under this section, section 203(b) of the National Housing Act [12 U.S.C. 1709(b)], or chapter 37 of title 38; and

(C) located in a rural area.

(5) Priority and counseling for first-time homebuyers

(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (17)).

(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 1701x(a)(1)(iii) of title 12 and obtain certification from the provider of the program that the borrower is adequately prepared for the obligations of homeownership.

(6) Eligible lenders

Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

(7) Loan terms

Loans guaranteed pursuant to this subsection shall—

(A) be made for a term not to exceed 30 years;

(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the

rate for loans guaranteed under chapter 37 of title 38 or comparable loans in the area that are not guaranteed; and

(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)—

(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, plus the guarantee fee as authorized by subsection (h)(7); [2] and

(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, plus the guarantee fee as authorized by subsection (h)(7).[2]

(8) Fees

Notwithstanding paragraph (14)(D), with respect to a guaranteed loan issued or modified under this subsection, the Secretary may collect from the lender—

(A) at the time of issuance of the guarantee or modification, a fee not to exceed 3.5 percent of the principal obligation of the loan; and

(B) an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan.

(9) Refinancing

Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

(10) Nonassumption

Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

(11) Geographical targeting

In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low and moderate income families.

(12) Allocation

The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

(13) Loss mitigation

Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

(14) Payment of partial claims and mortgage modifications

The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

(A) the amount of the partial claim payment shall be in an amount determined by the

Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

(D) expenses related to a partial claim or modification are not to be charged to the borrower;

(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

(15) Assignment

(A) Program authority

The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.[1]

(B) Program requirements

(i) In general

The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

(ii) Acceptance of assignment

The Secretary may accept assignment of a mortgage under a program under this subsection only if—

(I) the mortgage is in default or facing imminent default;

(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

(C) Payment of guaranty

Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

(D) Disposition

After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by

the mortgagee and the Secretary;

(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this subchapter, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

(E) Loan servicing

In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.

(16) Definitions

For purposes of this subsection:

(A) The term "displaced homemaker" means an individual who—

(i) is an adult;

(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(B) The term "first-time homebuyer" means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that—

(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(C) The term "single parent" means an individual who—

(i) is unmarried or legally separated from a spouse; and

(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

(II) is pregnant.

(D) The term "State" means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

(17) Guarantees for refinancing loans

(A) In general

Upon the request of the borrower, the Secretary shall, to the extent provided in appropriation Acts and subject to subparagraph (F), guarantee a loan that is made to refinance an existing loan that is made under this section or guaranteed under this subsection, and that the Secretary

determines complies with the requirements of this paragraph.

(B) Interest rate

To be eligible for a guarantee under this paragraph, the refinancing loan shall have a rate of interest that is fixed over the term of the loan and does not exceed the interest rate of the loan being refinanced.

(C) Security

To be eligible for a guarantee under this paragraph, the refinancing loan shall be secured by the same single-family residence as was the loan being refinanced, which shall be owned by the borrower and occupied by the borrower as the principal residence of the borrower.

(D) Amount

To be eligible for a guarantee under this paragraph, the principal obligation under the refinancing loan shall not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as may be authorized by the Secretary, which shall include a discount not exceeding 200 basis points and an origination fee not exceeding such amount as the Secretary shall prescribe.

(E) Other requirements

The provisions of the last sentence of paragraph (2) and paragraphs (3), (6), (7)(A), (8), (10), (13), and (14) shall apply to loans guaranteed under this paragraph, and no other provisions of paragraphs (2) through (15) shall apply to such loans.

(F) Authority to establish limitation

The Secretary may establish limitations on the number of loans guaranteed under this paragraph, which shall be based on market conditions and other factors as the Secretary considers appropriate.

(18) Delegation of approval

The Secretary may delegate, in part or in full, the Secretary's authority to approve and execute binding Rural Housing Service loan guarantees pursuant to this subsection to certain preferred lenders, in accordance with standards established by the Secretary.

(i) Guaranteed underwriting user fee

(1) Authority; maximum amount

To the extent provided in advance in appropriations Acts, the Secretary may assess and collect a fee for a lender to access the automated underwriting systems of the Department in connection with such lender's participation in the single family loan program under this section and only in an amount necessary to cover the costs of information technology enhancements, improvements, maintenance, and development for automated underwriting systems used in connection with the single family loan program under this section, except that such fee shall not exceed $50 per loan.

(2) Crediting; availability

Any amounts collected from such fees shall be credited to the Rural Development Expense Account as offsetting collections and shall remain available until expended, in the amounts provided in appropriation Acts, solely for expenses described in paragraph (1).

(July 15, 1949, ch. 338, title V, §502, 63 Stat. 433; Pub. L. 87–70, title VIII, §801(b), June 30, 1961, 75 Stat. 186; Pub. L. 87–723, §4(a)(2), Sept. 28, 1962, 76 Stat. 671; Pub. L. 89–117, title X, §1002, Aug. 10, 1965, 79 Stat. 497; Pub. L. 89–754, title VIII, §802, Nov. 3, 1966, 80 Stat. 1282; Pub. L. 93–383, title V, §505(b), Aug. 22, 1974, 88 Stat. 693; Pub. L. 95–128, title V, §502(a), Oct. 12, 1977, 91 Stat. 1139; Pub. L. 96–153, title V, §503, Dec. 21, 1979, 93 Stat. 1134; Pub. L. 96–399, title V, §514(a), Oct. 8, 1980, 94 Stat. 1671; Pub. L. 98–181, title I [title V, §503(a), (d)], Nov. 30, 1983, 97 Stat. 1240, 1241; Pub. L. 98–479, title I, §105(b)(1), Oct. 17, 1984, 98 Stat. 2226; Pub. L. 100–242, title II, §241, title III, §314, Feb. 5, 1988, 101 Stat. 1886, 1897; Pub. L. 100–628, title X, §1028, Nov. 7, 1988, 102 Stat. 3271; Pub. L. 101–235, title II, §206, Dec. 15, 1989, 103 Stat. 2041;

Pub. L. 101–625, title VII, §§704(a), 705(a), 706(b), 719(b), Nov. 28, 1990, 104 Stat. 4283, 4284, 4297; Pub. L. 102–142, title VII, §743(b), Oct. 28, 1991, 105 Stat. 915; Pub. L. 102–550, title VII, §§701(g), 702(a), 703, 704, 712(a), (b), Oct. 28, 1992, 106 Stat. 3834, 3835, 3841; Pub. L. 104–180, title VII, §734(c)(3)(A), (B), Aug. 6, 1996, 110 Stat. 1602; Pub. L. 105–276, title V, §599C(e)(2)(A), (f), Oct. 21, 1998, 112 Stat. 2662, 2663; Pub. L. 106–569, title VII, §701, Dec. 27, 2000, 114 Stat. 3013; Pub. L. 108–285, §3(b), (c), Aug. 2, 2004, 118 Stat. 917, 918; Pub. L. 108–447, div. A, title VII, §726(b), Dec. 8, 2004, 118 Stat. 2842; Pub. L. 111–22, div. A, title I, §101(a), (b), May 20, 2009, 123 Stat. 1633, 1635; Pub. L. 111–212, title I, §102(a), July 29, 2010, 124 Stat. 2303; Pub. L. 114–201, title II, §§201, 202, July 29, 2016, 130 Stat. 805; Pub. L. 115–141, div. A, title VII, §758, Mar. 23, 2018, 132 Stat. 395.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1484(j) of this title, referred to in subsec. (c)(4)(B)(iv), was repealed by Pub. L. 106–569, title VII, §708(b), Dec. 27, 2000, 114 Stat. 3018.

The Housing and Community Development Act of 1974, referred to in subsec. (e)(1)(A), (2)(B), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title VI of the Housing and Community Development Act of 1974 is known as the National Manufactured Housing Construction and Safety Standards Act of 1974 and is classified generally to chapter 70 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The National Housing Act, referred to in subsec. (e)(1)(B), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the National Housing Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 502, referred to in subsec. (h), means section 502 of act July 15, 1949, ch. 338, 63 Stat. 433, which is classified to this section.

This chapter, referred to in subsec. (h)(15)(A), appearing in the original is unidentifiable because title V of act July 15, 1949, does not contain chapters.

AMENDMENTS

2018—Subsec. (i)(1). Pub. L. 115–141 added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary may assess and collect a fee for a lender to access the automated underwriting systems of the Department in connection with such lender's participation in the single family loan program under this section and only in an amount necessary to cover the costs of information technology enhancements, improvements, maintenance, and development for automated underwriting systems used in connection with the single family loan program under this section, except that such fee shall not exceed $50 per loan."

2016—Subsec. (h)(18). Pub. L. 114–201, §201, added par. (18).

Subsec. (i). Pub. L. 114–201, §202, added subsec. (i).

2010—Subsec. (h)(8). Pub. L. 111–212 amended par. (8) generally. Prior to amendment, text read as follows: "With respect to a guaranteed loan under this subsection, the Secretary may collect from the lender at the time of issuance of the guarantee a fee equal to not more than 1 percent of the principal obligation of the loan."

2009—Subsec. (h)(5)(A). Pub. L. 111–22, §101(b)(1), substituted "(as defined in paragraph (17))" for "(as defined in paragraph (13))".

Subsec. (h)(13) to (16). Pub. L. 111–22, §101(a), added pars. (13) to (15) and redesignated former par. (13) as (16). Former par. (14) redesignated (17).

Subsec. (h)(17). Pub. L. 111–22, §101(a)(1), redesignated par. (14) as (17).

Subsec. (h)(17)(E). Pub. L. 111–22, §101(b)(2), which directed amendment of "paragraph (18)(E)[ ](as so redesignated by subsection (a)(2))" by substituting "paragraphs (3), (6), (7)(A), (8), (10), (13), and (14)" for "paragraphs (3), (6), (7)(A), (8), and (10)" and "paragraphs (2) through (15)" for "paragraphs (2) through (13)", was executed by making the substitutions in par. (17)(E) to reflect the probable intent of Congress.

2004—Subsec. (h). Pub. L. 108–285, §3(b)(3), substituted "Doug Bereuter section 502 single family housing loan guarantee program" for "Guaranteed loans" in heading.

Subsec. (h)(1) to (4). Pub. L. 108–285, §3(b)(1), (2), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (5).

Subsec. (h)(5). Pub. L. 108–285, §3(b)(1), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (h)(5)(A). Pub. L. 108–285, §3(c)(1), substituted "paragraph (13)" for "paragraph (12)(A)".

Subsec. (h)(6). Pub. L. 108–285, §3(b)(1), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (h)(7). Pub. L. 108–285, §3(b)(1), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (h)(7)(C). Pub. L. 108–447, which directed insertion of ", plus the guarantee fee as authorized by subsection (h)(7)" after "whichever is less" in pars. (i) and (ii) of subsec. (h)(6)(C), was executed by making the insertion in cls. (i) and (ii) of par. (7)(C), to reflect the probable intent of Congress and the amendment by Pub. L. 108–285, §3(b)(1). See above.

Subsec. (h)(8) to (13). Pub. L. 108–285, §3(b)(1), redesignated pars. (7) to (12) as (8) to (13), respectively. Former par. (13) redesignated (14).

Subsec. (h)(14). Pub. L. 108–285, §3(b)(1), redesignated par. (13) as (14).

Subsec. (h)(14)(A). Pub. L. 108–285, §3(c)(2)(A), made technical amendment to heading in original Act.

Subsec. (h)(14)(E). Pub. L. 108–285, §3(c)(2)(B), substituted "paragraph (2) and paragraphs (3), (6), (7)(A), (8), and (10)" for "paragraph (1) and paragraphs (2), (5), (6)(A), (7), and (9)" and "paragraphs (2) through (13)" for "paragraphs (1) through (12)".

2000—Subsec. (h)(13). Pub. L. 106–569 added par. (13).

1998—Subsec. (c)(1)(A)(i). Pub. L. 105–276, §599C(e)(2)(A)(i), substituted ", (a)(2), or (5)" for "or (a)(2)".

Subsec. (c)(4)(B)(ii). Pub. L. 105–276, §599C(e)(2)(A)(ii), inserted before period at end ", or additional assistance or an increase in assistance provided under section 1490a(a)(5) of this title".

Subsec. (c)(4)(B)(iii). Pub. L. 105–276, §599C(e)(2)(A)(iii), was executed by inserting "or 1490a(a)(5)" after "section 1490a(a)(2)" to reflect the probable intent of Congress, notwithstanding the fact that the verb "inserting" was missing from the directory language.

Subsec. (c)(4)(B)(v). Pub. L. 105–276, §599C(e)(2)(A)(iv), inserted before period at end ", or current tenants of projects not assisted under section 1490a(a)(5) of this title".

Subsec. (c)(5)(C)(iii). Pub. L. 105–276, §599C(e)(2)(A)(v), struck out comma after "1490a(a)(2)(A) of this title" and inserted "or any assistance payments received under section 1490a(a)(5) of this title," before "with respect".

Subsec. (c)(5)(D). Pub. L. 105–276, §599C(e)(2)(A)(vi), inserted before period at end "or, in the case of housing assisted under section 1490a(a)(5) of this title, does not exceed the rents established for the project under such section".

Subsec. (h)(6)(C). Pub. L. 105–276, §599C(f), which directed the striking out of ", subject to the maximum dollar amount limitation of section 203(b)(2) of the National Housing Act" each place it appeared, was executed by striking out ", subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act" after "whichever is less" in cl. (i) and after "Secretary shall determine" in cl. (ii), to reflect the probable intent of Congress.

1996—Subsec. (c)(4)(B)(iv). Pub. L. 104–180, §734(c)(3)(A), inserted before period at end "or under paragraphs (1) and (2) of section 1484(j) of this title, except that an equity loan referred to in this clause may not be made available after August 6, 1996, unless the Secretary determines that the other incentives available under this subparagraph are not adequate to provide a fair return on the investment of the borrower, to prevent prepayment of the loan insured under section 1484 or 1485 of this title, or to prevent the displacement of tenants of the housing for which the loan was made".

Subsec. (c)(4)(C). Pub. L. 104–180, §734(c)(3)(B), in introductory provisions substituted "The Secretary may approve assistance under subparagraph (B) for assisted housing only if the restrictive period has expired for any loan for the housing made or insured under section 1484 or 1485 of this title pursuant to a contract entered into after December 21, 1979, but before December 15, 1989, and the Secretary determines that the combination of assistance provided—" for "The Secretary may approve assistance under subparagraph (B) only if the Secretary determines that the combination of assistance provided—".

1992—Subsec. (a)(3). Pub. L. 102–550, §702(a), added par. (3).

Subsec. (c)(2), (4)(A). Pub. L. 102–550, §712(a)(1), (2), substituted "prior to December 15, 1989" for "before December 21, 1979".

Subsec. (e)(4)(B)(vi). Pub. L. 102–550, §712(b), added cl. (vi).

Subsec. (e)(5)(F), (G). Pub. L. 102–550, §712(a)(3), (4), substituted "prior to December 15, 1989" for "before December 21, 1979".

Subsec. (f). Pub. L. 102–550, §704, inserted "or on tribal allotted or Indian trust land" in pars. (1) and (2).

Subsec. (g)(3). Pub. L. 102–550, §701(g), substituted "1993 and 1994" for "1991 and 1992".

Subsec. (h)(2). Pub. L. 102–550, §703, inserted "115 percent of" after "exceed".

1991—Subsec. (h)(3)(C). Pub. L. 102–142 struck out before period at end "that is more than 25 miles from

an urban area or densely populated area".

1990—Subsec. (c)(1)(B). Pub. L. 101–625, §719(b), inserted "initial" after "any".

Subsec. (f). Pub. L. 101–625, §704(a), added subsec. (f).

Subsec. (g). Pub. L. 101–625, §705(a), added subsec. (g).

Subsec. (h). Pub. L. 101–625, §706(b), added subsec. (h).

1989—Subsec. (c)(1). Pub. L. 101–235 designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, inserted "but before December 15, 1989," after "December 21, 1979," in introductory provisions and cl. (i), and added subpar. (B).

1988—Subsec. (c)(3). Pub. L. 100–242, §241, added par. (3).

Subsec. (c)(4). Pub. L. 100–242, §241, added par. (4).

Subsec. (c)(4)(B)(iv). Pub. L. 100–628, §1028(a), substituted "paragraphs (1) and (2) of section 1485(c)" for "paragraphs (7) and (8) of section 1485(b)".

Subsec. (c)(5). Pub. L. 100–242, §241, added par. (5).

Subsec. (c)(5)(B)(iii). Pub. L. 100–628, §1028(b), added cl. (iii).

Subsec. (c)(5)(I). Pub. L. 100–628, §1028(c), substituted "Definitions" for "Definition" in heading and amended text generally. Prior to amendment, text read as follows: "For purposes of this paragraph, the term 'nonprofit organization' means any private organization—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; and

"(ii) that is approved by the Secretary as to financial responsibility."

Subsec. (e)(3). Pub. L. 100–242, §314, added par. (3).

1984—Subsec. (d)(1). Pub. L. 98–479 substituted "percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons" for "per centum of the dwelling units financed under this section shall be available only for occupancy by very low-income families or persons".

Subsec. (d)(2). Pub. L. 98–479 substituted "percent of the funds allocated to each State under this section shall be available only for very low-income families or persons" for "per centum of the dwelling units in each State financed under this section shall be available only for occupancy by very low-income families or persons".

1983—Subsec. (a)(1). Pub. L. 98–181, §503(d)(1), (2), designated existing provisions as par. (1) and substituted "The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability. At the borrower's option, the borrower may prepay to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 1471(e) of this title" for "in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title, at a rate not to exceed 5 per centum per annum on the unpaid balance of principal, and, in the case of applicants described in clause (3) of section 1471(a) of this title and applicants under sections 1473 and 1474 of this title, at a rate not to exceed 4 per centum per annum on such unpaid balance. Loans made or insured under this subchapter shall be conditioned on the borrower paying such fees and other charges as the Secretary may require and on the borrower prepaying to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 1471(e) of this title. The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability".

Subsec. (a)(2). Pub. L. 98–181, §503(d)(3), added par. (2).

Subsecs. (d), (e). Pub. L. 98–181, §503(a), added subsecs. (d) and (e).

1980—Subsec. (c). Pub. L. 96–399, in par. (1), substituted "The Secretary may not accept" for "Except as provided in paragraph (2), the Secretary may not accept", and "entered into after" for "entered into before or after" in two places, and in par. (2) substituted provisions granting priority for relocation to tenants displaced by virtue of prepayment or refinancing of loans on or after Oct. 8, 1980, for provisions relating to acceptance of an offer to prepay unless, after examination of the consequences of such offer, the Secretary determines that prepayment will result in displacement of tenants, and in the case of facilities containing more than ten units, will have an adverse effect on the supply of affordable and decent housing for low and moderate income and elderly persons.

1979—Subsec. (b)(2). Pub. L. 96–153, §503(a), inserted provisions that prepayment of loans made or insured under section 1484 or 1485 of this title shall be subject to the provisions of subsec. (c) of this section.

Subsec. (c). Pub. L. 96–153, §503(b), added subsec. (c).

1977—Subsec. (b)(3). Pub. L. 95–128 inserted introductory phrase "except for guaranteed loans,".

1974—Subsec. (a). Pub. L. 93–383 inserted provisions relating to the borrower prepaying to the Secretary as escrow agent taxes, insurance, and other expenses required by the Secretary in accordance with section 1471(e) of this title.

1966—Subsec. (a). Pub. L. 89–754 substituted "The" for "In cases of applicants who are elderly persons, the" in third sentence.

1965—Subsec. (a). Pub. L. 89–117 increased to 5 per centum the interest rate in the case of applicants described in clauses (1) and (2) of section 1471(a) of this title and also authorized the Secretary to charge fees on loans made or insured under this subchapter.

1962—Subsec. (a). Pub. L. 87–723 authorized the Secretary to accept, in the case of applicant's who are elderly persons, the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability.

1961—Subsec. (b)(1). Pub. L. 87–70 substituted "or such other security" for "and such additional security".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §599C(g), Oct. 21, 1998, 112 Stat. 2663, provided that: "The amendments made by this section [amending this section and sections 1479, 1483 to 1485, 1490a, 1490j, and 1490p–2 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–479, title I, §105(b)(2), Oct. 17, 1984, 98 Stat. 2226, provided that: "Notwithstanding any other provision of law, the provisions of section 502(d) of the Housing Act of 1949 [subsec. (d) of this section], as amended by paragraph (1), shall apply with respect to fiscal year 1985 and thereafter, and the provisions of such section, as so amended, may not be changed or superseded except by another provision of law which amends such section."

REGULATIONS

Pub. L. 101–625, title VII, §704(b), Nov. 28, 1990, 104 Stat. 4283, provided that: "Not later than the expiration of the 120-day period beginning on the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a) [amending this section]."

Pub. L. 101–625, title VII, §705(b), Nov. 28, 1990, 104 Stat. 4283, provided that: "Not later than the expiration of the 120-day period beginning on the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a) [amending this section]."

Pub. L. 101–625, title VII, §706(d), Nov. 28, 1990, 104 Stat. 4286, provided that:

"(1) PROPOSED REGULATIONS AND COMMENT PERIOD.—Not later than 120 days after the date of the enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall publish in the Federal Register proposed regulations to implement the amendments made by this section [amending this section and section 1701x of Title 12, Banks and Banking]. The Secretary shall receive comments regarding the regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

"(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to implement the amendments made by this section. The Secretary shall provide for the regulations to take effect not later than 30 days after the date on which the regulations are issued.

"(3) APPLICABILITY.—The amendments made by this section shall not apply to guaranteed loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) made before the date on which the final regulations issued by the Secretary under paragraph (2) take effect.

"(4) CONSULTATION.—In developing and promulgating the regulations under paragraphs (1) and (2), the Secretary of Agriculture shall consult with the chairperson of the Federal Agricultural Mortgage Corporation and shall solicit the views of borrowers, lenders, realtors, and homebuilders experienced and knowledgeable regarding housing in rural areas to provide that the regulations promulgated ensure that guaranteed loans pursuant to the amendments made by this section—

"(A) are made in a manner that is cost-effective; and

"(B) are made in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders."

PROCEDURE

Pub. L. 111–22, div. A, title I, §101(c), May 20, 2009, 123 Stat. 1635, provided that:

"(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section [amending this section] shall be made without regard to—

"(A) the notice and comment provisions of section 553 of title 5, United States Code;

"(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

"(C) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

"(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code."

CONGRESSIONAL FINDINGS FOR 2004 AMENDMENT

Pub. L. 108–285, §3(a), Aug. 2, 2004, 118 Stat. 917, provided that: "The Congress finds that—

"(1) the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, see Tables for classification], enacted November 28, 1990, established the section 502 single family housing loan guarantee program of the Rural Housing Service of the United States Department of Agriculture;

"(2) Congressman Doug Bereuter of Nebraska was the legislative author of the single family housing loan guarantee program;

"(3) 316,625 single family loans have been guaranteed under the program since its implementation in 1991;

"(4) the program facilitates home ownership for low- to moderate-income borrowers in rural areas and nonmetropolitan communities who are unable to obtain conventional home mortgage financing; and

"(5) in 2003, the average income of a borrower with a loan guaranteed under the section 502 guarantee program was $34,124."

MAXIMUM LEVEL FOR RURAL SINGLE FAMILY HOUSING ASSISTANCE

Pub. L. 108–447, div. A, title VII, §765, Dec. 8, 2004, 118 Stat. 2847, provided that: "Notwithstanding any other provision of law, for any fiscal year and hereafter, in the case of a high cost isolated rural area in Alaska that is not connected to a road system, the maximum level for the single family housing assistance shall be 150 percent of the average income level in the metropolitan areas of the State and 115 percent of all other eligible areas of the State."

Similar provisions were contained in the following appropriation acts:

Pub. L. 109–97, title VII, §754(3), Nov. 10, 2005, 119 Stat. 2157.

Pub. L. 108–199, div. A, title VII, §763, Jan. 23, 2004, 118 Stat. 39.

FEE FOR GUARANTEED LOANS

Pub. L. 106–387, §1(a) [title VII, §739], Oct. 28, 2000, 114 Stat. 1549, 1549A–34, which provided that, notwithstanding subsec. (h)(7) of this section, the fee collected by the Secretary of Agriculture for a guaranteed loan under such subsec. (h) at the time of the issuance of such guarantee could be in an amount equal to not more than 2 percent of the principal obligation of the loan, was repealed by Pub. L. 111–212, title I, §102(b), July 29, 2010, 124 Stat. 2303.

INCOME LIMIT FOR BORROWERS

Pub. L. 106–387, §1(a) [title VII, §751], Oct. 28, 2000, 114 Stat. 1549, 1549A–41, provided that: "Hereafter, the Secretary of Agriculture shall consider any borrower whose income does not exceed 115 percent of the median family income of the United States as meeting the eligibility requirements for a borrower contained in section 502(h)(2) of the Housing Act of 1949 (42 U.S.C. 1472(h)(2))."

RURAL HOUSING LOAN GUARANTEES; FINDINGS AND PURPOSE

Pub. L. 101–625, title VII, §706(a), Nov. 28, 1990, 104 Stat. 4284, provided that:

"(1) FINDINGS.—The Congress finds that—

"(A) the Federal Government should encourage support for homeownership through nonsubsidized mortgage loans guaranteed by the Secretary of Agriculture for the purchase of modest homes located in rural areas and small communities of the country that are not adequately served by private conventional, federally insured, or guaranteed mortgage credit providers; and

"(B) many rural areas contain disproportionate amounts of substandard housing in need of repair, but lack the necessary funding and support to modernize such housing through preservation.

"(2) PURPOSE.—The purpose of this section [amending this section and section 1701x of Title 12, Banks

and Banking, and enacting provisions set out above] is to expand homeownership opportunities to low- and moderate-income residents of rural areas of the country through the establishment of guaranteed rural housing loans to be made available in rural locations where there is an insufficient availability of mortgage financing from other sources."

RURAL HOUSING GUARANTEED LOAN DEMONSTRATION

Pub. L. 100–242, title III, §304, Feb. 5, 1988, 101 Stat. 1894, as amended by Pub. L. 100–628, title X, §1041(a), (b), Nov. 7, 1988, 102 Stat. 3272, provided for establishment by Secretary of Agriculture of a rural housing guaranteed loan demonstration to provide guaranteed loans in accordance with section 1487(d) of this title and last sentence of section 1490(a)(1)(A) of this title, authorized amount available for such loans, established loan criteria, directed Secretary to submit to Congress, as soon as practicable after Sept. 30, 1989, an interim report setting forth findings and recommendations as a result of the demonstration and a final report on such findings and recommendations as soon as practicable after Sept. 30, 1991, prohibited Secretary from providing any guaranteed loans after Sept. 30, 1991, except pursuant to a commitment entered into on or before such date, and excluded applicability of subsec. (d) of this section and second sentence of section 1487(e) of this title to loan demonstration.

PROHIBITION ON ACCEPTANCE OF PREPAYMENT OF CERTAIN LOANS

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 428, as amended by Pub. L. 100–122, §2(d), Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327, provided that: "The limitations on loan prepayments contained in section 634 of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987 [section 101(a) [title VI, §634] of Pub. L. 99–500 and 99–591, set out below] shall remain in effect through March 15, 1988."

Pub. L. 99–500, §101(a) [title VI, §634], Oct. 18, 1986, 100 Stat. 1783, 1783–34, and Pub. L. 99–591, §101(a) [title VI, §634], Oct. 30, 1986, 100 Stat. 3341, 3341–34, provided that: "Notwithstanding any other provision of law, including section 502(c)(2) of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) [subsec. (c)(2) of this section], none of the funds appropriated under this or any other Act shall be used prior to June 30, 1987 to accept prepayment of any loan made under section 515 of the Housing Act of 1949 [section 1485 of this title], unless such loan was made at least twenty years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants."

STUDY AND REPORT OF COMPARISON OF CONSTRUCTION COSTS AND ENERGY SAVINGS BETWEEN MANUFACTURED HOMES BUILT UNDER NATIONAL MANUFACTURED HOUSING SAFETY STANDARDS AND OTHER HOMES

Pub. L. 98–181, title I [title V, §503(b)], Nov. 30, 1983, 97 Stat. 1241, provided that within 18 months from the issuance by the Secretary of Agriculture of regulations under subsec. (e)(2) of this section, the Secretary of Energy, in consultation with the Secretary of Housing and Urban Development and the Secretary of Agriculture, would conduct a study and transmit to the Congress a report comparing the increased construction costs, actual annual energy use, and the projected value of energy saved over the expected life of the home or the mortgage term, whichever is shorter, of manufactured homes financed under titles I and II of the National Housing Act (12 U.S.C. 1702 et seq., 1707 et seq.), or under this subchapter and built according to national manufactured housing safety standards.

STUDY AND REPORT TO CONGRESS OF ADVERSE EFFECTS ON HOUSING OF PREPAYMENT OF LOANS

Pub. L. 96–399, title V, §514(b), Oct. 8, 1980, 94 Stat. 1672, required Secretary of Agriculture to conduct a study of, and report to Congress not later than 6 months after Oct. 8, 1980, on any adverse effects the amendments made by subsection (a) [amending this section] may have on housing, particularly for the elderly and persons of low income.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] *See References in Text note below.*

[2] *So in original. Probably should be subsection "(h)(8)".*

§1473. Loans for housing and buildings on potentially adequate farms; conditions and terms

If the Secretary determines (a) that, because of the inadequacy of the income of an eligible applicant from the farm to be improved and from other sources, said applicant may not reasonably be expected to make annual repayments of principal and interest in an amount sufficient to repay the loan in full within the period of time prescribed by the Secretary as authorized in this subchapter; (b) that the income of the applicant may be sufficiently increased within a period of not to exceed five years by improvement or enlargement of the farm or an adjustment of the farm practices or methods; and (c) that the applicant has adopted and may reasonably be expected to put into effect a plan of farm improvement, enlargement, or adjusted practices or production which, in the opinion of the Secretary, will increase the applicant's income from said farm within a period of not to exceed five years to the extent that the applicant may be expected thereafter to make annual repayments of principal and interest sufficient to repay the balance of the indebtedness less payments in cash and credits for the contributions to be made by the Secretary as hereinafter provided, the Secretary may make a loan in an amount necessary to provide adequate farm dwellings and buildings on said farm under the terms and conditions prescribed in section 1472 of this title. In addition, the Secretary may agree with the borrower to make annual contributions during the said five-year period in the form of credits on the borrower's indebtedness in an amount not to exceed the annual installment of interest and 50 per centum of the principal payments accruing during any installment year up to and including the fifth installment year, subject to the conditions that the borrower's income is, in fact, insufficient to enable the borrower to make payments in accordance with the plan or schedule prescribed by the Secretary and that the borrower pursues his plan of farm reorganization and improvements or enlargement with due diligence.

Except as provided in title 11, this agreement with respect to credits or principal and interest upon the borrower's indebtedness shall not be assignable nor accrue to the benefit of any third party without the written consent of the Secretary and the Secretary shall have the right, at his option, to cancel the agreement upon the sale of the farm or the execution or creation of any lien thereon subsequent to the lien given to the Secretary, or to refuse to release the lien given to the Secretary except upon payment in cash of the entire original principal plus accrued interest thereon less actual cash payments of principal and interest when the Secretary determines that the release of the lien would permit the benefits of this section to accrue to a person not eligible to receive such benefits.

(July 15, 1949, ch. 338, title V, §503, 63 Stat. 434; Pub. L. 95–598, title III, §329, Nov. 6, 1978, 92 Stat. 2679.)

EDITORIAL NOTES

AMENDMENTS

1978—Pub. L. 95–598 inserted introductory phrase "Except as provided in title 11".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§1474. Loans and grants for repairs or improvements of rural dwellings

(a) Prerequisites; purposes; amounts; terms

The Secretary may make a loan, grant, or combined loan and grant to an eligible very low-income applicant in order to improve or modernize a rural dwelling, to make the dwelling safer or more sanitary, or to remove hazards. The Secretary may make a loan or grant under this subsection to the applicant to cover the cost of any or all repairs, improvements, or additions such as repairing roofs, providing sanitary waste facilities, providing a convenient and sanitary water supply, repairing or providing structural supports, or making similar repairs, additions, improvements, including all preliminary and installation costs in obtaining central water and sewer service. The maximum amount of a grant, a loan, or a loan and grant shall not exceed such limitations as the Secretary determines to be appropriate. Any portion of the sums advanced to the borrower treated as a loan shall be secured and be repayable within twenty years in accordance with the principles and conditions set forth in this subchapter, except that a loan for less than $7,500 need be evidenced only by a promissory note. Sums made available by grant may be made subject to the conditions set forth in this subchapter for the protection of the Government with respect to contributions made on loans made by the Secretary.

(b) Additional purposes

In order to encourage adequate family-size farms the Secretary may make loans under this section and section 1473 of this title to any applicant whose farm needs enlargement or development in order to provide income sufficient to support decent, safe, and sanitary housing and other farm buildings, and may use the funds made available under clause (b) of section 1483 of this title for such purposes.

(c) Weatherization program; development, etc.

(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Secretary of Energy for the purpose of coordinating the weatherization program under this subsection, section 2809(a)(12) of this title, and part A of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6861 et seq.].

(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling unit will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection, and (C) no undue or excessive enhancement will occur to the value of such unit.

(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6863(b)], and (B) provide that, with respect to any dwelling unit, not more than $800 of any grant made under this section be expended on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6865(c)], except that the Secretary shall increase such amount to not more than $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] or the Community Service Senior Opportunities Act [42 U.S.C. 3056 et seq.], available to work on weatherization projects under the supervision of qualified supervisors.

(4) For purposes of this subsection, the terms "elderly," "handicapped person," "low income," and

"weatherization materials" shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6862].

(July 15, 1949, ch. 338, title V, §504, 63 Stat. 434; Pub. L. 87–723, §4(c)(3), Sept. 28, 1962, 76 Stat. 672; Pub. L. 89–754, title VIII, §803, Nov. 3, 1966, 80 Stat. 1282; Pub. L. 91–609, title VIII, §803(a), Dec. 31, 1970, 84 Stat. 1806; Pub. L. 93–383, title V, §504, Aug. 22, 1974, 88 Stat. 693; Pub. L. 95–619, title II, §232(a), Nov. 9, 1978, 92 Stat. 3226; Pub. L. 96–153, title V, §510, Dec. 21, 1979, 93 Stat. 1137; Pub. L. 98–181, title I [title V, §504], Nov. 30, 1983, 97 Stat. 1242; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(32), (f)(24)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–425, 2681–433; Pub. L. 106–569, title VII, §702, Dec. 27, 2000, 114 Stat. 3013; Pub. L. 113–128, title V, §512(o), July 22, 2014, 128 Stat. 1711.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2809 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

The Energy Conservation in Existing Buildings Act of 1976, referred to in subsec. (c)(1), is title IV of Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1150. Part A of the Energy Conservation in Existing Buildings Act of 1976 is classified generally to Part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(3), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified principally to chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Community Service Senior Opportunities Act, referred to in subsec. (c)(3), is title V of Pub. L. 89–73, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2563, which is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

AMENDMENTS

2014—Subsec. (c)(3). Pub. L. 113–128 substituted "an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to title I of the Workforce Innovation and Opportunity Act or the Community Service Senior Opportunities Act," for "an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to title I of the Workforce Investment Act of 1998 or the Older American Community Service Employment Act,".

2000—Subsec. (a). Pub. L. 106–569 substituted "$7,500" for "$2,500" in fourth sentence.

1998—Subsec. (c)(3). Pub. L. 105–277, §101(f) [title VIII, §405(f)(24)], struck out "the Job Training Partnership Act or" after "pursuant to".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(32)], substituted "pursuant to the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the" for "pursuant to the Comprehensive Employment and Training Act of 1973 or the".

1983—Subsec. (a). Pub. L. 98–181 substituted "The Secretary may make a loan, grant, or combined loan and grant to an eligible very low-income applicant in order to improve or modernize a rural dwelling, to make the dwelling safer or more sanitary, or to remove hazards. The Secretary may make a loan or grant under this subsection to the applicant to cover the cost of any or all repairs, improvements, or additions such as repairing roofs, providing sanitary waste facilities, providing a convenient and sanitary water supply, repairing or providing structural supports, or making similar repairs, additions, improvements, including all preliminary and installation costs in obtaining central water and sewer service. The maximum amount of a grant, a loan, or a loan and grant shall not exceed such limitations as the Secretary determines to be appropriate." for "In the event the Secretary determines that an eligible applicant cannot qualify for a loan under the provisions of sections 1472 and 1473 of this title and that repairs or improvements should be made to a rural dwelling occupied by him in order to make such dwelling safe and sanitary and remove hazards to the health of the occupant, his family, or the community, and that repairs should be made to farm buildings in order to remove hazards and make such buildings safe, the Secretary may make a grant or a combined loan and grant to the applicant to cover the cost of improvements or additions, such as repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, supplying screens, repairing or providing structural

supports, or making similar repairs, additions, or improvements, including all preliminary and installation costs in obtaining central water and sewer service. No assistance shall be extended to any individual or family under this subsection in the form of a grant in excess of $5,000, and no assistance shall be extended to any individual or family under this subsection in the form of a loan or a combined loan and grant in excess of $7,500."

1979—Subsec. (a). Pub. L. 96–153 substituted provisions limiting the assistance in the form of grants to any individual or family to $5,000 and in the form of loans or combined loans and grants to $7,500 for provisions limiting loans, grants, or combined loans and grants to $5,000 in the case of assistance to individuals.

1978—Subsec. (c). Pub. L. 95–619 added subsec. (c).

1974—Subsec. (a). Pub. L. 93–383 substituted provisions relating to repairs or improvements of a rural dwelling, scope of such repairs or improvements, limitation of $5,000 as maximum amount of grant or loan, and requirement of a promissory note for loan less than $2,500, for provisions relating to repairs or improvements of a farm dwelling, scope of such repairs or improvements, and limitations of $2,500, or $3,500 in cases involving water or plumbing facilities, as maximum amount of grant or loan.

1970—Subsec. (a). Pub. L. 91–609 increased limitation on amount of assistance from "$1,500" to "$2,500" and provided for an alternative larger amount not exceeding $3,500 as Secretary determines to be necessary in case of repairs or improvements involving water supply, septic tank, or bathroom or kitchen plumbing facilities.

1966—Subsec. (a). Pub. L. 89–754 increased limitation on assistance from $1,000 to $1,500.

1962—Subsec. (a). Pub. L. 87–723 substituted "in the form of a loan, grant, or combined loan and grant in excess of $1,000" for "(1) in the form of a loan, or combined loan and grant, in excess of $1,000, or (2) in the form of a grant (whether or not combined with a loan) in excess of $500."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(32)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(24)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519 (42 U.S.C. 9912(a)). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97–35 (42 U.S.C. 9905).

§1474a. Security for direct or insured rural housing loans to farmer applicants

On and after August 8, 1968, farmer applicants for direct or insured rural housing loans shall be required to provide only such collateral security as is required of owners of nonfarm tracts.

(Pub. L. 90–463, title II, §201, Aug. 8, 1968, 82 Stat. 651.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Department of Agriculture and Related Agencies Appropriation Act, 1969, and not as part of the Housing Act of 1949 which comprises this chapter.

§1475. Loan payment moratorium and foreclosure procedures

(a) Moratorium

During any time that any such loan is outstanding, the Secretary is authorized under regulations to be prescribed by him to grant a moratorium upon the payment of interest and principal on such loan for so long a period as he deems necessary, upon a showing by the borrower that due to circumstances beyond his control, he is unable to continue making payments of such principal and interest when due without unduly impairing his standard of living. In cases of extreme hardship under the foregoing circumstances, the Secretary is further authorized to cancel interest due and payable on such loans during the moratorium. Should any foreclosure of such a mortgage securing such a loan upon which a moratorium has been granted occur, no deficiency judgment shall be taken against the mortgagor if he shall have faithfully tried to meet his obligation.

(b) Foreclosure procedures

In foreclosing on any mortgage held by the Secretary under this subchapter, the Secretary shall follow the foreclosure procedures of the State in which the property involved is located to the extent such procedures are more favorable to the borrower than the foreclosure procedures that would otherwise be followed by the Secretary. This subsection shall be subject to the availability of amounts approved in appropriations Acts, to the extent additional budget authority is necessary to carry out this subsection.

(July 15, 1949, ch. 338, title V, §505, 63 Stat. 434; Pub. L. 101–625, title VII, §707, Nov. 28, 1990, 104 Stat. 4287.)

EDITORIAL NOTES

AMENDMENTS

1990—Pub. L. 101–625 amended section catchline generally, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§1476. Buildings and repairs

(a) Construction in accordance with plans and specifications; supervision and inspection; technical services and research

In connection with financial assistance authorized in this subchapter, the Secretary shall require that all new buildings and repairs financed under this subchapter shall be substantially constructed and in accordance with such building plans and specifications as may be required by the Secretary. Buildings and repairs constructed with funds advanced pursuant to this subchapter shall be supervised and inspected as required by the Secretary. In addition to the financial assistance authorized in this subchapter, the Secretary is authorized to furnish, through such agencies as he may determine, to any person, including a person eligible for financial assistance under this subchapter, without charge or at such charges as the Secretary may determine, technical services such as building plans, specifications, construction supervision and inspection, and advice and information regarding farm dwellings and other buildings.

(b) Research and technical studies for reduction of costs and adaptation and development of fixtures and appurtenances

The Secretary is further authorized and directed to conduct research, technical studies, and demonstrations relating to the mission and programs of the Farmers Home Administration and the national housing goals defined in section 1441 of this title. In connection with such activities, the Secretary shall seek to promote the construction of adequate farm and other rural housing, with particular attention to the housing needs of the elderly, handicapped, migrant and seasonal

farmworkers, Indians and other identifiable groups with special needs. The Secretary shall conduct such activities for the purposes of stimulating construction and improving the architectural design and utility of dwellings and buildings. In carrying out this subsection, the Secretary may permit demonstrations involving innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies if the Secretary finds that in so doing, the health and safety of the population of the area in which the demonstration is carried out will not be adversely affected, except that the aggregate expenditures for such demonstrations may not exceed $10,000,000 in any fiscal year.

(c) Research, study, and analysis of farm housing

The Secretary is further authorized to carry out a program of research, study, and analysis of farm housing in the United States to develop data and information on—

(1) the adequacy of existing farm housing;

(2) the nature and extent of current and prospective needs for farm housing, including needs for financing and for improved design, utility, and comfort, and the best methods of satisfying such needs;

(3) problems faced by farmers and other persons eligible under section 1471 of this title in purchasing, constructing, improving, altering, repairing, and replacing farm housing;

(4) the interrelation of farm housing problems and the problems of housing in urban and suburban areas; and

(5) any other matters bearing upon the provision of adequate farm housing.

(d) Research capacity within Farmers Home Administration; establishment; authority

In order to carry out this section, the Secretary shall establish a research capacity within the Farmers Home Administration which shall have authority to undertake, or to contract with any public or private body to undertake, research authorized by this section.

(e) Preparation and submission of estimates of housing needs

The Secretary of Agriculture shall prepare and submit to the President and to the Congress estimates of national rural housing needs and reports with respect to the progress being made toward meeting such needs and correlate and recommend proposals for such executive action or legislation necessary or desirable for the furtherance of the national housing objective and policy established by this Act with respect to rural housing, together with such other reports or information as may be required of the Secretary by the President or the Congress.

(f) Study of housing available for migrant and settled farmworkers

(1) The Secretary shall conduct a study of housing which is available for migrant and settled farmworkers. In conducting such study, the Secretary shall—

(A) determine the location, number, quality, and condition of housing units which are available to such farmworkers and the cost assessed such farmworkers for occupying such units;

(B) recommend legislative, administrative, and other action (including the need for new authority for such action) which may be taken for the purpose of improving both the availability and the condition of such housing units; and

(C) determine the possible roles which individual farmworkers, farmworker associations, individual farmers, farmer associations, and public and private nonprofit agencies can perform in improving the housing conditions of farmworkers.

(2) The Secretary shall transmit the results of the study described in paragraph (1) to each House of the Congress within one year after October 31, 1978.

(July 15, 1949, ch. 338, title V, §506, 63 Stat. 435; Pub. L. 87–70, title VIII, §§804(b)(1), 805(a), June 30, 1961, 75 Stat. 188; Pub. L. 87–723, §4(c)(2), Sept. 28, 1962, 76 Stat. 672; Pub. L. 88–560, title V, §503(c), Sept. 2, 1964, 78 Stat. 798; Pub. L. 89–117, title X, §1005(d), Aug. 10, 1965, 79 Stat. 501; Pub. L. 89–348, §1(5), Nov. 8, 1965, 79 Stat. 1310; Pub. L. 93–383, title V, §§506, 519(a),

Aug. 22, 1974, 88 Stat. 694, 699; Pub. L. 95–128, title V, §510, Oct. 12, 1977, 91 Stat. 1142; Pub. L. 95–557, title V, §502, Oct. 31, 1978, 92 Stat. 2111; Pub. L. 98–181, title I [title V, §505], Nov. 30, 1983, 97 Stat. 1242; Pub. L. 104–66, title I, §1011(m), Dec. 21, 1995, 109 Stat. 710.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is act July 15, 1949, ch. 338, 63 Stat. 413, known as the Housing Act of 1949, which is classified principally to this chapter (§1441 et seq.). For complete classification of that Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–66 struck out at end "The Secretary shall report to the Congress at the close of each fiscal year on the results of such demonstrations."

1983—Subsec. (b). Pub. L. 98–181 inserted provision relating to demonstrations involving innovative housing units and systems not meeting existing standards with expenditures not to exceed $10,000,000 in any fiscal year and a report to be made to Congress at the close of each fiscal year.

1978—Subsec. (b). Pub. L. 95–557, §502(a), revised the provisions of this subsection to bring particular attention to the housing needs of the elderly, handicapped, migrant and seasonal farmworkers, Indians and other identifiable groups.

Subsec. (f). Pub. L. 95–557, §502(b), added subsec. (f).

1977—Subsec. (d). Pub. L. 95–128 substituted provision respecting establishment and authority of a research capacity within the Farmers Home Administration for provision to carry out subsec. (b) and (c) research and study programs through grants by the Secretary to land-grant colleges on such terms, conditions, and standards as he may prescribe or through such other agencies as he may elect.

1974—Subsec. (a). Pub. L. 93–383, §519(a), substituted "as required by the Secretary" for "as may be required by the Secretary, by competent employees of the Secretary".

Subsec. (d). Pub. L. 93–383, §506(a), substituted provisions authorizing grants to such other private or public organizations as selected by the Secretary upon finding that required research and study could not be performed by personnel and facilities of Department of Agriculture or land-grant colleges, for provisions authorizing grants to such other agencies as selected by the Secretary.

Subsec. (e). Pub. L. 93–383, §506(b), substituted "rural housing" for "farm housing" wherever appearing.

1965—Subsec. (a). Pub. L. 89–117 substituted "this subchapter" for "sections 1471 to 1474 and sections 1484 to 1486 of this title" wherever appearing.

Subsec. (e). Pub. L. 89–348, which directed the repeal in subsec. (b) of the requirement of the report of estimates of national farm housing needs and of progress made toward meeting such needs, probably was intended to repeal such reporting requirement in subsec. (e) in view of the redesignation of subsec. (b) as (e) by Pub. L. 87–70.

1964—Subsec. (a). Pub. L. 88–560 inserted reference to section 1486 of this title wherever appearing.

1962—Subsec. (a). Pub. L. 87–723 substituted "sections 1484 and 1485" for "section 1484" wherever appearing.

1961—Subsec. (a). Pub. L. 87–70, §§804(b)(1), 805(a)(1), inserted a reference to section 1484 of this title in two places, and struck out provisions which authorized the conduct of research and technical studies including the development, demonstration, and promotion of construction of adequate farm dwellings and other buildings for the purposes of stimulating construction, improving architectural design and utility, utilizing new and native materials, economies in materials and construction methods, and new methods of production, distribution, assembly, and construction, which provisions are now contained in subsec. (b) of this section.

Subsecs. (b) to (e). Pub. L. 87–70, §805(a)(2), (3), added subsecs. (b) to (d) and redesignated former subsec. (b) as (e). Provisions of subsec. (b) were formerly contained in subsec. (a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF EMERGENCY POTABLE WATER AND SEWAGE PROGRAM

Pub. L. 95–557, title V, §508, Oct. 31, 1978, 92 Stat. 2114, required Secretary of Agriculture to determine the approximate number of rural housing units without access to sanitary toilet facilities or potable water, prepare a projection of the cost providing such facilities and supplies, and report to Congress not later than six

months after Oct. 31, 1978.

REPORT OF ESTIMATES OF NATIONAL FARM HOUSING NEEDS

Pub. L. 89–348, §1(5), Nov. 8, 1965, 79 Stat. 1310, repealed provisions of subsec. (e) of this section which related to reports of the estimates of national farm housing needs and of progress toward meeting such needs.

§1477. Preferences for veterans and families of deceased servicemen

As between eligible applicants seeking assistance under sections 1471 to 1474, inclusive, of this title, the Secretary shall give preference to veterans and the families of deceased servicemen. As used herein, a "veteran" shall mean a person who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38), and who was discharged or released therefrom on conditions other than dishonorable. "Deceased servicemen" shall mean persons who served in the military forces of the United States during any war between the United States and any other nation or during the period beginning June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of Congress, or during the period beginning after January 31, 1955, and ending on August 4, 1964, or during the Vietnam era (as defined in section 101(29) of title 38), and who died in service before the termination of such war or such period or era.

(July 15, 1949, ch. 338, title V, §507, 63 Stat. 435; June 30, 1953, ch. 174, §3, 67 Stat. 132; Pub. L. 87–70, title VIII, §804(b)(2), June 30, 1961, 75 Stat. 188; Pub. L. 93–383, title V, §507, Aug. 22, 1974, 88 Stat. 694.)

EDITORIAL NOTES

AMENDMENTS

1974—Pub. L. 93–383 inserted references to the period beginning after Jan. 31, 1955 and ending on Aug. 4, 1964, or during the Vietnam era wherever appearing therein.

1961—Pub. L. 87–70 substituted "under sections 1471 to 1474, inclusive, of this title" for "under this subchapter."

1953—Act June 30, 1953, enlarged the definition of "veteran" and "deceased servicemen" to include members of the armed forces who have served during the Korean conflict.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION OF PROVISIONS

Joint Res. July 3, 1952, ch. 570, §1(a)(20), 66 Stat. 332, as amended by Joint Res. Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, provided that qualification period should continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by 1950 Proc. No. 2914, 15 F.R. 9029, set out as a note preceding section 1 of Title 50, War and National Defense, or such earlier date or dates as may be provided for by Congress, but in no event beyond July 1, 1953. Section 7 of Joint Res. July 3, 1952, provided that it should become effective June 16, 1952.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

EXECUTIVE DOCUMENTS

PERIOD OF SERVICE IN MILITARY FORCES

Proc. No. 3080, Jan. 5, 1955, 20 F.R. 173, fixed Jan. 31, 1955, as the date ending the period during which persons must have served in the military forces in order that such persons come within the meaning of the terms "veteran" and "deceased servicemen", contained in this section, by reason of service during the period beginning June 27, 1950.

§1478. Local committees to assist Secretary

(a) Composition, appointment, and compensation; chairman; promulgation of procedural rules; forms and equipment

For the purposes of this subsection and subsection (b) of this section, the Secretary may use the services of any existing committee of farmers operating (pursuant to laws or regulations carried out by the Department of Agriculture) in any county or parish in which activities are carried on under this subchapter. In any county or parish in which activities are carried on under this subchapter and in which no existing satisfactory committee is available, the Secretary is authorized to appoint a committee composed of three persons residing in the county or parish. Each member of such existing or newly appointed committee shall be allowed compensation at the rate determined by the Secretary while engaged in the performance of duties under this subchapter and, in addition, shall be allowed such amounts as the Secretary may prescribe for necessary traveling and subsistence expenses. One member of the committee shall be designated by the Secretary as chairman. The Secretary shall prescribe rules governing the procedures of the committees, furnish forms and equipment necessary for the performance of their duties, and authorize and provide for the compensation of such clerical assistance as he deems may be required by any committee.

(b) Duties

The committees utilized or appointed pursuant to this section may examine applications of persons desiring to obtain the benefits of section 1471(a)(1) and (2) of this title as they relate to the successful operation of a farm, and may submit recommendations to the Secretary with respect to each applicant as to whether the applicant is eligible to receive such benefits, whether by reason of his character, ability, and experience he is likely successfully to carry out undertakings required of him under a loan under such section, and whether the farm with respect to which the application is made is of such character that there is a reasonable likelihood that the making of the loan requested will carry out the purposes of this subchapter. The committees may also certify to the Secretary with respect to the amount of any loan.

(July 15, 1949, ch. 338, title V, §508, 63 Stat. 436; Pub. L. 87–70, title VIII, §806, June 30, 1961, 75 Stat. 188; Pub. L. 91–609, title VIII, §803(b), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93–383, title V, §508, Aug. 22, 1974, 88 Stat. 694.)

EDITORIAL NOTES

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383 substituted provisions relating to examination of applications under section 1471(a)(1) and (2) of this title, and certification to the Secretary with respect to amount of any loan, for provisions relating to examination of applications under provisions of this subchapter, certification to the Secretary with respect to the amount of the loan or grant, and requiring performance of such other duties as the Secretary requests.

1970—Subsec. (b). Pub. L. 91–609 substituted "may" for "shall" in first and second sentences where reading "shall examine", "shall submit", and "shall also certify".

1961—Subsec. (a). Pub. L. 87–70, §806(a), substituted "at the rate determined by the Secretary" for "at the rate of $5 per day".

Subsec. (b). Pub. L. 87–70, §806(b), substituted "certify to the Secretary as to the amount of the loan or grant" for "certify to the Secretary their opinions of the reasonable values of the farms".

§1479. General powers of Secretary

(a) Standards of adequate farm housing and other buildings; criteria

The Secretary, for the purposes of this subchapter, shall have the power to determine and prescribe the standards of adequate farm housing and other buildings, by farms or localities, taking into consideration, among other factors, the type of housing which will provide decent, safe, and sanitary dwelling for the needs of the family using the housing, the type and character of the farming operations to be conducted, and the size and earning capacity of the land. The Secretary shall approve a residential building as meeting such standards if the building is constructed in accordance with (1) the minimum standards prescribed by the Secretary, (2) the minimum property standards prescribed by the Secretary of Housing and Urban Development for mortgages insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.], (3) the standards contained in any of the voluntary national model building codes, or (4) in the case of manufactured housing, the standards referred to in section 1472(e) of this title. To the maximum extent feasible, the Secretary shall promote the use of energy saving techniques through standards established by such Secretary for newly constructed residential housing assisted under this subchapter. Such standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act [12 U.S.C. 1735f–4] and shall incorporate the energy performance requirements developed pursuant to such section.

(b) Terms or conditions of leases or occupancy agreements subject to change with approval of Secretary

The Secretary may require any recipient of a loan or grant to agree that the availability of improvements constructed or repaired with the proceeds of the loan or grant under this subchapter shall not be a justification for directly or indirectly changing the terms or conditions of the lease or occupancy agreement with the occupants of such farms to the latter's disadvantage without the approval of the Secretary.

(c) Rural Housing Insurance Fund for payment of expenditures respecting construction defects; judicial review prohibition

The Secretary is authorized, after October 1, 1977, with respect to any unit or dwelling newly constructed during the period beginning eighteen months prior to October 12, 1977, and purchased with financial assistance authorized by this subchapter which he finds to have structural defects to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property, if such assistance is requested by the owner of the property within thirty-six months after financial assistance under this subchapter is rendered to the owner of the property or, in the case of property with respect to which assistance was made available within eighteen months prior to October 12, 1977, within thirty-six months after October 12, 1977. Expenditures pursuant to this subsection may be paid from the Rural Housing Insurance Fund. Decisions by the Secretary regarding such expenditures or payments under this subsection, and the terms and conditions under which the same are approved or disapproved, shall not be subject to judicial review.

(d) Defaults involving security interest in tribal lands

In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(e) Terms and conditions; regulations

The Secretary shall, by regulation, prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.

(f) Housing in underserved areas

(1) Designation of underserved area

The Secretary shall designate as targeted underserved areas 100 counties and communities in each fiscal year that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 5-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this subchapter that is substantially lower than the average annual amount of such assistance received during that 5-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has—

(A) 20 percent or more of its population at or below the poverty level; and

(B) 10 percent or more of its population residing in substandard housing.

As used in this paragraph, the term "poverty level" has the meaning given the term in section 5302(a)(9) of this title.

(2) Preferences

In selecting projects to receive assistance with amounts set aside under paragraph (4), the Secretary shall give preference to any project located in a county or community that has, at the time of designation and as determined by the Secretary—

(A) 28 percent or more of its population at or below poverty level; and

(B) 13 percent or more of its population residing in substandard housing.

In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land.

(3) Outreach program and review

(A) Outreach

The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this subchapter and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

(B) Review

Upon the receipt of data from the 1990 decennial census, the Secretary shall conduct a review of any designations made under paragraph (1) and preferences given under paragraph (2) and the eligibility of communities and counties for such designation and preference, examining the effects of such data on such eligibility. The Secretary shall submit to the Congress, not later than 9 months after the availability of the data, a report regarding the review, which shall include any recommendations of the Secretary for modifications in the standards for designation and preference.

(4) Set-aside for targeted underserved areas and colonias

(A) In general

The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 5.0 percent in each fiscal year of the aggregate amount of lending authority under sections 1472, 1474, 1484, 1485, and 1490d of this title. During each fiscal year, the Secretary shall set aside from amounts available for assistance under paragraphs (2) and (5) of section 1490a(a) of this title, an amount that is appropriate to provide assistance with respect to the lending authority under sections 1484 and 1485 of this title that is set aside for such fiscal year. The Secretary shall establish a procedure to reallocate any assistance set aside in any fiscal year for targeted underserved areas that has not been expended during a reasonable period in such year for use in (i) colonias that have applied for and are eligible for assistance under subparagraph (B) or paragraph (7) and did not receive assistance, and (ii) counties and communities eligible for designation as targeted underserved areas but which were not so designated. The procedure shall also provide that any assistance reallocated under the preceding sentence that has not been expended by a reasonable date established by the Secretary (which

shall be after the expiration of the period referred to in the preceding sentence) shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.

(B) Priority for colonias

(i) Notwithstanding the designation of counties and communities as targeted underserved areas under paragraph (1) and the provisions of section 1490 of this title, colonias shall be eligible for assistance with amounts reserved under subparagraph (A), as provided in this subparagraph.

(ii) In providing assistance from amounts reserved under this paragraph in each fiscal year, the Secretary shall give priority to any application for assistance to be used in, or in close proximity to, and serving the residents of, a colonia located in a State described under clause (iii). After the Secretary has provided assistance under the priority for colonias located in a State in an amount equal to 5 percent of the total amount of assistance allocated under this subchapter to such State in the fiscal year, the priority shall not apply to any applications for colonias in such State.

(iii) This paragraph shall apply to any State for any fiscal year following 2 fiscal years in which the State obligated the total amount of assistance allocated to it under this subchapter during each of such 2 fiscal years.

(5) List of underserved areas

The Secretary shall publish annually the current list of targeted underserved areas in the Federal Register.

(6) Project preparation assistance

(A) In general

The Secretary may make grants to eligible applicants under subparagraph (D) to promote the development of affordable housing in targeted underserved areas and colonias.

(B) Use

A grant under this paragraph shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs incurred in preparing an application for a loan under section 1472, 1474, 1484, 1485, or 1490d of this title, or a grant under section 1490m of this title (including preapplication planning, site analysis, market analysis, and other necessary technical assistance). The Secretary shall adjust the loan or grant amount under such sections to take account of project preparation costs that have been paid from grant proceeds under this paragraph and that normally would be reimbursed with proceeds of the loan or grant.

(C) Approval

The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

(D) Eligibility

For purposes of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a community housing development organization, State, unit of general local government, or agency of a State or unit of general local government.

(E) Availability of funding

Any amounts appropriated to carry out this paragraph shall remain available until expended.

(7) Priority for colonias

(A) In general

In providing assistance under this subchapter in any fiscal year described under subparagraph (B), each State in which colonias are located shall give priority to any application for assistance

to be used in a colonia. The priority under this subparagraph shall not apply in such State after 5 percent of the assistance available in such fiscal year has been allocated for colonias qualifying for the priority.

(B) Covered years

This paragraph shall apply to any fiscal year following 2 fiscal years in which the State did not obligate the total amount of assistance allocated it under this subchapter during each of such 2 fiscal years.

(8) "Colonia" defined

For purposes of this subsection, the term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000;

(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(D) was in existence as a colonia before November 28, 1990.

(July 15, 1949, ch. 338, title V, §509, 63 Stat. 436; Pub. L. 95–128, title V, §504, Oct. 12, 1977, 91 Stat. 1139; Pub. L. 96–153, title V, §508, Dec. 21, 1979, 93 Stat. 1136; Pub. L. 98–181, title I [title V, §506(a)], Nov. 30, 1983, 97 Stat. 1242; Pub. L. 101–625, title VII, §§708, 709(b), Nov. 28, 1990, 104 Stat. 4287, 4288; Pub. L. 102–550, title VII, §705, Oct. 28, 1992, 106 Stat. 3835; Pub. L. 104–120, §4(a), Mar. 28, 1996, 110 Stat. 835; Pub. L. 104–180, title VII, §734(b), Aug. 6, 1996, 110 Stat. 1602; Pub. L. 105–86, title VII, §735(a), Nov. 18, 1997, 111 Stat. 2110; Pub. L. 105–276, title V, §599C(a), (e)(2)(B), Oct. 21, 1998, 112 Stat. 2661, 2662.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the National Housing Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1998—Subsec. (f)(4)(A). Pub. L. 105–276, in first sentence, substituted "each fiscal year" for "fiscal year 1998" and, in second sentence, substituted "During each fiscal year" for "During such fiscal year" and substituted "from amounts available for assistance under paragraphs (2) and (5) of section 1490a(a) of this title, an amount" for "an amount of section 521 rental assistance".

1997—Subsec. (f)(4)(A). Pub. L. 105–86 substituted "fiscal year 1998" for "fiscal year 1997".

1996—Subsec. (f)(4)(A). Pub. L. 104–180 substituted "fiscal year 1997" for "fiscal year 1996".

Pub. L. 104–120 substituted "fiscal year 1996" for "fiscal years 1993 and 1994" and "During such fiscal year" for "During each such fiscal year".

1992—Subsec. (f)(1). Pub. L. 102–550, §705(a)(1), substituted "in each fiscal year" for "in each of fiscal years 1991 and 1992" in introductory provisions.

Subsec. (f)(2). Pub. L. 102–550, §705(a)(2), inserted concluding provisions.

Subsec. (f)(4)(A). Pub. L. 102–550, §705(a)(3), substituted "an amount equal to 5.0 percent in fiscal years 1993 and 1994" for "an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992".

Subsec. (f)(4)(B)(ii). Pub. L. 102–550, §705(c), inserted ", or in close proximity to, and serving the residents of," before "a colonia".

Subsec. (f)(8)(C) to (E). Pub. L. 102–550, §705(b), redesignated subpar. (D) as (C), struck out former subpar. (C) which read as follows: "is designated by the State or county in which it is located as a colonia;", added subpar. (D), and struck out subpar. (E) which read as follows: "was in existence and generally recognized as a colonia before November 28, 1990."

1990—Subsecs. (d), (e). Pub. L. 101–625, §708, added subsec. (d) and redesignated former subsec. (d) as

(e).

Subsec. (f). Pub. L. 101–625, §709(b), added subsec. (f).

1983—Subsec. (a). Pub. L. 98–181 inserted provisions relating to standards, designated cls. (1) to (4), the compliance with which will result in approval by the Secretary, and inserted provision relating to the promotion of the use of energy saving techniques.

1979—Subsec. (c). Pub. L. 96–153 substituted "within thirty-six months after October 12, 1977" for "within eighteen months after October 12, 1977".

1977—Subsecs. (c), (d). Pub. L. 95–128 added subsecs. (c) and (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104–120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of this title.

REGULATIONS

Pub. L. 101–625, title VII, §709(c), Nov. 28, 1990, 104 Stat. 4290, provided that: "Not later than the expiration of the 120-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990], the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by this section [amending this section]."

HOUSING IN UNDERSERVED AREAS

Pub. L. 101–625, title VII, §709(a), Nov. 28, 1990, 104 Stat. 4288, provided that: "The purpose of this section [amending this section and enacting provisions set out above] is to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs, including extremely distressed areas in the Lower Mississippi Delta and other regions of the Nation, by directing Farmers Home Administration assistance toward designated underserved areas."

EXEMPTIONS OF EXISTING DWELLINGS FROM LIVING AREA LIMITATIONS; AUTHORITY OF DISTRICT OFFICES OF FARMERS' HOME ADMINISTRATION

Pub. L. 100–202, §101(k) [title VI, §632], Dec. 22, 1987, 101 Stat. 1329–322, 1329–356, provided that: "During fiscal year 1988 and each succeeding fiscal year, the Secretary of Agriculture shall permit each district office of the Farmers Home Administration to exempt any existing dwelling from any limitation established by the Secretary on the number of square feet of living area that may be contained in a dwelling to be eligible for a loan under section 502 of the Housing Act of 1949 [section 1472 of this title], if the dwelling is modest in design, size, and cost for the area in which it is located."

§1480. Administrative powers of Secretary

In carrying out the provisions of this subchapter, the Secretary shall have the power to—

(a) Service and supply contracts

make contracts for services and supplies without regard to the provisions of section 6101 of title 41, when the aggregate amount involved is less than $300;

(b) Subordination, subrogation, and other agreements

enter into subordination, subrogation, or other agreements satisfactory to the Secretary;

(c) Compromise of claims and obligations

compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Secretary under this subchapter, as circumstances may require, including the release of borrowers or others obligated on a debt from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim;

(d) Collection of claims and obligations

collect all claims and obligations arising out of or under any mortgage, lease, contract, or agreement entered into pursuant to this subchapter and, if in his judgment necessary and advisable, to pursue the same to final collection in any court having jurisdiction: *Provided,* That the prosecution and defense of all litigation under this subchapter shall be conducted under the supervision of the Attorney General and the legal representation shall be by the United States attorneys for the districts, respectively, in which such litigation may arise and by such other attorney or attorneys as may, under law, be designated by the Attorney General; except that—

(1) prosecution and defense of any litigation under section 1472 of this title shall be conducted, at the discretion of the Secretary, by—

(A) the United States attorneys for the districts in which the litigation arises and any other attorney that the Attorney General may designate under law, under the supervision of the Attorney General;

(B) the General Counsel of the Department of Agriculture; or

(C) any other attorney with whom the Secretary enters into a contract after a determination by the Secretary that—

(i) the attorney will provide competent and cost-effective representation for the Farmers Home Administration; and

(ii) representation by the attorney will either (I) accelerate the process by which a family or person eligible for assistance under section 1472 of this title will be able to purchase and occupy the housing involved; or (II) preserve the quality of the housing involved; and

(2) the Secretary shall annually submit to the Congress a report describing activities carried out under paragraph (1)(C), including the cost of entering into contracts with such attorneys and the savings resulting from expedited foreclosure proceedings;

(e) Purchase of pledged or mortgaged property at foreclosure or other sales; operation, sale or disposition of said property

bid for and purchase at any foreclosure or other sale or otherwise to acquire the property pledged or mortgaged to secure a loan or other indebtedness owing under this subchapter, to accept title to any property so purchased or acquired, to operate or lease such property for such period as may be necessary or advisable, to protect the interest of the United States therein, to repair and rehabilitate such property, and to sell or otherwise dispose of the property so purchased or acquired by such terms and for such considerations as the Secretary shall determine to be reasonable and to make loans as provided herein to provide adequate farm dwellings and buildings for the purchasers of such property; except that the Secretary may not sell or otherwise dispose of such property unless (1) the Secretary assures that such property will meet decent, safe, and sanitary standards, including cost-effective energy conservation standards prescribed under section 1479(a) of this title, (2) the recipient of the property is obligated, as a condition of the sale or other disposition of the property, to meet such standards with respect to the property before such property is occupied, or (3) such recipient is precluded, as a condition of the sale or other disposition of the property, from using the property for residential purposes and the authority of the Secretary under this paragraph includes the authority to transfer section 1472 inventory properties for use as rental or cooperative units under section 1485 of this title with mortgages containing repayment terms with up to fifty years, or for use as rental units under section 1484 of this title with mortgages containing repayment terms with up to 33 years, to private nonprofit organizations, public bodies, or for-profit entities, which have good records of providing low income housing under section 1485 of this title; such a transfer may be made even where rental assistance may be required so long as the authority to provide such assistance is available after taking into account the requirements of section 1490a(d)(1) of this title; where the Secretary determines the transfer will contribute to the provision of housing for very low-income persons and families, the transfer may be made at the lesser of the appraised value or the Farmers Home Administration's investment;

(f) Processing of applications received prior to determination of nonrural status; assistance

continue processing as expeditiously as possible applications on hand received prior to the time an area has been determined by the Secretary not to be "rural" or a "rural area", as those terms are defined in section 1490 of this title, and make loans or grants to such applicants who are found to be eligible on the same basis as though the area were still rural;

(g) Rules and regulations for written notice of denial or reduction of assistance

issue rules and regulations which assure that applicants denied assistance under this subchapter or persons or organizations whose assistance under this subchapter is being substantially reduced or terminated are given written notice of the reasons for denial, reduction or termination and are provided at least an opportunity to appeal an adverse decision and to present additional information relevant to that decision to a person, other than the person making the original determination, who has authority to reverse the decision, except that rules issued under this subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations;

(h) Assistance in connection with transfers and assumptions of property for nonrural areas

notwithstanding that an area ceases, or has ceased, to be "rural", in a "rural area", or an eligible area, make assistance under this subchapter available for subsequent loans to permit necessary dwelling repairs and rehabilitation and in connection with transfers and assumptions of property securing any loan made, insured, or held by the Secretary or in connection with any property held by the Secretary under this subchapter on the same basis as though the area were still rural;

(i) Utilization of indebtedness

utilize with respect to the indebtedness arising from loans and payments made under this subchapter, all the powers and authorities given to him under sections 1150 to 1150b of title 12;

(j) Fee inspectors and appraisers

utilize the services of fee inspectors and fee appraisers to expedite the processing of applications for loans and grants under this subchapter, which services shall be utilized in any case in which a county or district office is unable to expeditiously process such loan and grant applications, and to include the cost of such services in the amount of such loans and grants; and

(k) Rules and regulations

make such rules and regulations as he deems necessary to carry out the purposes of this subchapter.

(July 15, 1949, ch. 338, title V, §510, 63 Stat. 437; Pub. L. 94–375, §25(c), Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95–557, title V, §503, Oct. 31, 1978, 92 Stat. 2112; Pub. L. 96–153, title V, §507, Dec. 21, 1979, 93 Stat. 1136; Pub. L. 96–399, title V, §§508, 510, Oct. 8, 1980, 94 Stat. 1670, 1671; Pub. L. 98–181, title I [title V, §507], Nov. 30, 1983, 97 Stat. 1243; Pub. L. 98–479, title I, §105(c), Oct. 17, 1984, 98 Stat. 2227; Pub. L. 100–242, title III, §313, Feb. 5, 1988, 101 Stat. 1897; Pub. L. 100–628, title X, §1045, Nov. 7, 1988, 102 Stat. 3273; Pub. L. 101–625, title VII, §§710, 711, Nov. 28, 1990, 104 Stat. 4291.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1990—Subsec. (e)(3). Pub. L. 101–625, §710, inserted ", or for use as rental units under section 1484 of this title with mortgages containing repayment terms with up to 33 years," after "fifty years" and substituted ", public bodies, or for-profit entities, which have good records of providing low income housing under section 1485 of this title" for "or public bodies".

Subsec. (g). Pub. L. 101–625, §711, inserted before semicolon at end ", except that rules issued under this

subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations".

1988—Subsec. (c). Pub. L. 100–242 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "compromise claims and obligations arising out of sections 1472 to 1475 of this title and adjust and modify the terms of mortgages, leases, contracts, and agreements entered into as circumstances may require, including the release from personal liability, without payments of further consideration, of—

"(1) borrowers who have transferred their farms to other approved applicants for loans who have agreed to assume the outstanding indebtedness to the Secretary under this subchapter; and

"(2) borrowers who have transferred their farms to other approved applicants for loans who have agreed to assume that portion of the outstanding indebtedness to the Secretary under this subchapter which is equal to the earning capacity value of the farm at the time of the transfer, and borrowers whose farms have been acquired by the Secretary, in cases where the Secretary determines that the original borrowers have cooperated in good faith with the Secretary, have farmed in a workmanlike manner, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to their loans, to the best of their abilities;".

Subsec. (d). Pub. L. 100–628 inserted before semicolon at end "; except that—" and added pars. (1) and (2).

1984—Subsec. (e). Pub. L. 98–479 substituted "; such" and "; where" for ". Such" and ". Where", respectively.

1983—Subsec. (e). Pub. L. 98–181, §507(a), inserted provisions relating to the authority of the Secretary to transfer section 1472 inventory property to private nonprofit organizations or public bodies.

Subsecs. (j), (k). Pub. L. 98–181, §507(b), added subsec. (j) and redesignated former subsec. (j) as (k).

1980—Subsec. (e)(1). Pub. L. 96–399, §508, inserted provisions respecting cost-effective energy conservation standards prescribed under section 1479(a) of this title.

Subsec. (h). Pub. L. 96–399, §510, inserted provisions respecting subsequent loans to permit necessary dwelling repairs and rehabilitation.

1979—Subsec. (e). Pub. L. 96–153 substituted "United States therein, to repair and rehabilitate such property, and to sell" for "United States therein and to sell", and inserted provision that the Secretary may not sell or otherwise dispose of such property unless the conditions in cls. (1) to (3) are satisfied.

1978—Subsecs. (g) to (j). Pub. L. 95–557 added subsec. (g) and redesignated former subsecs. (g), (h), and (i) as (h), (i), and (j), respectively.

1976—Subsecs. (f) to (i). Pub. L. 94–375 added subsecs. (f) and (g) and redesignated former subsecs. (f) and (g) as (h) and (i), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (d)(2) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the last item on page 47 of House Document No. 103–7.

STUDY OF PROBLEMS CAUSED BY REMOTE CLAIMS

Pub. L. 95–557, title V, §509, Oct. 31, 1978, 92 Stat. 2114, directed Secretary of Agriculture to make a detailed study of problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims and make a final report to Congress with respect to such study not later than one year after Oct. 31, 1978.

§1481. Issuance of notes and obligations for loan funds; amount; limitation; security; form and denomination; interest; purchase and sale by Treasury; public debt transaction

The Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury for the purpose of making direct loans under this subchapter. The notes and obligations issued by the Secretary shall be secured by the obligations of borrowers and the Secretary's commitments to make contributions under this subchapter and shall be repaid from the payment of principal and interest on the obligations of the borrowers and from funds appropriated hereunder. The notes and other obligations issued by the Secretary shall be in such forms and denominations, shall have such

maturities, and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each such note or other obligation shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note or other obligation is issued, which are neither due nor callable for redemption for 15 years from their date of issue. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or obligations shall be treated as public debt transactions of the United States.

(July 15, 1949, ch. 338, title V, §511, 63 Stat. 438; July 14, 1952, ch. 723, §11(a), 66 Stat. 604; June 29, 1954, ch. 410, §5(a), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, §812(a), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, §501(1), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, §606(a), 70 Stat. 1114; Pub. L. 87–70, title VIII, §§801(c), 802, June 30, 1961, 75 Stat. 186; Pub. L. 87–723, §4(c)(1), Sept. 28, 1962, 76 Stat. 672; Pub. L. 88–560, title V, §501(a), Sept. 2, 1964, 78 Stat. 796; Pub. L. 89–117, title X, §1003(b), Aug. 10, 1965, 79 Stat. 500; Pub. L. 98–181, title I [title V, §508], Nov. 30, 1983, 97 Stat. 1243; Pub. L. 98–479, title II, §203(d)(4), Oct. 17, 1984, 98 Stat. 2229.)

EDITORIAL NOTES

AMENDMENTS

1984—Pub. L. 98–479 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended" and "such chapter" for "such Act".

1983—Pub. L. 98–181 struck out second sentence providing that total principal amount of such notes and obligations issued pursuant to this section during the period beginning July 1, 1956, and ending October 1, 1969, shall not exceed $850,000,000.

1965—Pub. L. 89–117 changed the purpose for which the Secretary may issue notes and other obligations for purchase by the Secretary of the Treasury from that of making loans under this subchapter (other than loans under section 1474(b) or 1485 of this title) to that of making direct loans under the entire subchapter, substituted "October 1969" for "September 30, 1965", eliminated reservation that, of the allowable $850,000,000 principal amount of notes and obligations, $50,000,000 be available exclusively for assistance to elderly persons under clause (3) of section 1471(a) of this title, and changed the method for setting the interest on notes and obligations from that of having the Secretary set a rate taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the notes or obligations to that of the Secretary setting a rate equal to the average rate payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note or other obligation is issued, which are neither due nor callable for redemption for 15 years from their date of issuance.

1964—Pub. L. 88–560 substituted "September 30, 1965" for "June 30, 1965", and "$850,000,000" for "$700,000,000".

1962—Pub. L. 87–723 substituted "1474(b) or 1485" for "1474(b)" and "$700,000,000, of which $50,000,000 shall be available exclusively for assistance to elderly persons as provided in clause (3) of section 1471(a) of this title" for "$650,000,000".

1961—Pub. L. 87–70 substituted "June 30, 1965" for "June 30, 1961", and "$650,000,000" for "$450,000,000".

1956—Act Aug. 7, 1956, authorized $450,000,000 for loans for the period beginning July 1, 1956, and ending June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $100,000,000 on and after July 1, 1955.

1954—Act Aug. 2, 1954, substituted "$100,000,000" for the authorization of $8,500,000 (on and after July 1, 1954) which had been inserted by Act June 29, 1954.

Act June 29, 1954, authorized an additional $8,500,000 on and after July 1, 1954.

1952—Act July 14, 1952, authorized an additional $100,000,000 for fiscal year 1954.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 7, 1956, ch. 1029, title VI, §606(d), 70 Stat. 1115, provided that: "This section [amending this section and sections 1482 and 1483 of this title] shall take effect as of July 1, 1956."

§1482. Repealed. Pub. L. 98–181, title I [title V, §509], Nov. 30, 1983, 97 Stat. 1243

Section, acts July 15, 1949, ch. 338, title V, §512, 63 Stat. 438; July 14, 1952, ch. 723, §11(b), 66 Stat. 604; June 29, 1954, ch. 410, §5(b), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, §812(b), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, §501(2), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, §606(b), 70 Stat. 1114; June 30, 1961, Pub. L. 87–70, title VIII, §801(c), 75 Stat. 186; Sept. 4, 1964, Pub. L. 88–560, title V, §501(b), 78 Stat. 796; Aug. 10, 1965, Pub. L. 89–117, title X, §1005(a), 79 Stat. 501, related to authorization to make commitments for contributions aggregating not to exceed $10,000,000 during period beginning July 1, 1956, and ending Oct. 1, 1969, in connection with loans made pursuant to section 1473 of this title.

§1483. Program levels and authorizations

(a) In general

(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this subchapter during fiscal years 1993 and 1994, in aggregate amounts not to exceed $2,446,855,600 and $2,549,623,535, respectively, as follows:

(A) For insured or guaranteed loans under section 1472 of this title on behalf of low-income borrowers receiving assistance under section 1490a(a)(1) of this title, $1,676,484,000 for fiscal year 1993 and $1,746,896,328 for fiscal year 1994.

(B) For guaranteed loans under section 1472(h) of this title on behalf of low- and moderate-income borrowers, such sums as may be appropriated for fiscal years 1993 and 1994.

(C) For loans under section 1474 of this title, $12,400,000 for fiscal year 1993 and $12,920,800 for fiscal year 1994.

(D) For insured loans under section 1484 of this title, $16,821,600 for fiscal year 1993 and $17,528,107 for fiscal year 1994.

(E) For insured loans under section 1485 of this title, $739,500,000 for fiscal year 1993 and $770,559,000 for fiscal year 1994.

(F) For loans under section 1490c(b)(1)(B) of this title, $800,000 for fiscal year 1993 and $833,600 for fiscal year 1994.

(G) For site loans under section 1490d of this title, $850,000 for fiscal year 1993 and $885,700 for fiscal year 1994.

(2) Notwithstanding any other provision of law, insured and guaranteed loan authority authorized in this subchapter for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this subchapter.

(b) Authorization of appropriations

There are authorized to be appropriated for fiscal years 1993 and 1994, and to remain available until expended, the following amounts:

(1) For grants under section 1472(f)(1) of this title, $1,100,000 for fiscal year 1993 and $1,146,200 for fiscal year 1994.

(2) For grants under section 1474 of this title, $21,100,000 for fiscal year 1993 and $21,986,200 for fiscal year 1994.

(3) For purposes of section 1479(c) of this title, $600,000 for fiscal year 1993 and $625,200 for fiscal year 1994.

(4) For project preparation grants under section 1479(f)(6) of this title, $5,300,000 in fiscal year 1993 and $5,522,600 in fiscal year 1994.

(5) In fiscal years 1993 and 1994, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to—

(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 1473 of this title; and

(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

(6) For grants for service coordinators under section 1485(y) of this title, $1,000,000 in fiscal year 1993 and $1,042,000 in fiscal year 1994.

(7) For financial assistance under section 1486 of this title—

(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $21,700,000 for fiscal year 1993 and $22,611,400 for fiscal year 1994; and

(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,500,000 for fiscal year 1993 and $10,941,000 for fiscal year 1994.

(8) For grants under section 1490c(f) [1] of this title, $13,900,000 for fiscal year 1993 and $14,483,800 for fiscal year 1994.

(9) For grants under section 1490m of this title, $30,800,000 for fiscal year 1993 and $32,093,600 for fiscal year 1994.

(c) Rental assistance

(1) The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into rental assistance payment contracts under section 1490a(a)(2)(A) of this title aggregating $414,100,000 for fiscal year 1993 and $431,492,200 for fiscal year 1994.

(2) Any authority approved in appropriation Acts for fiscal year 1988 or any succeeding fiscal year for rental assistance payment contracts under section 1490a(a)(2)(A) of this title or contracts for operating assistance under section 1490a(a)(5) of this title shall be used by the Secretary—

(A) to renew rental assistance payment contracts or operating assistance contracts that expire during such fiscal year;

(B) to provide amounts required to continue assistance payments for the remaining period of an existing contract, in any case in which the original amount of assistance is used prior to the end of the term of the contract; and

(C) to make additional rental assistance payment contracts or operating assistance contracts for existing or newly constructed dwelling units.

(d) Supplemental rental assistance contracts

The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into 5-year supplemental rental assistance contracts under section 1472(c)(5)(D) of this title aggregating $12,178,000 for fiscal year 1993 and $12,689,476 for fiscal year 1994.

(e) Authorization of appropriations

There are authorized to be appropriated for rural housing vouchers under section 1490r of this title, $130,000,000 for fiscal year 1993 and $140,000,000 for fiscal year 1994.

(July 15, 1949, ch. 338, title V, §513, 63 Stat. 438; July 14, 1952, ch. 723, §11(c), 66 Stat. 604; June 29, 1954, ch. 410, §5(c), 68 Stat. 320; Aug. 2, 1954, ch. 649, title VIII, §812(c), 68 Stat. 647; Aug. 11, 1955, ch. 783, title V, §501(3), 69 Stat. 654; Aug. 7, 1956, ch. 1029, title VI, §606(c), 70 Stat. 1115; Pub. L. 87–70, title VIII, §§801(c), 805(b), June 30, 1961, 75 Stat. 186, 188; Pub. L. 88–560, title V, §§501(c), 503(b), Sept. 2, 1964, 78 Stat. 796, 798; Pub. L. 89–117, title X, §1005(b), Aug. 10, 1965, 79 Stat. 501; Pub. L. 90–448, title X, §1003, Aug. 1, 1968, 82 Stat. 553; Pub. L. 91–78, §1, Sept. 30, 1969, 83 Stat. 125; Pub. L. 91–152, title IV, §413(a), Dec. 24, 1969, 83 Stat. 398; Pub. L. 93–117, §13(a), Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title V, §509(a), Aug. 22, 1974, 88 Stat.

694; Pub. L. 95–60, §4(a), June 30, 1977, 91 Stat. 258; Pub. L. 95–80, §4(a), July 31, 1977, 91 Stat. 340; Pub. L. 95–128, title V, §501(a), Oct. 12, 1977, 91 Stat. 1138; Pub. L. 95–406, §7(a), Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title V, §501(a)–(c), Oct. 31, 1978, 92 Stat. 2110, 2111; Pub. L. 95–619, title II, §232(b), Nov. 9, 1978, 92 Stat. 3227; Pub. L. 96–71, §5(a), Sept. 28, 1979, 93 Stat. 502; Pub. L. 96–105, §5(a), Nov. 8, 1979, 93 Stat. 795; Pub. L. 96–153, title V, §501(a), Dec. 21, 1979, 93 Stat. 1132; Pub. L. 96–372, §6(a), Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96–399, title V, §501(a), Oct. 8, 1980, 94 Stat. 1667; Pub. L. 97–35, title III, §351(a), Aug. 13, 1981, 95 Stat. 420; Pub. L. 98–181, title I [title V, §511(a)], Nov. 30, 1983, 97 Stat. 1243; Pub. L. 98–479, title I, §105(d), Oct. 17, 1984, 98 Stat. 2227; Pub. L. 99–272, title III, §3005, Apr. 7, 1986, 100 Stat. 103; Pub. L. 100–242, title III, §301(a)–(d), (g), Feb. 5, 1988, 101 Stat. 1891–1893; Pub. L. 101–625, title VII, §701(a)–(d), Nov. 28, 1990, 104 Stat. 4281, 4282; Pub. L. 102–550, title VII, §701(a)–(d), (f), Oct. 28, 1992, 106 Stat. 3832–3834; Pub. L. 105–276, title V, §599C(e)(2)(C), Oct. 21, 1998, 112 Stat. 2662.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1490c(f) of this title, referred to in subsec. (b)(8), was repealed by Pub. L. 102–550, title VII, §710(2), Oct. 28, 1992, 106 Stat. 3840.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105–276, §599C(e)(2)(C)(i), inserted "or contracts for operating assistance under section 1490a(a)(5) of this title" after "section 1490a(a)(2)(A) of this title" in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105–276, §599C(e)(2)(C)(ii), inserted "or operating assistance contracts" after "contracts".

Subsec. (c)(2)(B). Pub. L. 105–276, §599C(e)(2)(C)(iii), struck out "rental" before "assistance" in two places.

Subsec. (c)(2)(C). Pub. L. 105–276, §599C(e)(2)(C)(iv), inserted "or operating assistance contracts" after "contracts".

1992—Subsec. (a). Pub. L. 102–550, §701(a), inserted heading and amended par. (1) generally, substituting provisions relating to aggregate amounts for which Secretary may insure and guarantee loans for fiscal years 1993 and 1994 for provisions authorizing aggregate amounts for fiscal years 1991 and 1992.

Subsec. (b). Pub. L. 102–550, §701(b), amended subsec. (b) generally, inserting heading and substituting provisions authorizing appropriations for fiscal years 1993 and 1994 for provisions authorizing appropriations for fiscal years 1991 and 1992.

Subsec. (c). Pub. L. 102–550, §701(c), inserted heading and amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into rental assistance payment contracts under section 1490a(a)(2)(A) of this title aggregating $397,000,000 for fiscal year 1991 and $414,100,000 for fiscal year 1992."

Subsec. (d). Pub. L. 102–550, §701(d), inserted heading and amended text generally. Prior to amendment, text read as follows: "The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into 5-year supplemental rental assistance contracts under section 1472(c)(5)(D) of this title aggregating $5,200,000 for fiscal year 1991 and $5,500,000 for fiscal year 1992."

Subsec. (e). Pub. L. 102–550, §701(f), amended subsec. (e) generally, substituting present provisions for provisions authorizing a demonstration rural housing voucher program during fiscal years 1988 and 1989. See section 1490r of this title.

1990—Subsec. (a)(1). Pub. L. 101–625, §701(a), amended par. (1) generally, substituting provisions relating to aggregate amounts for which Secretary may insure and guarantee loans for fiscal years 1991 and 1992 for provisions authorizing aggregate amounts for fiscal years 1988 and 1989.

Subsec. (b). Pub. L. 101–625, §701(b), amended subsec. (b) generally, substituting provisions authorizing appropriations for fiscal years 1991 and 1992 for provisions authorizing appropriations for fiscal years 1988 and 1989.

Subsec. (c)(1). Pub. L. 101–625, §701(c), amended par. (1) generally, substituting provisions authorizing appropriations for rental assistance payment contracts for fiscal years 1991 and 1992 for provisions authorizing appropriations for such contracts for fiscal years 1988 and 1989.

Subsec. (d). Pub. L. 101–625, §701(d), amended subsec. (d) generally, substituting provisions authorizing supplemental rental assistance contracts aggregating $5,200,000 for fiscal year 1991 and $5,500,000 for fiscal

year 1992 for provisions authorizing contracts aggregating $26,000,000 for fiscal year 1988 and $27,534,000 for fiscal year 1989.

1988—Subsec. (a)(1). Pub. L. 100–242, §301(a), amended par. (1) generally, substituting provisions relating to the aggregate amounts for which the Secretary may insure and guarantee loans for fiscal years 1988 and 1989, for provisions authorizing aggregate amounts the Secretary may insure and guarantee for fiscal year 1986.

Subsec. (b). Pub. L. 100–242, §301(b), amended subsec. (b) generally, substituting provisions authorizing appropriated funds for fiscal years 1988 and 1989, for provisions authorizing appropriated funds for fiscal years 1984 and 1985.

Subsec. (c). Pub. L. 100–242, §301(c), amended subsec. (c) generally, substituting provisions authorizing appropriations to enter into rental assistance payment contracts for fiscal years 1988 and 1989, for provisions authorizing appropriations for such contracts for fiscal years 1984 and 1985.

Subsecs. (d), (e). Pub. L. 100–242, §301(d), (g), added subsecs. (d) and (e).

1986—Subsec. (a)(1). Pub. L. 99–272 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary may insure and guarantee loans under this subchapter during fiscal years 1984 and 1985 in an aggregate amount not to exceed such sums as may be approved in an appropriation Act."

1984—Subsec. (a). Pub. L. 98–479, §105(d)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(7). Pub. L. 98–479, §105(d)(2), substituted "1490m of this title" for "1490k of this title".

1983—Subsec. (a). Pub. L. 98–181 amended subsec. (a) generally, substituting "The Secretary may insure and guarantee loans under this subchapter during fiscal years 1984 and 1985 in an aggregate amount not to exceed such sums as may be approved in an appropriation Act" for "The Secretary may, as approved in appropriation Acts, insure and guarantee loans under the authorities provided in this subchapter in an aggregate principal amount not to exceed $3,700,600,000 with respect to the fiscal year ending September 30, 1982; except that—

"(1) not less than $3,170,000,000 of any amount so approved in appropriation Acts for such year shall be made available for loans insured or guaranteed on behalf of borrowers receiving assistance pursuant to subparagraph (B) or (C) of section 1490a(a)(1) of this title;

"(2) not more than $25,600,000 of such amount so approved for such fiscal year may be made available for loans insured under section 1484 of this title;

"(3) not more than $5,000,000 of such amount so approved shall be available for making advances under section 1471(e) of this title for such fiscal year; and

"(4) none of such amount shall be available for loans guaranteed pursuant to this title on behalf of borrowers who do not receive assistance pursuant to subparagraph (B) or (C) of section 1490a(a)(1) of this title."

Subsec. (b). Pub. L. 98–181 amended subsec. (b) generally, substituting "There are authorized to be appropriated for fiscal years 1984 and 1985—

"(1) such sums as may be necessary for grants pursuant to section 1474 of this title;

"(2) such sums as may be necessary for the purposes of section 1479(c) of this title;

"(3) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 1473 of this title, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(4) such sums as may be necessary for financial assistance pursuant to section 1486 of this title;

"(5) such sums as may be necessary for the purposes of section 1490c of this title;

"(6) such sums as may be necessary for purposes of section 1490e(a) of this title;

"(7) not to exceed $100,000,000 for each such year for grants under section 1490k of this title; of which 5 per centum shall be available for technical assistance; and

"(8) such sums as may be required by the Secretary to administer the provisions of sections 1715z and 1715z–1 of title 12 and section 1437f of this title."

for "There are authorized to be appropriated—

"(1) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 1481 of this title equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 1473 of this title, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(2) not to exceed $50,000,000 for loans and grants pursuant to section 1474 of this title for the fiscal year ending September 30, 1982, of which not more than $25,000,000 shall be available for grants;

"(3) not to exceed $25,000,000 for financial assistance pursuant to section 1486 of this title for the

fiscal year ending September 30, 1982;

"(4) not to exceed $2,000,000 for the purposes of section 1490e(a) of this title, of which not less than $1,000,000 shall be used for counseling purchasers and delinquent borrowers, for the fiscal year ending September 30, 1982;

"(5) such sums as may be required by the Secretary to administer the provisions of sections 1752 and 1752–1 of title 12 and section 1437f of this title; and

"(6) not to exceed $2,000,000 for the purposes of section 1479(c) of this title for the fiscal year ending September 30, 1982."

Subsec. (c). Pub. L. 98–181 added subsec. (c).

1981—Subsec. (a). Pub. L. 97–35, §351(a)(1)–(3), in introductory text substituted provisions authorizing appropriations for the fiscal year ending Sept. 30, 1982, for provisions authorizing appropriations for the fiscal year ending Sept. 30, 1981, in par. (1) substituted "$3,170,000,000" for "$3,120,000,000", and in par. (3) substituted "none" for "not more than $100,000,000".

Subsec. (b). Pub. L. 97–35, §351(a)(4)–(7), in par. (2) substituted "$50,000,000" for "$49,000,000" and "1982" for "1981", in par. (3) substituted "1982" for "1981", in par. (4) substituted "1982" for "1981", and added par. (6).

1980—Subsec. (a). Pub. L. 96–399, §501(a)(1)–(4), substituted in introductory clause, provision for $3,797,600,000 for fiscal year ending Sept. 30, 1981, for provision for $4,484,000,000 for fiscal year ending Oct. 15, 1980, in par. (1) substituted "$3,120,000,000" for "$3,070,000,000", in par. (2) substituted "$25,600,000" for "$38,000,000", and added par. (4).

Pub. L. 96–372, §6(a)(1), substituted "October 15, 1980" for "September 30, 1980".

Subsec. (b). Pub. L. 96–399, §501(a)(5)–(7), in par. (2) substituted provision for $49,000,000 for fiscal year ending Sept. 30, 1981, for provision for $48,000,000 for fiscal year ending Sept. 30, 1980, and inserted limitation of $25,000,000 available for grants, in par. (3) substituted provision for $25,000,000 for fiscal year ending Sept. 30, 1981, for provision for $30,000,000 for fiscal year ending Oct. 15, 1980, and in par. (4) substituted "$2,000,000" for "$1,500,000", "$1,000,000" for "$750,000", "1981" for "1980", and struck out "and not to exceed $1,000,000 for the purposes of section 1490e(b) of this title" after "borrowers".

Pub. L. 96–372, §6(a)(2), substituted "October 15, 1980" for "September 30, 1980" in pars. (2) to (4).

1979—Pub. L. 96–153 amended section generally, inserted authorization of appropriations for fiscal year ending Sept. 30, 1980 for guaranteeing loans under this subchapter and laid down maximum limits for certain programs, authorized appropriation of $48,000,000 for fiscal year ending Sept. 30, 1980 for purposes of section 1481 of this title, of $30,000,000 for fiscal year ending Sept. 30, 1980 for purposes of section 1486 of this title, of $1,500,000 for fiscal year ending Sept. 30, 1980 for purposes of section 1490e(a) of this title, of $1,000,000 for purposes of section 1490e(b) of this title, inserted reference to section 1437f of this title, and struck out authorization of appropriations for research and study programs.

Pub. L. 96–105 substituted "November 30, 1979" for "October 31, 1979" wherever appearing in cls. (b) to (d).

Pub. L. 96–71 substituted "October 31, 1979" for "September 30, 1979" wherever appearing in cls. (b) to (d).

1978—Pub. L. 95–619 in cl. (b) inserted requirement that not less than $25,000,000 of any amount authorized to be appropriated for the fiscal year ending Sept. 30, 1979, was to be appropriated for the purpose of making grants pursuant to section 1474(c) of this title.

Pub. L. 95–557, inserted in cl. (b) "and not to exceed $48,000,000 for the fiscal year ending September 30, 1979", and in cl. (c) "and not to exceed $38,000,000 for the fiscal year ending September 30, 1979", and substituted in cl. (d) "not to exceed $10,000,000 for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title for the fiscal year ending September 30, 1979" for "not to exceed $250,000 per year for research and study programs pursuant to subsection (b), (c), and (d) of section 1476 of this title during the period beginning July 1, 1961, and ending June 30, 1974, and not to exceed $1,000,000 per year for such programs during the period beginning October 1, 1974, and ending October 31, 1978".

Pub. L. 95–406 substituted in cls. (b) to (d) "October 31, 1978" for "September 30, 1978".

1977—Pub. L. 95–128 substituted in cls. (b) to (d) "September 30, 1978" for "September 30, 1977" and in cls. (b) and (c) "$105,000,000" for "$80,000,000".

Pub. L. 95–80 substituted "September 30, 1977" for "July 31, 1977" wherever appearing.

Pub. L. 95–60 substituted "July 31, 1977" for "June 30, 1977" wherever appearing.

1974—Pub. L. 93–383 in cls. (b) and (c) increased amount from $50,000,000 to $80,000,000 and substituted "June 30, 1977" for "October 1, 1974", and in cl. (d) substituted "June 30, 1974" for "October 1, 1974" and inserted provisions authorizing not to exceed $1,000,000 per year during the period beginning October 1, 1974, and ending June 30, 1977.

1973—Pub. L. 93–117 substituted "October 1, 1974" for "October 1, 1973" wherever appearing.

1969—Pub. L. 91–152 substituted "October 1, 1973" for "January 1, 1970" wherever appearing.

Pub. L. 91–78 substituted "January 1, 1970" for "October 1, 1969" wherever appearing.

1968—Pub. L. 90–448 authorized appropriations of such sums as may be required to administer the provisions of sections 1715z and 1715z–1 of title 12.

1965—Pub. L. 89–117 substituted "October 1, 1969" for "September 30, 1965" wherever appearing and "$50,000,000" for "$10,000,000" in cl. (c) as the maximum allowable appropriation for financial assistance pursuant to section 1486 of this title.

1964—Pub. L. 88–560 substituted "September 30, 1965" for "June 30, 1965" wherever appearing, redesignated cls. (c) and (d) as (d) and (e), and added cl. (c).

1961—Pub. L. 87–70 extended the period for grants and loans pursuant to section 1474 (a), (b) of this title from June 30, 1961, to June 30, 1965, and authorized appropriations of not more than $250,000 per year for research and study programs pursuant to subsections (b), (c), and (d) of section 1476 of this title for the period beginning July 1, 1961, and ending June 30, 1965.

1956—Act Aug. 7, 1956, authorized $50,000,000 for grants and loans from July 1, 1956, to June 30, 1961.

1955—Act Aug. 11, 1955, authorized an additional $10,000,000 on July 1, 1955.

1954—Act Aug. 2, 1954, substituted $10,000,000 for the authorization of $850,000 (available July 1, 1954) which had been authorized by act June 29, 1954.

Act June 29, 1954, authorized an appropriation of $850,000 to be available on July 1, 1954.

1952—Act July 14, 1952, authorized an appropriation of $10,000,000 to be available on July 1, 1953.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 7, 1956, effective July 1, 1956, see section 606(d) of act Aug. 7, 1956, set out as a note under section 1481 of this title.

[1] *See References in Text note below.*

§1484. Insurance of loans for housing and related facilities for domestic farm labor

(a) Authorization; terms and conditions

The Secretary is authorized to insure and make commitments to insure loans made by lenders other than the United States to the owner of any farm or any association of farmers for the purpose of providing housing and related facilities for domestic farm labor, or to any Indian tribe for such purpose, or to any State (or political subdivision thereof), or any broad-based public or private nonprofit organization, or any limited partnership in which the general partner is a nonprofit entity, or any nonprofit organization of farmworkers incorporated within the State for the purpose of providing housing and related facilities for domestic farm labor any place within the State where a need exists. All such loans shall be made in accordance with terms and conditions substantially identical with those specified in section 1472 of this title, except that—

(1) no such loan shall be insured in an amount in excess of the value of the farm involved less any prior liens in the case of a loan to an individual owner of a farm, or the total estimated value of the structures and facilities with respect to which the loan is made in the case of any other loan;

(2) no such loan shall be insured if it bears interest at a rate in excess of 1 per centum per annum;

(3) out of interest payments by the borrower the Secretary shall retain a charge in an amount not less than one-half of 1 per centum per annum of the unpaid principal balance of the loan;

(4) the insurance contracts and agreements with respect to any loan may contain provisions for

servicing the loan by the Secretary or by the lender, and for the purchase by the Secretary of the loan if it is not in default, on such terms and conditions as the Secretary may prescribe; and

(5) the Secretary may take mortgages creating a lien running to the United States for the benefit of the insurance fund referred to in subsection (b) notwithstanding the fact that the note may be held by the lender or his assignee.

(b) Utilization of farm tenant mortgage insurance fund; additions to and deposits in fund; deposits in Treasury

The Secretary shall utilize the insurance fund created by section 1005a of title 7 [1] and the provisions of section 1005c(a), (b), and (c) of title 7 [1] to discharge obligations under insurance contracts made pursuant to this section, and

(1) the Secretary may utilize the insurance fund to pay taxes, insurance, prior liens, and other expenses to protect the security for loans which have been insured hereunder and to acquire such security property at foreclosure sale or otherwise;

(2) the notes and security therefor acquired by the Secretary under insurance contracts made pursuant to this section shall become a part of the insurance fund. Loans insured under this section may be held in the fund and collected in accordance with their terms or may be sold and reinsured. All proceeds from such collections, including the liquidation of security and the proceeds of sales, shall become a part of the insurance fund; and

(3) of the charges retained by the Secretary out of interest payments by the borrower, amounts not less than one-half of 1 per centum per annum of the unpaid principal balance of the loan shall be deposited in and become a part of the insurance fund. The remainder of such charges shall be deposited in the Treasury of the United States and shall be available for administrative expenses of the Farmers Home Administration, to be transferred annually to and become merged with any appropriation for such expenses.

(c) Insurance contract; obligation of United States; incontestability

Any contract of insurance executed by the Secretary under this section shall be an obligation of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

(d) Repealed. Pub. L. 96–153, title V, §501(b), Dec. 21, 1979, 93 Stat. 1133

(e) Administrative expenses

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section.

(f) Definitions

As used in this section—

(1) the term "housing" means (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement;

(2) the term "related facilities" means (A) new structures (including household furnishings) suitable for use as dining halls, community rooms or buildings, or infirmaries, or for other essential services facilities, and (B) existing structures (including household furnishings) which can be made suitable for the above uses by rehabilitation, alteration, conversion, or improvement and (C) land necessary for an adequate site; and

(3) the term "domestic farm labor" means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities, without respect to the source of employment, except that—

(A) such person shall be a citizen of the United States, or a person legally admitted for permanent residence, or a person legally admitted to the United States and authorized to work in

agriculture;

(B) such term includes any person (and the family of such person) who is retired or disabled, but who was domestic farm labor at the time of retirement or becoming disabled; and

(C) in applying this paragraph with respect to vacant units in farm labor housing, the Secretary shall make units available for occupancy in the following order of priority:

(i) to active farm laborers (and their families);

(ii) to retired or disabled farm laborers (and their families) who were active in the local farm labor market at the time of retiring or becoming disabled; and

(iii) to other retired or disabled farm laborers (and their families).

(g) Waiver of interest rate limitations

The Secretary may waive the interest rate limitation contained in subsection (a)(2) and the requirement of section 1471(c)(3) of this title in any case in which the Secretary determines that qualified public or private nonprofit sponsors are not currently available and are not likely to become available within a reasonable period of time and such waiver is necessary to permit farmers to provide housing and related facilities for migrant domestic farm laborers, except that the benefits resulting from such waiver shall accrue to the tenants, and the interest rate on a loan insured under this section and for which the Secretary permits such waiver shall be no less than one-eighth of 1 per centum above the average interest rate on notes or other obligations which are issued under section 1481 of this title and have maturities comparable to such a loan.

(h) Determination of need for assistance

In making available assistance in any area under this section or section 1486 of this title, the Secretary shall—

(1) in determining the need for the assistance, take into consideration the housing needs only of domestic farm labor, including migrant farmworkers, in the area; and

(2) in determining whether to provide such assistance, make such determination without regard to the extent or nature of other housing needs in the area.

(i) Domestic farm labor housing available for other families

Housing and related facilities constructed with loans under this section may be used for tenants eligible for occupancy under section 1485 of this title if the Secretary determines that—

(1) there is no longer a need in the area for farm labor housing; or

(2) the need for such housing in the area has diminished to the extent that the purpose of the loan, providing housing for domestic farm labor, can no longer be met.

(j) Carbon monoxide alarm or detector

Housing and related facilities constructed with loans under this section shall contain installed carbon monoxide alarms or detectors that meet or exceed—

(1) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(2) any other standards as may be adopted by the Secretary, in collaboration with the Secretary of Housing and Urban Development, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(k) Qualifying smoke alarms

(1) In general

Housing and related facilities constructed with loans under this section shall contain qualifying smoke alarms that are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(2) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Smoke alarm defined

The term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15.

(B) Qualifying smoke alarm defined

The term "qualifying smoke alarm" means a smoke alarm that—

(i) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(I)(aa) is hardwired; or

(bb) uses 10-year non rechargeable, nonreplaceable primary batteries and—

(AA) is sealed;

(BB) is tamper resistant; and

(CC) contains silencing means; and

(II) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(ii) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

(July 15, 1949, ch. 338, title V, §514, as added Pub. L. 87–70, title VIII, §804(a), June 30, 1961, 75 Stat. 186; amended Pub. L. 88–560, title V, §502, Sept. 2, 1964, 78 Stat. 796; Pub. L. 90–448, title X, §1004, Aug. 1, 1968, 82 Stat. 553; Pub. L. 91–609, title VIII, §801(a)–(c), Dec. 31, 1970, 84 Stat. 1805, 1806; Pub. L. 95–128, title V, §505, Oct. 12, 1977, 91 Stat. 1140; Pub. L. 95–557, title V, §§501(d), 504, Oct. 31, 1978, 92 Stat. 2111, 2112; Pub. L. 96–153, title V, §501(b), Dec. 21, 1979, 93 Stat. 1133; Pub. L. 96–399, title V, §507(b), Oct. 8, 1980, 94 Stat. 1670; Pub. L. 98–181, title I [title V, §510], Nov. 30, 1983, 97 Stat. 1243; Pub. L. 100–242, title III, §§305(a), 316(b), Feb. 5, 1988, 101 Stat. 1895, 1897; Pub. L. 100–628, title X, §1043(a), Nov. 7, 1988, 102 Stat. 3273; Pub. L. 104–180, title VII, §734(e)(1), Aug. 6, 1996, 110 Stat. 1603; Pub. L. 105–276, title V, §599C(d), Oct. 21, 1998, 112 Stat. 2661; Pub. L. 106–569, title VII, §§703, 708(b), Dec. 27, 2000, 114 Stat. 3013, 3018; Pub. L. 110–234, title VI, §6205, May 22, 2008, 122 Stat. 1209; Pub. L. 110–246, §4(a), title VI, §6205, June 18, 2008, 122 Stat. 1664, 1971; Pub. L. 115–141, div. A, title III, Mar. 23, 2018, 132 Stat. 365; Pub. L. 116–260, div. Q, title I, §101(f)(1), Dec. 27, 2020, 134 Stat. 2164; Pub. L. 117–328, div. AA, title VI, §601(e)(1), Dec. 29, 2022, 136 Stat. 5546.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1005a and 1005c(a), (b), and (c) of title 7, referred to in subsec. (b), were repealed by section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318 (set out as a note under section 1921 of Title 7, Agriculture), which also provided that references in other laws to the Bankhead-Jones Farm Tenant Act shall be construed as referring to appropriate provisions of section 1921 et seq. of Title 7. The fund established pursuant to section 1005a of Title 7 was renamed the Agricultural Credit Insurance Fund. See section 1929 of Title 7.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Another section 801(b) of Pub. L. 91–609 amended section 1460(c)(1) of this title.

AMENDMENTS

2022—Subsec. (k). Pub. L. 117–328 added subsec. (k).

2020—Subsec. (j). Pub. L. 116–260 added subsec. (j).

2018—Subsec. (f)(3)(A). Pub. L. 115–141 substituted "United States," for "United States" and inserted ", or a person legally admitted to the United States and authorized to work in agriculture" before semicolon at end.

2008—Subsec. (f)(3). Pub. L. 110–246, §6205, substituted ", the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities" for "or the handling of such commodities in the unprocessed stage" in introductory provisions.

2000—Subsec. (a). Pub. L. 106–569, §703, substituted "limited partnership" for "nonprofit limited partnership" in first sentence of introductory provisions.

Subsec. (j). Pub. L. 106–569, §708(b), struck out heading and text of subsec. (j). Text read as follows: "Whoever, as an owner, agent, or manger, or who is otherwise in custody, control, or possession of property that is security for a loan made or insured under this section willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other funds derived from such property, for any purpose other than to meet actual or necessary expenses of the property, or for any other purpose not authorized by this subchapter or the regulations adopted pursuant to this subchapter, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both."

1998—Subsec. (a). Pub. L. 105–276 inserted ", or any nonprofit limited partnership in which the general partner is a nonprofit entity," after "private nonprofit organization" in first sentence.

1996—Subsec. (j). Pub. L. 104–180 added subsec. (j).

1988—Subsec. (f)(1). Pub. L. 100–242, §316(b), struck out "and" at end.

Subsec. (f)(3). Pub. L. 100–242, §305(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "the term 'domestic farm labor' means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States, Puerto Rico, or the Virgin Islands and either (A) are citizens of the United States, or (B) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence therein."

Subsec. (i). Pub. L. 100–628 added subsec. (i).

1983—Subsec. (h). Pub. L. 98–181 added subsec. (h).

1980—Subsec. (a). Pub. L. 96–399 inserted reference to Indian tribe.

1979—Subsec. (d). Pub. L. 96–153 repealed subsec. (d) which provided for a maximum of $38,000,000 for the aggregate amount of principal obligations of loans insured under this section.

1978—Subsec. (d). Pub. L. 95–557, §501(d), substituted "$38,000,000 (subject to approval in an appropriation Act)" for "$25,000,000".

Subsec. (g). Pub. L. 95–557, §504, added subsec. (g).

1977—Subsec. (f)(3). Pub. L. 95–128 extended definition of "domestic farm labor" to include laborers on farms situated in Puerto Rico and the Virgin Islands and the residents of the islands after being legally admitted for permanent residence.

1970—Subsec. (a). Pub. L. 91–609, §801(a), authorized insurance of loans to broad-based nonprofit organizations and nonprofit organizations of farmworkers incorporated within the State and provided for housing and related facilities for domestic farm labor any place within the State where need exists.

Subsec. (a)(2). Pub. L. 91–609, §801(b), substituted "1" for "5" per centum.

Subsec. (f)(1), (2). Pub. L. 91–609, §801(c), substituted "structures (including household furnishings)" for "structures" in cls. (A) and (B).

1968—Subsec. (f)(2). Pub. L. 90–448 included land necessary for an adequate site within the definition of "related facilities".

1964—Subsec. (f)(3). Pub. L. 88–560 included residents of the United States after being legally admitted for permanent residence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 effective 2 years after Dec. 29, 2022, see section 601(h) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

CONSTRUCTION OF 2022 AMENDMENT

Nothing in amendment made by Pub. L. 117–328 to be construed to preempt or limit applicability of certain

State or local laws relating to smoke alarms, see section 601(i) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

CONSTRUCTION OF 2020 AMENDMENT

Nothing in amendment made by Pub. L. 116–260 to be construed to preempt or limit applicability of certain State or local laws relating to carbon monoxide devices, see section 101(j) of div. Q of Pub. L. 116–260, set out as a note under section 1437a of this title.

[1] *See References in Text note below.*

§1485. Housing and related facilities for elderly persons and families or other persons and families of low income

(a) Direct loans; authorization; terms and conditions; revolving fund; appropriation

The Secretary is authorized to make loans to private nonprofit corporations and consumer cooperatives and Indian tribes to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income or other persons and families of low income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such a loan may be made for a period of up to 30 years from the making of the loan; and

(3) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.

There is authorized to be appropriated not to exceed $50,000,000, which shall constitute a revolving fund to be used by the Secretary in carrying out this subsection.

(b) Insurance of loans; authorization; terms and conditions; utilization of Agricultural Credit Insurance Fund

The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, Indian tribe, or partnership to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;

(3) for insuring such loans, the Secretary shall utilize the Agricultural Credit Insurance Fund subject to all the provisions of section 1929 of title 7 and the second and third sentences of section 1928 [1] of title 7, including the authority in section 1929(f)(1) [1] of title 7 to utilize the insurance fund to make, sell, and insure loans which could be insured under this subsection; but the aggregate of the principal amounts of such loans made by the Secretary and not disposed of shall not exceed $10,000,000 outstanding at any one time; and the Secretary may take liens running to the United States though the notes may be held by other lenders;

(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of

his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary;

(5) loans may be made to owners who are otherwise eligible under this section to purchase and convert single-family residences to rental units of two or more dwellings; and

(6) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

(A) the Secretary determines—

(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

(B) the Secretary determines—

(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

(ii) any other criteria established by the Secretary has been met.

(c) Equity recapture loans and loans to nonprofit organizations and public agencies

With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 15, 1989, for the purpose of extending the affordability of the housing for low income families or persons and very low-income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 1472(c)(5) of this title.

(d) Construction requirements; detached units for cooperative housing

No loan shall be made or insured under subsection (a) or (b) unless the Secretary finds that the construction involved will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials. However, specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant. A loan may be made or insured under subsection (a) or (b) with respect to detached units, including those on scattered sites, for cooperative housing.

(e) Definitions

As used in this section—

(1) the term "housing" means new or existing housing suitable for dwelling use by occupants eligible under this section, and such term also means manufactured home rental parks where either the lots or both the lots and the homes are available for use by occupants eligible under this section; and such term also means congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves; such housing for the handicapped may be utilized in conjunction with educational and training facilities;

(2) the term "related facilities" includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

(3) the term "congregate housing" means housing in which (A) some of the units may not have kitchen facilities, and (B) there is a central dining facility to provide wholesome and economic meals for elderly or handicapped persons or families.

(4) the term "development cost" means the costs of constructing, purchasing, improving,

altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges, initial operating expenses up to 2 per centum of the aforementioned costs, approved by the Secretary, impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments. Such fees and charges may include payments of qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities for low or moderate income families. Notwithstanding the first sentence of this paragraph, the term "development cost" shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.

(f) Administrative expenses

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section.

(g) Loans for financing transfers of memberships in cooperatives

Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfers of memberships in the cooperatives upon such terms and conditions as low- and moderate-income persons can reasonably afford, except that such loans shall not be made upon terms more favorable than are authorized under section 1490a(a) of this title, and that the total loan to a cooperative under this section shall not exceed the value of the property.

(h) Project transfers

(1) Condition

After August 6, 1996, the ownership or control of a project for which a loan is made or insured under this section may be transferred only if the Secretary determines that such transfer would further the provision of housing and related facilities for low-income families or persons and would be in the best interests of residents and the Federal Government.

(2) Actions to expedite project approvals

(A) In general

The Secretary shall take actions to facilitate timely approval of requests to transfer ownership or control, for the purpose of rehabilitation or preservation, of multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of title 26 or tax-exempt housing bonds.

(B) Consultation

The Secretary of Agriculture shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms (including applications forms for project transfers), and approval requirements [2] multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of title 26 or tax-exempt housing bonds.

(C) Existing requirements

Any actions taken pursuant to this paragraph shall be taken in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving Federal housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

(D) Recommendations

In implementing the changes required under this paragraph, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, tenant advocates, and other stakeholders in such projects.

(i) Limitations on cost increases after approval for project involving newly constructed or substantially rehabilitated units; applicable factors

After approving a project involving newly constructed or substantially rehabilitated units under this section, the Secretary shall limit cost increases to those approved by the Secretary. The Secretary may approve those increases only for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

(j) Contract preferences for providing units in newly constructed projects

For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States, units of local government, or others if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

(k) Management fees

The Secretary shall assure that management fees are not excessive when a project developed under this section is managed by the developer or an affiliate of the developer.

(l) Determination of market feasibility of project

For purposes of determining the market feasibility of any project to be assisted under this section—

(1) in the case of any applicant who applies for rental assistance payments under section 1490a of this title in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and

(2) in the case of any applicant whose project is expected to utilize any assistance under a program of a State, or political subdivision thereof, that is similar to such assistance payments under section 1490a of this title, the Secretary shall only require such applicant to demonstrate that—

(A) a market exists for persons and families eligible for such program of assistance;

(B) such program of assistance will provide rental assistance for a period of not less than five years, and, at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or for the term of the loan remaining after the period of such assistance, that an adequate rental market exists for the project without such assistance; and

(C) during the term of such rental assistance contracts, such State or political subdivision shall make available the amounts required for such rental assistance not less than annually.

(m) Standards for housing and related facilities rehabilitated or repaired; carbon monoxide detectors

(1) The Secretary shall establish standards for housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured under this section. Standards established by the Secretary under this subsection shall provide that except for substantial rehabilitation the particular items or systems repaired or rehabilitated must meet appropriate levels of quality or performance comparable to those levels prescribed by the Secretary of Housing and Urban Development for rehabilitation, but shall not require that such items or systems or the remainder of

the property meet the standards which are applicable to new construction. The Secretary shall ensure that standards prescribed under this subsection provide decent, safe, and sanitary housing and related facilities.

(2) Housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured under this section shall contain installed carbon monoxide alarms or detectors that meet or exceed—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, in collaboration with the Secretary of Housing and Urban Development, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(3) QUALIFYING SMOKE ALARMS

(A) IN GENERAL.—Housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured under this section shall contain qualifying smoke alarms that are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) SMOKE ALARM DEFINED.—The term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15.

(ii) QUALIFYING SMOKE ALARM DEFINED.—The term "qualifying smoke alarm" means a smoke alarm that—

(I) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

(n) Assistance to projects located on more than one site

The Secretary may not deny assistance under this section or section 1490a of this title on the basis that the project involved is to be located on more than one site.

(o) Rental assistance payments as affecting assistance to projects or occupancy by eligible persons

The Secretary may not (1) deny assistance under this section on the basis that rental assistance payments under section 1490a of this title may be required unless the authority to provide such assistance is not available; or (2) promulgate any regulation that would have the effect of denying occupancy to eligible persons on the basis that such persons require rental assistance payments under section 1490a of this title.

(p) Occupancy by low income persons and families other than very low-income persons and families

(1) To the extent assistance is available under section 1490a(a)(2) of this title, not more than 25 per centum of the dwelling units which were available for occupancy under this section prior to November 30, 1983, and which will be leased on or after November 30, 1983, shall be available for leasing by low income persons and families other than very low-income persons and families.

(2) To the extent assistance is available under section 1490a(a)(2) of this title, not more than 5 per

centum of the dwelling units which become available for occupancy under this section on or after November 30, 1983, shall be available for leasing by low income persons and families other than very low-income persons and families.

(3) Units in projects financed under this section which become available for occupancy after November 30, 1983, shall not be available for occupancy by persons and families other than very low-income persons and families if the authority to provide assistance for such persons is available.

(4) In projects financed under this section, units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of title 26.

(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 1490a(a)(2) of this title with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 1490a(a)(2) of this title for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.

(q) Determination of income of person or family occupying financed housing

In determining the income of a person or family occupying housing financed under this section, the Secretary shall consider the value of that person's or family's assets in the same manner as the Secretary of Housing and Urban Development considers such value for the purpose of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(r) Operating reserve and equity contribution requirements; regulations to implement adjustment by negotiated rulemaking procedure

(1) the [3] Secretary—

(A) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

(B) except as provided in paragraph (2), may require not more than a 3 percent contribution to equity, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of title 26.

(2) The Secretary may adjust the amount of equity contribution to ensure that assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources.

(3) Not later than 60 days after August 6, 1996, the Secretary shall issue regulations to implement subsection (r)(2) in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5: *Provided*, That if the negotiated rulemaking is not completed within the designated time, the Secretary shall proceed to promulgate regulations under the rulemaking authority contained in section 557 of title 5.

(s) Limitation of fees on loans

No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.

(t) Equity takeout loans

(1) Authority

The Secretary is authorized to guarantee an equity loan (in the form of a supplemental loan) to an owner of housing financed with a loan made or insured under subsection (b), only if the Secretary determines, after taking into account local market conditions, that there is reasonable

likelihood that the housing will continue as decent, safe, and sanitary housing for the remaining life of the original loan on the project made or insured under subsection (b) and that such an equity loan is—

(A) necessary to provide a fair return on the owner's investment in the housing;

(B) the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection; and

(C) would not impose an undue hardship on tenants or an unreasonable cost to the Federal Government.

The amount of loans guaranteed under this subsection shall be subject to limits provided in appropriations Acts.

(2) Timing

The Secretary is authorized to guarantee an equity loan under this subsection after the expiration of the 20-year period beginning on the date that an existing loan under subsection (b) of this section was made or insured. Not more than one equity loan under this subsection may be provided for any project.

(3) Amount of the takeout

The amount of an equity loan under this subsection shall not exceed the difference between the outstanding principal on debt secured by the project and 90 percent of the appraised value of the project. The appraised value of the project shall be determined by 2 independent appraisers, 1 of whom shall be selected by the Secretary and 1 of whom shall be selected by the owner. If the 2 appraisers fail to agree on the value of the project, the Secretary and the owner shall jointly select a third appraiser whose appraisal shall be binding on the Secretary and the owner. The amount of the equity loan shall not exceed 30 percent of the amount of the original appraised value of the project made or insured under subsection (b).

(4) Submission of plan

An owner requesting an equity loan under this subsection shall submit a plan acceptable to the Secretary to ensure that the cost of amortizing an equity loan under paragraph (1) does not result in the displacement of very-low-income tenants or substantially alter the income mix of the tenants in the project.

(5) Regulations

The Secretary shall issue final regulations within 180 days from December 15, 1989.

(6) Effective date

The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989. This subsection shall not require retroactive reserve account payments with respect to any loan that was obligated on or after December 15, 1989, and on or before June 16, 1990, but reserve account payments shall be required for such loans beginning on November 28, 1990.

(u) Reuse of loan authority

Loan authority that is obligated under this section but that is not expended due to any action that removes the original borrower, may be reallocated to a different borrower during the same fiscal year in which the loan authority was obligated. Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.

(v) Assumption of loans

The Secretary may provide for the assumption or transfer of a loan or loan obligation under this section to any person or entity qualified to receive a loan or loan obligation under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and

interests under the terms of the loan or loan obligation or such other terms as the Secretary determines appropriate.

(w) Set-aside of rural rental housing funds

(1) Authority

Except as provided in paragraph (2), the Secretary shall set aside from amounts made available for each State for loans under this section, not less than 9 percent of the amounts available in each fiscal year. Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity. A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of title 26. For the purposes of this subsection, a nonprofit entity is an organization that—

(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of title 26;

(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

(D) is not affiliated with or controlled by a for-profit organization.

(2) Minimum State set-aside

If the amount set aside under paragraph (1) for any State is less than $750,000 in any fiscal year, the Secretary shall pool such amount together with set-aside amounts from other States whose set-aside is less than $750,000, and shall make such amounts available for such eligible entities under paragraph (1) in any such State. The Secretary shall establish a procedure to provide that any amounts pooled under this paragraph from the allocation for any State in any fiscal year that are not obligated during a reasonable period in such year shall be made available for any such eligible entities under paragraph (1) in such State. The Secretary may provide amounts available for reallocation under this subsection in excess of $750,000 in a given State, if such amounts are necessary to finance a project under this section.

(3) Unused amounts

(A) Equitable distribution

Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

(B) Return to the States

After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.

(x) Uniform project costs; coordination of housing resources and tax benefits

The Secretary shall—

(1) establish standard guidelines for State offices that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 12705 of this title and a low-income housing tax credit allocation plan under section 42 of title 26; and

(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of title 26), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of title 26 for the purpose of achieving compliance with section 3545(d) of this title.

(y) Service coordinators

(1) Grants

The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a "service coordinator"), who shall be responsible for—

(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

(C) mobilizing public and private resources to obtain funding for such services for such residents;

(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

(2) Qualifications

Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 8011(d)(4) of this title for service coordinators under a congregate housing services program.

(3) Application and selection

The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

(4) "Frail elderly" defined

For purposes of this subsection, the term "frail elderly" has the meaning given the term in section 8011(k) of this title.

(z) Accounting and recordkeeping requirements

(1) Accounting standards

The Secretary shall require that borrowers in programs authorized by this section maintain accounting records in accordance with generally accepted accounting principles for all projects that receive funds from loans made or guaranteed by the Secretary under this section.

(2) Record retention requirements

The Secretary shall require that borrowers in programs authorized by this section retain for a period of not less than 6 years and make available to the Secretary in a manner determined by the Secretary, all records required to be maintained under this subsection and other records identified by the Secretary in applicable regulations.

(aa) Double damages for unauthorized use of housing projects assets and income

(1) Action to recover assets or income

(A) In general

The Secretary may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of the provisions of a loan made or guaranteed by the Secretary under this section or in violation of any applicable statute or regulation.

(B) Improper documentation

For purposes of this subsection, a use of assets or income in violation of the applicable loan, loan guarantee, statute, or regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project or for which the documentation has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(C) Definition

For the purposes of this subsection, the term "person" means—

(i) any individual or entity that borrows funds in accordance with programs authorized by this section;

(ii) any individual or entity holding 25 percent or more interest of any entity that borrows funds in accordance with programs authorized by this section; and

(iii) any officer, director, or partner of an entity that borrows funds in accordance with programs authorized by this section.

(2) Amount recoverable

(A) In general

In any judgment favorable to the United States entered under this subsection, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the provisions of a loan made or guaranteed by the Secretary under this section or any applicable statute or regulation, plus all costs related to the action, including reasonable attorney and auditing fees.

(B) Application of recovered funds

Notwithstanding any other provision of law, the Secretary may use amounts recovered under this subsection for activities authorized under this section and such funds shall remain available for such use until expended.

(3) Time limitation

Notwithstanding any other provision of law, an action under this subsection may be commenced at any time during the 6-year period beginning on the date that the Secretary discovered or should have discovered the violation of the provisions of this section or any related statutes or regulations.

(4) Continued availability of other remedies

The remedy provided in this subsection is in addition to and not in substitution of any other remedies available to the Secretary or the United States.

(July 15, 1949, ch. 338, title V, §515, as added Pub. L. 87–723, §4(b), Sept. 28, 1962, 76 Stat. 671; amended Pub. L. 88–340, June 30, 1964, 78 Stat. 233; Pub. L. 88–560, title V, §501(d) Sept. 2, 1964, 78 Stat. 796; Pub. L. 89–117, title X, §1005(c), Aug. 10, 1965, 79 Stat. 501; Pub. L. 89–754, title VIII, §§804, 805, Nov. 3, 1966, 80 Stat. 1282; Pub. L. 91–78, §1, Sept. 30, 1969, 83 Stat. 125; Pub. L. 91–152, title IV, §413(a), Dec. 24, 1969, 83 Stat. 398; Pub. L. 91–609, title VIII, §803(c), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93–117, §13(b), Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title V, §§509(b), 510, Aug. 22, 1974, 88 Stat. 695; Pub. L. 95–60, §4(b), June 30, 1977, 91 Stat. 258; Pub. L. 95–80, §4(b), July 31, 1977, 91 Stat. 340; Pub. L. 95–128, title V, §§501(b), 507(a)(3), 508, Oct. 12, 1977, 91 Stat. 1138, 1140, 1141; Pub. L. 95–406, §7(b), Sept. 30, 1978, 92 Stat. 881; Pub. L. 95–557, title V, §501(e), Oct. 31, 1978, 92 Stat. 2111; Pub. L. 96–71, §5(b), Sept. 28, 1979, 93 Stat. 502; Pub. L. 96–105, §5(b), Nov. 8, 1979, 93 Stat. 795; Pub. L. 96–153, title V, §501(f), Dec. 21,

1979, 93 Stat. 1134; Pub. L. 96–372, §6(b), Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96–399, title V, §§501(b), 502, 503, 507(c), Oct. 8, 1980, 94 Stat. 1668, 1670; Pub. L. 97–35, title III, §351(b), Aug. 13, 1981, 95 Stat. 420; Pub. L. 97–289, §3(a), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §3(a), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §4(a), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title V, §§511(b), 512], Nov. 30, 1983, 97 Stat. 1244; Pub. L. 98–479, title I, §105(e), Oct. 17, 1984, 98 Stat. 2227; Pub. L. 99–120, §3(a), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §3(a), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §3(a), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §3(a), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3009(a), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title II, §§242, 263, title III, §§301(e), 306, 307, 316(c), Feb. 5, 1988, 101 Stat. 1890, 1891, 1893, 1895, 1896, 1898; Pub. L. 100–628, title X, §1042, Nov. 7, 1988, 102 Stat. 3273; Pub. L. 101–137, §7(a), Nov. 3, 1989, 103 Stat. 825; Pub. L. 101–235, title II, §207, title IV, §402, Dec. 15, 1989, 103 Stat. 2042, 2048; Pub. L. 101–625, title VII, §§701(e), 712, 713, Nov. 28, 1990, 104 Stat. 4282, 4291, 4292; Pub. L. 102–142, title VII, §743(a), Oct. 28, 1991, 105 Stat. 915; Pub. L. 102–230, §4, Dec. 12, 1991, 105 Stat. 1721; Pub. L. 102–550, title VII, §§701(e), 707(a)–(f)(1), 708(a), Oct. 28, 1992, 106 Stat. 3834, 3836–3839; Pub. L. 104–120, §4(b), (c), Mar. 28, 1996, 110 Stat. 835; Pub. L. 104–180, title VII, §734(a), (c)(1), (2), (3)(C), (d), (e)(2), Aug. 6, 1996, 110 Stat. 1601–1603; Pub. L. 105–86, title VII, §735(b), Nov. 18, 1997, 111 Stat. 2110; Pub. L. 105–276, title V, §599C(b), Oct. 21, 1998, 112 Stat. 2661; Pub. L. 106–569, title VII, §704, Dec. 27, 2000, 114 Stat. 3014; Pub. L. 110–289, div. B, title VIII, §2833, July 30, 2008, 122 Stat. 2868; Pub. L. 116–260, div. Q, title I, §101(f)(2), Dec. 27, 2020, 134 Stat. 2164; Pub. L. 117–328, div. AA, title VI, §601(e)(2), Dec. 29, 2022, 136 Stat. 5547.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1928 of title 7, referred to in subsec. (b)(3), was amended generally by Pub. L. 104–127, title VI, §605, Apr. 4, 1996, 110 Stat. 1086, and, as so amended, consists of subsecs. (a) and (b) which are substantially similar to provisions formerly contained in the third sentence of such section.

Section 1929(f)(1) of title 7, referred to in subsec. (b)(3), was repealed and section 1929(f)(2) was redesignated section 1929(f)(1) by Pub. L. 104–127, title VII, §744, Apr. 4, 1996, 110 Stat. 1125.

The United States Housing Act of 1937, referred to in subsec. (q), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

CODIFICATION

Section 203(a) of Pub. L. 100–242, as amended, which was formerly set out in a note under section 1715l of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 263 of Pub. L. 100–242 is repealed and section is to read as it would without such amendment, was omitted in the general amendment of subtitle A of title II of Pub. L. 100–242 by Pub. L. 101–625.

AMENDMENTS

2022—Subsec. (m)(3). Pub. L. 117–328 added par. (3).

2020—Subsec. (m). Pub. L. 116–260 designated existing provisions as par. (1) and added par. (2).

2008—Subsec. (h). Pub. L. 110–289, which directed amendment of subsec. (h) by inserting "(1) Condition" after "(h)" and adding par. (2), was executed by making the insertion after "(h) Project transfers" and adding par. (2), to reflect the probable intent of Congress.

2000—Subsec. (z). Pub. L. 106–569 added subsec. (z) and struck out heading and text of former subsec. (z). Text read as follows: "Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a loan made or insured under this section willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other fund derived from such property, for any purpose other than to meet actual or necessary expenses of the property, or for any other purpose not

authorized by this subchapter or the regulations adopted pursuant to this subchapter, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both."

Subsec. (aa). Pub. L. 106–569 added subsec. (aa).

1998—Subsec. (b)(4) to (7). Pub. L. 105–276, §599C(b)(1), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4) which read as follows: "no loan shall be insured under this subsection after September 30, 1998;".

Subsec. (w)(1). Pub. L. 105–276, §599C(b)(2), substituted "each fiscal year" for "fiscal year 1998" in first sentence.

1997—Subsec. (a)(2). Pub. L. 105–86, §735(b)(3)(A), substituted "up to 30 years" for "up to fifty years".

Subsec. (b)(2). Pub. L. 105–86, §735(b)(3)(B)(i), added par. (2) and struck out former par. (2) which read as follows: "provide for complete amortization by periodic payments within such term as the Secretary may prescribe;".

Subsec. (b)(4). Pub. L. 105–86, §735(b)(1), substituted "September 30, 1998" for "September 30, 1997".

Subsec. (b)(7). Pub. L. 105–86, §735(b)(3)(B)(ii)–(iv), added par. (7).

Subsec. (w)(1). Pub. L. 105–86, §735(b)(2), substituted "fiscal year 1998" for "fiscal year 1997".

1996—Subsec. (b)(4). Pub. L. 104–180, §734(a)(1), substituted "September 30, 1997" for "September 30, 1996".

Pub. L. 104–120, §4(b), substituted "September 30, 1996" for "September 30, 1994".

Subsec. (c)(1). Pub. L. 104–180, §734(c)(3)(C), substituted "December 15, 1989" for "December 21, 1979".

Subsec. (h). Pub. L. 104–180, §734(c)(1), added subsec. (h).

Subsec. (r). Pub. L. 104–180, §734(d)(1), added subsec. (r) and struck out former subsec. (r) which read as follows: "The Secretary—

"(1) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

"(2) may not require more than a 3 percent contribution to equity, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of title 26."

Subsec. (t)(4). Pub. L. 104–180, §734(c)(2), redesignated par. (6) as (4) and struck out heading and text of former par. (4). Text read as follows: "For each initial loan made or insured under subsection (b) of this section pursuant to a contract entered into after the date this subsection takes effect, the owner shall make monthly payments from project income to the Secretary for deposit in a reserve account for the project. Such monthly payments shall, in the first year after the loan is made or insured, equal $2 for each unit in the project, and shall increase by $2 annually until the expiration of the 20-year period beginning on the date that the loan was made or insured, except that such initial payments, any accrued payments, and annual increases shall not be required for a unit occupied by a low-income family or individual who is paying more than 30 percent of the family's or individual's adjusted income in rent. The rent on a unit for which payment is made under this paragraph shall be increased by the amount of such payment."

Subsec. (t)(5). Pub. L. 104–180, §734(c)(2), redesignated par. (7) as (5) and struck out former par. (5) which read as follows:

"(5) RESERVE ACCOUNT.—

"(A) Payments under paragraph (4) shall be deposited in an interest bearing account that the Secretary shall establish for the project.

"(B) The Secretary shall make available amounts in the reserve account only for payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 1490a(a)(2)(A) of this title;

"(C) Any payments to the account, and interest on such payments, not expended in the project from which such payments were made, shall be used in other projects to make payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 1490a(a)(2)(A) of this title.

"(D) The Secretary shall make payments from accounts under this paragraph only to the extent provided in appropriations Acts."

Subsec. (t)(6) to (8). Pub. L. 104–180, §734(c)(2)(B), redesignated pars. (6) to (8) as (4) to (6), respectively.

Subsec. (w)(1). Pub. L. 104–180, §734(a)(2), substituted "fiscal year 1997" for "fiscal year 1996".

Pub. L. 104–120, §4(c), substituted "fiscal year 1996" for "fiscal years 1993 and 1994".

Subsec. (z). Pub. L. 104–180, §734(d)(2), (e)(2), added subsec. (z) and struck out heading and text of former subsec. (z). Text consisted of 3 pars. which denied Secretary authority to refuse to make complying

loan solely because facilities were in rural or remote area or to provide preference for project based on availability of particular essential service and required Secretary to give preference to proposed projects serving rural communities 20 or more miles from an urban area.

1992—Subsec. (b)(4). Pub. L. 102–550, §701(e), substituted "1994" for "1992".

Subsec. (e)(4). Pub. L. 102–550, §707(a), struck out "and" before "initial operating expenses up to", inserted ", impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments" after "approved by the Secretary", and inserted at end "Notwithstanding the first sentence of this paragraph, the term 'development cost' shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26."

Subsec. (l)(1). Pub. L. 102–550, §707(b)(1), added par. (1) and struck out former par. (1) which read as follows: "in the case of any applicant whose project is expected to utilize rental assistance payments under section 1490a of this title, the Secretary shall only require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and".

Subsec. (p)(4). Pub. L. 102–550, §707(b)(2)(1), substituted period at end for ", except when the Secretary determines that the continued vacancy of units that have been unoccupied for at least 6 months threatens the financial viability of the project. The preceding sentence shall not be interpreted as authorizing the Secretary to—

"(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of title 26; or

"(B) deny or delay closing of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant."

Subsec. (p)(5). Pub. L. 102–550, §707(b)(2)(2), added par. (5).

Subsec. (r)(2). Pub. L. 102–550, §707(c), inserted before period at end ", except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of title 26".

Subsec. (w)(1). Pub. L. 102–550, §708(a)(1)–(3), substituted "not less than 9 percent of the amounts available in fiscal years 1993 and 1994" for "not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992" in first sentence, struck out "or under whole or partial control with a for-profit entity" after "by a for-profit entity" in second sentence, and inserted at end "A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of title 26. For the purposes of this subsection, a nonprofit entity is an organization that—" and subpars. (A) to (D).

Subsec. (w)(2). Pub. L. 102–550, §708(a)(4), inserted at end "The Secretary may provide amounts available for reallocation under this subsection in excess of $750,000 in a given State, if such amounts are necessary to finance a project under this section."

Subsec. (w)(3). Pub. L. 102–550, §708(a)(5), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "Any amounts set aside or pooled under this subsection from the allocation for any State in any fiscal year that are not obligated by a reasonable date established by the Secretary (which shall be after the expiration of the period under paragraph (2)) shall be made available to any entity eligible under this section in such State."

Subsec. (x). Pub. L. 102–550, §707(d), added subsec. (x).

Subsec. (y). Pub. L. 102–550, §707(e), added subsec. (y).

Subsec. (z). Pub. L. 102–550, §707(f)(1), added subsec. (z).

1991—Subsec. (b)(4). Pub. L. 102–142 substituted "1992" for "1991".

Subsec. (p)(4). Pub. L. 102–230 inserted at end "The preceding sentence shall not be interpreted as authorizing the Secretary to—" and subpars. (A) and (B).

1990—Subsec. (b)(4). Pub. L. 101–625, §701(e), substituted "1991" for "1990".

Subsec. (t)(3). Pub. L. 101–625, §712(a)(1), substituted "original appraised value of the project" for "original loan on the project".

Subsec. (t)(4). Pub. L. 101–625, §712(a)(2), inserted "initial" before "loan" in first sentence and inserted "initial payments, any accrued payments, and" after "except that such" in second sentence.

Subsec. (t)(8). Pub. L. 101–625, §712(a)(3), added par. (8) and struck out former par. (8) which read as follows: "The requirements of this subsection shall apply to any applications for assistance under this section

on or after the expiration of 180 days from December 15, 1989."

Subsec. (u). Pub. L. 101–625, §712(b), inserted at end "Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended."

Subsec. (v). Pub. L. 101–625, §712(c), added subsec. (v).

Subsec. (w). Pub. L. 101–625, §713, added subsec. (w).

1989—Subsec. (b)(4). Pub. L. 101–137 substituted "September 30, 1990" for "September 30, 1989".

Subsec. (t). Pub. L. 101–235, §207, added subsec. (t).

Subsec. (u). Pub. L. 101–235, §402, added subsec. (u).

1988—Subsec. (b)(4). Pub. L. 100–242, §301(e), substituted "September 30, 1989" for "March 15, 1988".

Subsec. (c). Pub. L. 100–242, §242(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d) to (g). Pub. L. 100–242, §242(1), redesignated subsecs. (c) to (f) as (d) to (g), respectively.

Subsec. (h). Pub. L. 100–628 struck out subsec. (h) which read as follows: "The Secretary shall limit increases in rents on or after November 30, 1983, for newly constructed or substantially rehabilitated projects assisted under this section to the lesser of the actual operating cost increases incurred or the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families and persons assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units."

Pub. L. 100–242, §242(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsecs. (i) to (p). Pub. L. 100–242, §242(1), redesignated subsecs. (h) to (o) as (i) to (p), respectively.

Subsec. (p)(1). Pub. L. 100–242, §316(c), substituted "on or after such date" for "on or after such effective date", which for purposes of codification was translated as "on or after November 30, 1983", thus requiring no change in text.

Subsec. (p)(4). Pub. L. 100–242, §306, added par. (4).

Subsec. (q). Pub. L. 100–242, §242(1), redesignated former subsec. (p) as (q).

Subsec. (r). Pub. L. 100–242, §263, added subsec. (r).

Subsec. (s). Pub. L. 100–242, §307, added subsec. (s).

1987—Subsec. (b)(4). Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

1986—Subsec. (b)(4). Pub. L. 99–430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219, substituting "March 17, 1986" for "December 15, 1985".

Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".

1985—Subsec. (b)(4). Pub. L. 99–219 substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156 substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120 substituted "November 14, 1985" for "September 30, 1985".

1984—Subsec. (k)(2)(B). Pub. L. 98–479 inserted ", at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or".

1983—Subsec. (a)(2) to (4). Pub. L. 98–181, §512(c)(1), (2), struck out par. (2) which related to rates of interest on loans, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (b)(2) to (4). Pub. L. 98–181, §512(c)(3), (4), struck out par. (2) which related to rates of interest on loans and redesignated pars. (3) to (5) as (2) to (4), respectively.

Subsec. (b)(5). Pub. L. 98–181, §512(c)(4), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pub. L. 98–181, §511(b), substituted "September 30, 1985" for "November 30, 1983".

Pub. L. 98–109 substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98–35 substituted "September 30, 1983" for "May 20, 1983".

Subsec. (b)(6), (7). Pub. L. 98–181, §512(c)(4), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Pub. L. 98–181, §512(b), added par. (7).

Subsec. (c). Pub. L. 98–181, §512(d), inserted provisions relating to detached units, on scattered sites, for cooperative housing.

Subsec. (d)(1). Pub. L. 98–181, §512(e), inserted provisions relating to applicability to manufactured home

rental parks.

Subsecs. (g) to (p). Pub. L. 98–181, §512(a), added subsecs. (g) to (p).

1982—Subsec. (b)(5). Pub. L. 97–289 substituted "May 20, 1983" for "September 30, 1982".

1981—Subsec. (b)(5). Pub. L. 97–35 substituted "1982" for "1981".

1980—Subsec. (a). Pub. L. 96–399, §§503(a), 507(c)(1), inserted reference to Indian tribes in provisions preceding par. (1), and added par. (4).

Subsec. (b). Pub. L. 96–399, §§501(b), 503(b), 507(c)(2), inserted reference to Indian tribe in provisions preceding par. (1), in par. (5) substituted "September 30, 1981" for "October 15, 1980", and added par. (6).

Pub. L. 96–372 substituted "October 15, 1980" for "September 30, 1980" in par. (5).

Subsec. (f). Pub. L. 96–399, §502, added subsec. (f).

1979—Subsec. (b)(5). Pub. L. 96–153 substituted "September 30, 1980" for "November 30, 1979".

Pub. L. 96–105 substituted "November 30, 1979" for "October 31, 1979".

Pub. L. 96–71 substituted "October 31, 1979" for "September 30, 1979".

1978—Subsec. (b)(5). Pub. L. 95–557 substituted "September 30, 1979" for "October 31, 1978".

Pub. L. 95–406 substituted "October 31, 1978" for "September 30, 1978".

1977—Subsec. (a). Pub. L. 95–128, §507(a)(3), authorized loans for housing of handicapped persons or families.

Subsec. (b). Pub. L. 95–128, §§501(b), 507(a)(3), substituted "elderly or handicapped persons or families" for "elderly persons and elderly families" in provision preceding par. (1) and "September 30, 1978" for "September 30, 1977" in par. (5).

Pub. L. 95–80 substituted "September 30, 1977" for "July 31, 1977" in par. (5).

Pub. L. 95–60 substituted "July 31, 1977" for "June 30, 1977" in par. (5).

Subsec. (c). Pub. L. 95–128, §508(a), provided that specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant.

Subsec. (d)(1). Pub. L. 95–128, §508(b), defined "housing" to also mean congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves and authorized such housing for the handicapped to be utilized in conjunction with educational and training facilities.

Subsec. (d)(3). Pub. L. 95–128, §508(c), substituted definition of "congregate housing" for prior definition of "elderly persons" as persons 62 years of age or over and "elderly families" as families the head of which (or his spouse) is 62 years of age or over.

1974—Subsec. (b)(1). Pub. L. 93–383, §510(a), struck out "$750,000 or" after "exceed" and substituted "less" for "least".

Subsec. (b)(5). Pub. L. 93–383, §509(b), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (d)(4). Pub. L. 93–383, §510(b), inserted provisions including initial operating expenses up to 2 per centum of enumerated costs and requiring payments to be made to consultants rendering services to nonprofit corporations or consumer cooperatives providing housing and related facilities to low or moderate income families.

1973—Subsec. (b)(5). Pub. L. 93–117 substituted "October 1, 1974" for "October 1, 1973".

1970—Subsec. (b)(1). Pub. L. 91–609 substituted "$750,000" for "$300,000".

1969—Subsec. (b)(5). Pub. L. 91–152 substituted "October 1, 1973" for "January 1, 1970".

Pub. L. 91–78 substituted "January 1, 1970" for "October 1, 1969".

1966—Subsec. (a). Pub. L. 89–754, §§804(a), 805(a), inserted "or other persons and families of low income" after "income" and substituted "rental or cooperative housing" for "rental housing", respectively.

Subsec. (b). Pub. L. 89–754, §805(a), (b), substituted "rental or cooperative housing" for "rental housing" and inserted "or other persons and families of moderate income" after "families", respectively.

Subsec. (d)(1). Pub. L. 89–754, §804(b), substituted in the definition of "housing" the words "occupants eligible under this section," for "elderly persons or elderly families".

Subsec. (d)(4). Pub. L. 89–754, §805(c), defined fees and charges as used for purposes of "development cost" to include payments to qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities.

1965—Subsec. (b)(5). Pub. L. 89–117 substituted "October 1, 1969" for "September 30, 1965".

1964—Subsec. (b). Pub. L. 88–560 substituted "$300,000" for "$100,000" in cl. (1), and "1965" for "1964" in cl. (5).

Pub. L. 88–340 substituted "September 30, 1964" for "June 30, 1964" in cl. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 effective 2 years after Dec. 29, 2022, see section 601(h) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104–120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 708(b) of Pub. L. 102–550 provided that: "The amendment made by subsection (a)(5) [amending this section] shall take effect on October 1, 1993, and shall apply to fiscal year 1994 and each fiscal year thereafter."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

REGULATIONS

Section 707(f)(2) of Pub. L. 102–550 provided that: "The Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by paragraph (1) [amending this section] not later than the expiration of the 45-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 [42 U.S.C. 1490n(d)] and subsections (b) and (c) of section 553 of title 5, United States Code, shall apply to any such regulations."

CONSTRUCTION OF 2022 AMENDMENT

Nothing in amendment made by Pub. L. 117–328 to be construed to preempt or limit applicability of certain State or local laws relating to smoke alarms, see section 601(i) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

CONSTRUCTION OF 2020 AMENDMENT

Nothing in amendment made by Pub. L. 116–260 to be construed to preempt or limit applicability of certain State or local laws relating to carbon monoxide devices, see section 101(j) of div. Q of Pub. L. 116–260, set out as a note under section 1437a of this title.

[1] See References in Text note below.

[2] So in original. The word "for" probably should appear.

[3] So in original. Probably should be capitalized.

§1486. Financial assistance to provide low-rent housing for domestic farm labor

(a) Application; considerations

Upon the application of any State or political subdivision thereof, or any Indian tribe, or any broad-based public or private nonprofit organization incorporated within the State, or any nonprofit organization of farmworkers incorporated within the State, the Secretary is authorized to provide financial assistance for the provision of low-rent housing and related facilities (which may be located any place within the State) for domestic farm labor, if he finds that—

(1) the housing and related facilities for which financial assistance is requested will fulfill a pressing need in the area in which such housing and facilities will be located, and there is reasonable doubt that the same can be provided without financial assistance under this section;

(2) the applicant will contribute, from its own resources or from funds borrowed under section 1484 of this title or elsewhere, at least 10 per centum of the total development cost;

(3) the types of housing and related facilities to be provided are most practicable, giving due consideration to the purposes to be served thereby and the needs of the occupants thereof, and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area; and

(4) the construction will be undertaken in an economical manner, and the housing and related facilities will not be of elaborate or extravagant design or material.

(b) Maximum amount of assistance

The amount of any financial assistance provided under this section for low-rent housing and related facilities shall not exceed 90 per centum of the total development cost thereof, as determined by the Secretary, less such amount as the Secretary determines can be practicably obtained from other sources (including a loan under section 1484 of this title).

(c) Prerequisite agreements; rentals; safety and sanitation standards; priority of domestic farm labor

No financial assistance for low-rent housing and related facilities shall be made available under this section unless, to any extent and for any periods required by the Secretary, the applicant agrees—

(1) that the rentals charged domestic farm labor shall not exceed such amounts as may be approved by the Secretary, giving due consideration to the income and earning capacity of the tenants, and the necessary costs of operating and maintaining such housing;

(2) that such housing shall be maintained at all times in a safe and sanitary condition in accordance with such standards as may be prescribed by State or local law, or, in the absence of such standards, in accordance with such minimum requirements as the Secretary shall prescribe;

(3) an absolute priority will be given at all times in granting occupancy of such housing and facilities to domestic farm labor; and

(4) that such housing shall contain qualifying smoke alarms that are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(d) Payments; contracts to specify uses of housing

The Secretary may make payments pursuant to any contract for financial assistance under this section at such times and in such manner, as may be specified in the contract. In each contract, the Secretary shall include such covenants, conditions, or provisions as he deems necessary to insure that the housing and related facilities, for which financial assistance is made available, be used only in conformity with the provisions of this section.

(e) Regulations for prevention of waste

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated. The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed.

(f) Wages; labor standards; waiver; authority and functions of Secretary

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary which are undertaken by approved applicants under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary shall not extend any financial assistance under this section for any project without first obtaining adequate assurance that these labor standards will be maintained on the construction work; except that compliance with such standards may be waived by the Secretary in cases or classes of cases

where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the person, corporation, association, organization, or other entity, undertaking the project. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 3145 of title 40.

(g) Definitions

As used in this section—

(1) the term "low-rent housing" means rental housing within the financial reach of families of low income consisting of (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement;

(2) the terms "related facilities" and "domestic farm labor" shall have the meaning assigned to them in section 1484(f) of this title;

(3) the term "development cost" shall have the meaning assigned to it in section 1485(d)(4) [1] of this title;

(4) the term "domestic farm labor" has the meaning given such term in section 1484(f)(3) of this title;

(5) the term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15; and

(6) the term "qualifying smoke alarm" means a smoke alarm that—

(A) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(i)(I) is hardwired; or

(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—

(aa) is sealed;

(bb) is tamper resistant; and

(cc) contains silencing means; and

(ii) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(B) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

(h) Migrant farmworker housing

Notwithstanding the provisions of subsection (a)(3), the Secretary may, upon a finding of persistent need for migrant farmworker housing in any area, provide assistance to eligible applicants for 90 per centum of the development costs of such housing in such area to be used solely by migrant farmworkers while they are away from their residence. Such housing shall be constructed in such a manner as to be safe and weatherproof for the time it is to be occupied, be equipped with potable water and modern sanitation facilities (including a kitchen sink, toilet, and bathing facilities), and meet such other requirements as the Secretary may prescribe.

(i) Farm labor housing

The Secretary shall utilize not more than 10 per centum of the amounts available for any fiscal year for purposes of this section for financial assistance to eligible private and public nonprofit agencies to encourage the development of domestic and migrant farm labor housing projects under this subchapter.

(j) Domestic farm labor housing available for other families

Housing and related facilities constructed with grants under this section may be used for tenants

eligible for occupancy under section 1485 of this title if the Secretary determines that—

(1) there is no longer a need in the area for farm labor housing; or

(2) the need for such housing in the area has diminished to the extent that the purpose of the grant, providing housing for domestic farm labor, can no longer be met.

(k) Housing for rural homeless and migrant farmworkers

(1) In general

The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this subsection.

(2) Types of assistance

(A) In general

The Secretary may provide the following assistance for housing under this subsection:

(i) An advance, in an amount not to exceed $400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure or construction of a new structure for use in the provision of housing under this subsection. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this subparagraph if the structure was not used for the purposes under this subsection prior to the receipt of assistance.

(ii) A grant, in an amount not to exceed $400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this subsection.

(iii) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

(B) Available assistance

A recipient may receive assistance under both clauses (i) and (ii) of subparagraph (A). The Secretary may increase the limit contained in such clauses to $800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

(C) Repayment of advance

Any advance provided under subparagraph (A)(i) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this subsection. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this subsection for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

(D) Prevention of undue benefits

Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this subsection prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of low income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

(3) Program requirements

(A) Applications

(i) Applications for assistance under this subsection shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(ii) The Secretary shall require that applications contain at a minimum (I) a description of the

proposed housing, (II) a description of the size and characteristics of the population that would occupy the housing, (III) a description of any public and private resources that are expected to be made available in connection with the housing, (IV) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing, and (V) assurances satisfactory to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application.

(iii) The Secretary shall require that an application furnish reasonable assurances that the housing will be available for occupancy by homeless individuals (and the families of such individuals) only on an emergency and temporary basis during the offseason and shall be otherwise available for occupancy by migrant farmworkers (and their families).

(iv) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

(B) Selection criteria

The Secretary shall establish selection criteria for a national competition for assistance under this subsection, which shall include—

(i) the ability of the applicant to develop and operate the housing;

(ii) the feasibility of the proposal in providing the housing;

(iii) the need for such housing in the area to be served;

(iv) the cost effectiveness of the proposed housing;

(v) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;

(vi) the extent to which the applicant has control of the site of the proposed housing; and

(vii) such other factors as the Secretary determines to be appropriate for purposes of this subsection.

(C) Required agreements

The Secretary may not approve assistance for any housing under this subsection unless the applicant agrees—

(i) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in compliance with the provisions of this subsection and the application approved by the Secretary;

(ii) to monitor and report to the Secretary on the progress of the housing; and

(iii) to comply with such other terms and conditions as the Secretary may establish for purposes of this subsection.

(D) Occupant rent

Each migrant farmworker and homeless individual residing in a facility assisted under this subsection shall pay as rent an amount determined in accordance with the provisions of section 1437a(a) of this title.

(4) Guidelines

(A) Regulations

Not later than 120 days after November 28, 1990, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subsection.

(B) Limitation on use of funds

No assistance received under this subsection (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

(5) Limitation on administrative expenses

No recipient may use more than 5 percent of an advance or grant received under this subsection for administrative purposes.

(6) Omitted

(7) Definitions

For purposes of this subsection:

(A) The term "applicant" means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this subsection.

(B) The term "homeless individual" has the same meaning given the term under section 11302 of this title.

(C) The term "migrant farmworker"—

(i) means any person (and the family of such person) who (I) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment, and (II) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subclause (I); and

(ii) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of clause (i) at the time of retirement or becoming disabled.

(D) The term "operating costs" means expenses incurred by a recipient providing housing under this subsection with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing.

(July 15, 1949, ch. 338, title V, §516, as added Pub. L. 88–560, title V, §503(a), Sept. 2, 1964, 78 Stat. 796; amended Pub. L. 91–609, title VIII, §801(c), (d), Dec. 31, 1970, 84 Stat. 1806; Pub. L. 95–557, title V, §505, Oct. 31, 1978, 92 Stat. 2112; Pub. L. 96–153, title V, §509, Dec. 21, 1979, 93 Stat. 1136; Pub. L. 96–399, title V, §507(d), Oct. 8, 1980, 94 Stat. 1670; Pub. L. 98–181, title I [title V, §513], Nov. 30, 1983, 97 Stat. 1247; Pub. L. 100–242, title III, §305(b), Feb. 5, 1988, 101 Stat. 1895; Pub. L. 100–628, title X, §1043(b), Nov. 7, 1988, 102 Stat. 3273; Pub. L. 101–625, title VII, §714(a), Nov. 28, 1990, 104 Stat. 4292; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 117–328, div. AA, title VI, §601(f), Dec. 29, 2022, 136 Stat. 5548.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (f), is set out in the Appendix to Title 5, Government Organization and Employees.

Section 1485(d)(4) of this title, referred to in subsec. (g)(3), was redesignated section 1485(e)(4) of this title by Pub. L. 100–242, title II, §242(1), Feb. 5, 1988, 101 Stat. 1890.

CODIFICATION

In subsec. (f), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Subsec. (k)(6) of this section, which required the Secretary to submit an annual report to Congress summarizing the activities carried out under subsec. (k) and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 18 on page 103 of House Document No. 103–7.

AMENDMENTS

2022—Subsec. (c)(4). Pub. L. 117–328, §601(f)(1), added par. (4).
Subsec. (g)(5), (6). Pub. L. 117–328, §601(f)(2), added pars. (5) and (6).
2000—Subsec. (k)(7)(B). Pub. L. 106–400 made technical amendment to reference in original act which appears in text as reference to section 11302 of this title.
1990—Subsec. (k). Pub. L. 101–625 added subsec. (k).
1988—Subsec. (g)(4). Pub. L. 100–242 added par. (4).
Subsec. (j). Pub. L. 100–628 added subsec. (j).
1983—Subsec. (i). Pub. L. 98–181 added subsec. (i).
1980—Subsec. (a). Pub. L. 96–399 inserted reference to Indian tribe in provisions preceding par. (1).
1979—Subsec. (h). Pub. L. 96–153 added subsec. (h).
1978—Subsec. (e). Pub. L. 95–557 inserted "The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed".
1970—Subsec. (a). Pub. L. 91–609, §801(d)(1), authorized financial assistance for broad-based nonprofit organizations incorporated within the State and nonprofit organizations of farmworkers incorporated within the State and provided for low-rent housing and related facilities "(which may be located within the State)".
Subsec. (a)(2). Pub. L. 91–609, §801(d)(2), substituted "10 per centum" for "one-third".
Subsec. (a)(3). Pub. L. 91–609, §801(d)(3), inserted ", and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area;".
Subsec. (b). Pub. L. 91–609, §801(d)(4), substituted "90 per centum" for "two-thirds".
Subsec. (g)(1). Pub. L. 91–609, §801(c), substituted "structures (including household furnishings)" for "structures" in cls. (A) and (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 effective 2 years after Dec. 29, 2022, see section 601(h) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

CONSTRUCTION OF 2022 AMENDMENT

Nothing in amendment made by Pub. L. 117–328 to be construed to preempt or limit applicability of certain State or local laws relating to smoke alarms, see section 601(i) of div. AA of Pub. L. 117–328, set out as a note under section 1701q of Title 12, Banks and Banking.

[1] *See References in Text note below.*

§1487. Rural Housing Insurance Fund

(a) Authority to make and insure loans for housing and buildings on adequate farms; amounts

The Secretary may insure loans meeting the requirements of section 1472 of this title, and may make loans in accordance with the requirements of such section to be sold and insured. The amount of such a loan to a low income person or family shall not exceed the amount necessary to provide adequate housing which is modest in size, design, and cost (as determined by the Secretary).

(b) Authority to make and insure loans for housing and related facilities for domestic farm labor and elderly persons; transfer of notes, contracts, and mortgages from Agricultural Credit Insurance Fund; compensation

The Secretary may insure loans in accordance with the requirements of section 1484 of this title (exclusive of subsections (a)(3), (a)(5), and (b) thereof), 1485 of this title (exclusive of subsections (a) and (b)(3) thereof), 1490d, and 1490f of this title, and may make loans meeting such requirements to be sold and insured. Upon the expiration of ninety days after the original capitalization of the Rural Housing Insurance Fund, created by subsection (e) of this section, no new loans shall be made or insured under section 1484 or 1485(b) of this title, except in conformity with this section. The notes held in the Agricultural Credit Insurance Fund (section 1929 of title 7) which

evidence loans made or insured by the Secretary under section 1484 or 1485(b) of this title, the rights and liabilities of that Fund under insurance contracts relating to such loans held by insured investors, the mortgages securing the obligations of the borrowers under such loans held in the Fund or by insured investors, and all rights to subsequent collections on and proceeds of such notes, contracts, and mortgages, are hereby transferred to the Rural Housing Insurance Fund and for the purposes of this subchapter and any other Act shall be subject to the provisions of this section as if created pursuant thereto. The Rural Housing Insurance Fund shall compensate the Agricultural Credit Insurance Fund for the aggregate unpaid principal balance plus accrued interest of the notes so transferred.

(c) Use of funds from Rural Housing Insurance Fund for loans; sale of insured and guaranteed loans to public

The Secretary may use the Rural Housing Insurance Fund for the purpose of making loans to be sold and insured under this section. Any loan made and sold by the Secretary under this section after April 7, 1986 (and any loan made by other lenders under this subchapter that is insured or guaranteed in accordance with this section, is purchased by the Secretary, and is sold by the Secretary under this section after such date) shall be sold to the public and may not be sold to the Federal Financing Bank, unless such sale to the Federal Financing Bank is required to service transactions under this subchapter between the Secretary and the Federal Financing Bank occurring on or before such date.

(d) Authority to insure payment of interest and principal; liens; assignability of notes evidencing loans; interest subsidy on insured and guaranteed loans offered for sale to public; protection of borrowers under loans sold to public

(1) The Secretary may, in conformity with subsections (a), (b), and (m), insure the payment of principal and interest on loans made by lenders other than the United States, and on loans made from or otherwise acquired by the Rural Housing Insurance Fund which are sold by the Secretary. Any contract of insurance executed by the Secretary hereunder shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or material misrepresentation of which the holder has actual knowledge. In connection with loans insured under this section, the Secretary may take liens running to the United States notwithstanding the fact that the notes evidencing such loans may be held by lenders other than the United States. Notes evidencing such loans shall be freely assignable, but the Secretary shall not be bound by any such assignment until notice thereof is given to and acknowledged by him.

(2) Each loan made by the Secretary or other lenders under this subchapter that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (as determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.

(3) Each loan made by the Secretary or other lenders under this subchapter that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this subchapter;

(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this subchapter, including consideration for interest subsidy, moratorium, reamortization, refinancing, and appeal of any adverse decision to an impartial officer.

(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve

against future losses not less than 5 percent of the outstanding face amount of the loans held by the public at any time.

(e) Rural Housing Insurance Fund; creation; authorization of appropriations; separate operation of guaranteed and insured loan programs: transfer of funds

There is hereby created the Rural Housing Insurance Fund (hereinafter referred to as the "Fund") which shall be used by the Secretary as a revolving fund for carrying out the provisions of this section. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purposes of the Fund. The guaranteed loan program under this subchapter shall be operated separately from the insured loan program operated under this subchapter and no funds designated for one program may be transferred to another program.

(f) Investment of excess Fund moneys

Money in the Fund not needed for current operations shall be invested in direct obligations of the United States or obligations guaranteed by the United States.

(g) Fund assets and liabilities; sale of loans; agreements for servicing and purchasing loans

All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the Fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the Fund. Loans may be held in the Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof. The Secretary is authorized to make agreements with respect to servicing loans held or insured by him under this section and purchasing such insured loans on such terms and conditions as he may prescribe.

(h) Issuance of notes; form and denominations; interest rate; purchase by Secretary of the Treasury; debt transactions

The Secretary is authorized to issue notes to the Secretary of the Treasury to obtain funds necessary for discharging obligations under this section and for authorized expenditures out of the Fund, but, except as may be authorized in appropriation Acts, not for the original or any additional capital of the Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each note shall bear interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which such note is issued, which are neither due nor callable for redemption for fifteen years from their date of issue. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include purchases of notes issued by the Secretary. All redemption, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. The notes issued by the Secretary to the Secretary of the Treasury shall constitute obligations of the Fund.

(i) Retention of annual charge; administrative expenses; merger of funds

The Secretary may retain out of interest payments by the borrower an annual charge in an amount specified in the insurance or sale agreement applicable to the loan. Of the charges retained by the Secretary, if any, not to exceed 1 per centum per annum of the unpaid balance of the loan shall be deposited in the Fund. Any retained charges not deposited in the Fund shall be available for administrative expenses in carrying out the provisions of this subchapter, to be transferred annually, and become merged with any appropriation for administrative expenses of the Farmers Home Administration, when and in such amounts as may be authorized in appropriation Acts.

(j) Additional uses of Fund moneys

The Secretary may also utilize the Fund—

(1) to pay amounts to which the holder of the note is entitled in accordance with an insurance or

sale agreement under this section accruing between the date of any payment by the borrower to the Secretary and the date of transmittal of any such payments to the holder of the note; and in the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay the holder of any note insured under this section any defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, or pursuant to a purchase agreement, the entire balance outstanding on the note;

(3) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, and other services customary in the industry, independent audits of project expenses, construction inspections, commercial appraisals, servicing of loans, and other related program services and expenses, and other expenses and advances to protect the security for loans which are insured under this section or held in the Fund, and to acquire such security property at foreclosure sale or otherwise;

(4) to make assistance payments authorized by section 1490a(a) of this title;

(5) after October 1, 1977, and as approved in appropriations Acts, to make advances authorized by section 1471(e) of this title;

(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d); and

(7) to provide advances and assistance required to carry out paragraphs (4) and (5) of section 1472(c) of this title.

(k) Sale of loans as sale of assets

Any sale by the Secretary of loans individually or in blocks, pursuant to subsections (c) and (g), shall be treated as a sale of assets for the purposes of chapter 11 of title 31, notwithstanding the fact that the Secretary, under an agreement with the purchaser, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser.

(l) Commitments to make or insure loans to lenders, builders, or sellers; terms and conditions

The Secretary may also, upon the application of lenders, builders, or sellers and upon compliance with requirements specified by him, make commitments upon such terms and conditions as he shall prescribe to make or insure loans under this section to eligible applicants.

(m) Transfer of assets, liabilities, and authorizations of Rural Housing Direct Loan Account to Fund; abolition of Account; applicability of provisions

The assets and liabilities of, and authorizations applicable to, the Rural Housing Direct Loan Account are hereby transferred to the Fund, and such Account is hereby abolished. Such assets and their proceeds, including loans made out of the Fund pursuant to this section, shall be subject to all of the provisions of this section.

(n) Purchase of eligible residential properties

The Secretary may guarantee and service loans made for the purchase of eligible residential properties under section 1441a(c) [1] of title 12 in accordance with subsection (d) of this section and the last sentence of section 1490a(a)(1)(A) of this title.

(o) Rules to encourage rehabilitation or purchase of existing buildings; regulations to facilitate marketability of insured or guaranteed loans in secondary mortgage market

(1) The Secretary shall promulgate rules which encourage the rehabilitation or purchase of existing buildings for the purpose of providing housing which is economical in cost and operation.

(2) Not later than the expiration of the 90-day period following April 7, 1986, the Secretary shall issue regulations to facilitate the marketability in the secondary mortgage market of loans insured or guaranteed under this section. Such regulations shall ensure that such loans are competitive with other loans and mortgages insured or guaranteed by the Federal Government.

(July 15, 1949, ch. 338, title V, §517, as added Pub. L. 89–117, title X, §1003(a), Aug. 10, 1965, 79 Stat. 498; amended Pub. L. 89–754, title VIII, §806, Nov. 3, 1966, 80 Stat. 1282; Pub. L. 91–78, §1,

Sept. 30, 1969, 83 Stat. 125; Pub. L. 91–152, title IV, §413(a)–(e)(2), (f)(2), Dec. 24, 1969, 83 Stat. 398–400; Pub. L. 91–609, title VIII, §803(d), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93–117, §13(c), Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title V, §§505(c), 509(b), 514(c), 516(b), 517, 519(b), Aug. 22, 1974, 88 Stat. 694–696, 698, 699; Pub. L. 95–60, §4(c), June 30, 1977, 91 Stat. 258; Pub. L. 95–80, §4(c), July 31, 1977, 91 Stat. 340; Pub. L. 95–128, title V, §§501(c), 502(b), (c), 506, 509, Oct. 12, 1977, 91 Stat. 1139–1141; Pub. L. 95–406, §7(c), Sept. 30, 1978, 92 Stat. 881; Pub. L. 95–557, title V, §§501(f), 506(b), Oct. 31, 1978, 92 Stat. 2111, 2113; Pub. L. 96–71, §5(c), Sept. 28, 1979, 93 Stat. 502; Pub. L. 96–105, §5(c), Nov. 8, 1979, 93 Stat. 795; Pub. L. 96–153, title V, §§501(g), 511, Dec. 21, 1979, 93 Stat. 1134, 1137; Pub. L. 96–372, §6(c), Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96–399, title V, §§501(c), 511, Oct. 8, 1980, 94 Stat. 1668, 1671; Pub. L. 97–35, title III, §351(c), Aug. 13, 1981, 95 Stat. 421; Pub. L. 97–289, §3(b), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §3(b), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §4(b), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title V, §§511(c), 514], Nov. 30, 1983, 97 Stat. 1244, 1247; Pub. L. 98–479, title I, §105(f), title II, §203(d)(5), (6), Oct. 17, 1984, 98 Stat. 2227, 2230; Pub. L. 99–272, title III, §3006, Apr. 7, 1986, 100 Stat. 103; Pub. L. 100–242, title II, §243, Feb. 5, 1988, 101 Stat. 1890; Pub. L. 101–73, title V, §501(e)(2), Aug. 9, 1989, 103 Stat. 394; Pub. L. 102–550, title VII, §707(g), Oct. 28, 1992, 106 Stat. 3839.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1441a(c) of title 12, referred to in subsec. (n), was repealed by Pub. L. 111–203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

AMENDMENTS

1992—Subsec. (j)(3). Pub. L. 102–550 inserted "independent audits of project expenses," after "customary in the industry,".

1989—Subsec. (n). Pub. L. 101–73 added subsec. (n).

1988—Subsec. (j)(7). Pub. L. 100–242 added par. (7).

1986—Subsec. (c). Pub. L. 99–272, §3006(a), inserted provision requiring any loan made and sold after Apr. 7, 1986, to be sold to the public and not to Federal Financing Bank unless required to service transactions between Secretary and Bank occurring on or before such date.

Subsec. (d). Pub. L. 99–272, §3006(b), (c), designated existing provisions as par. (1), and added pars. (2) to (4).

Subsec. (j)(6). Pub. L. 99–272, §3006(d), added par. (6).

Subsec. (n). Pub. L. 99–272, §3006(e), struck out subsec. (n) which restricted loans guaranteed under this section to borrowers with moderate or above-moderate incomes.

Subsec. (o). Pub. L. 99–272, §3006(f), designated existing provisions as par. (1), and added par. (2).

1984—Subsec. (h). Pub. L. 98–479, §203(d)(5), substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended" and "such chapter" for "such Act".

Subsec. (j)(4). Pub. L. 98–479, §105(f), inserted "and" after the semicolon at the end.

Subsec. (k). Pub. L. 98–479, §203(d)(6), substituted "chapter 11 of title 31" for "the Budget and Accounting Act, 1921".

1983—Subsec. (a). Pub. L. 98–181, §514(a)(1), substituted provisions relating to amount of loan to low income person or family, for provisions designated as pars. (1) and (2) relating to restrictions on loans with respect to amounts, interest, etc., where the borrowers are persons of low or moderate income, and similar restrictions where the borrowers are other persons.

Subsec. (a)(1). Pub. L. 98–181, §511(c), substituted "September 30, 1985" for "November 30, 1983".

Pub. L. 98–109 substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98–35 substituted "September 30, 1983" for "May 20, 1983".

Subsec. (b). Pub. L. 98–181, §514(a)(2), substituted "(b)(3)" for "(b)(4)".

Subsec. (j)(6). Pub. L. 98–181, §514(b), struck out par. (6) which related to making expenditures under section 1479(c) of this title after Oct. 1, 1977.

Subsec. (o). Pub. L. 98–181, §514(c), (d), added subsec. (o), and struck out former subsec. (o) which related to loans to persons of low income and to the minimum amounts available to such persons.

1982—Subsec. (a)(1). Pub. L. 97–289 substituted "May 20, 1983" for "September 30, 1982".

1981—Subsec. (a)(1). Pub. L. 97–35 substituted "1982" for "1981".

1980—Subsec. (a)(1). Pub. L. 96–399, §501(c), substituted "September 30, 1981" for "October 15, 1980".

Pub. L. 96–372 substituted "October 15, 1980" for "September 30, 1980".

Subsec. (n). Pub. L. 96–399, §511, inserted reference to moderate income borrowers.

1979—Subsec. (a)(1). Pub. L. 96–153, §501(g), substituted "September 30, 1980" for "November 30, 1979".

Pub. L. 96–105 substituted "November 30, 1979" for "October 31, 1979".

Pub. L. 96–71 substituted "October 31, 1979" for "September 30, 1979".

Subsec. (o). Pub. L. 96–153, §511, redesignated existing provisions as par. (1) and added par. (2).

1978—Subsec. (a)(1). Pub. L. 95–557, §501(f), substituted "September 30, 1979" for "October 31, 1978".

Pub. L. 95–406 substituted "October 31, 1978" for "September 30, 1978".

Subsec. (j)(4). Pub. L. 95–557, §506(b), substituted "1490a(a)" for "1490a(a)(2)".

1977—Subsec. (a)(1). Pub. L. 95–128, §501(c), substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95–80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95–60 substituted "July 31, 1977" for "June 30, 1977".

Subsec. (e). Pub. L. 95–128, §502(b), required separate operation of guaranteed loan program and insured loan program and prohibited transfer of funds from one program to the other.

Subsec. (j)(5), (6). Pub. L. 95–128, §506, added pars. (5) and (6).

Subsec. (n). Pub. L. 95–128, §502(c), added subsec. (n).

Subsec. (o). Pub. L. 95–128, §509, added subsec. (o).

1974—Subsec. (a)(1). Pub. L. 93–383, §509(b), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (b). Pub. L. 93–383, §§516(b), 517, inserted reference to section 1490f of this title and provisions relating to transfer of notes from and compensation for the Agricultural Credit Insurance Fund.

Subsec. (d). Pub. L. 93–383, §505(c)(1), struck out "as it becomes due" after "principal and interest".

Subsec. (j). Pub. L. 93–383, §§505(c)(2), (3), 514(c), 519(b), in cl. (1) substituted "any payment" for "any prepayment" and "such payments" for "such prepayments" and inserted provision relating to next agreed annual or semiannual remittance date, in cl. (3) inserted provisions authorizing other services customary in the industry, etc., and added cl. (4).

1973—Subsec. (a)(1). Pub. L. 93–117 substituted "October 1, 1974" for "October 1, 1973".

1970—Subsec. (j)(3). Pub. L. 91–609 authorized use of Fund moneys for expenses necessary to obtain credit reports on applicants or borrowers.

1969—Subsec. (a)(1). Pub. L. 91–152, §413(a), substituted "October 1, 1973" for "January 1, 1970".

Pub. L. 91–78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (b). Pub. L. 91–152, §413(f)(2), inserted reference to section 1490d of this title.

Subsec. (c). Pub. L. 91–152, §413(b), struck out provision which imposed a limit of not to exceed $100,000,000 on the aggregate amount of loans held by the Secretary at any one time.

Subsec. (d). Pub. L. 91–152, §413(e)(2), inserted reference to subsec. (m) of this section and inserted "or otherwise acquired by" after "loans made from".

Subsecs. (k) to (m). Pub. L. 91–152, §413(c)–(e)(1), added subsecs. (k) to (m).

1966—Subsec. (a)(1). Pub. L. 89–754 substituted restriction against insurance or making of a loan under this par. after Oct. 1, 1969, except pursuant to a commitment entered into before that date for former clause (C) which provided that such loans shall not exceed in the aggregate of $300,000,000 of new loans made or insured in any one fiscal year.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

SALE OF RURAL HOUSING LOANS

Pub. L. 99–509, title II, §2001, Oct. 21, 1986, 100 Stat. 1879, directed Secretary of Agriculture to take such actions as necessary to ensure that loans made under this subchapter are sold to public in amounts sufficient to provide a net reduction in outlays of not less than $1,715,000,000 in fiscal year 1987 from proceeds of such sales, specified procedures and terms of sales, required Secretary to report to specified Congressional committees not later than 20 days before initial sale estimating amount of discount at which loans will be sold

at such initial sale and estimating such amount at each subsequent sale during fiscal year 1987 and periodic reports to such committees, the first not later than 60 days after Oct. 21, 1986, and subsequent reports each 60 days thereafter, on Secretary's activities regarding such sales, authorized audits and evaluations of Secretary's activities by Comptroller General and reports on such audits and evaluations to Congressional committees, and excluded applicability of subsec. (d)(2) and (3) of this section to sale of loans.

[1] *See References in Text note below.*

§1488. Repealed. Pub. L. 91–152, title IV, §413(e)(3), Dec. 24, 1969, 83 Stat. 399

Section, act July 15, 1949, ch. 338, title V, §518, as added Aug. 10, 1965, Pub. L. 89–117, title X, §1003(a), 79 Stat. 500, created the Rural Housing Direct Loan Account, set forth the composition of such Account, and authorized the issuance of notes to the Secretary of the Treasury.

§1489. Transfer of excess funds out of Rural Housing Insurance Fund

Any sums in the Rural Housing Insurance Fund which the Secretary determines are in excess of amounts needed to meet the obligations and carry out the purposes of such Fund shall be returned to miscellaneous receipts of the Treasury.

(July 15, 1949, ch. 338, title V, §519, as added Pub. L. 89–117, title X, §1006, Aug. 10, 1965, 79 Stat. 501; amended Pub. L. 91–152, title IV, §413(e)(4), Dec. 24, 1969, 83 Stat. 399.)

EDITORIAL NOTES

AMENDMENTS

1969—Pub. L. 91–152 struck out applicability of provisions to Rural Housing Direct Loan Account.

§1490. "Rural" and "rural area" defined

As used in this subchapter, the terms "rural" and "rural area" mean any open country, or any place, town, village, or city which is not (except in the cases of Pajaro, in the State of California, and Guadalupe, in the State of Arizona) part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000, and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit for lower and moderate-income families, as determined by the Secretary and the Secretary of Housing and Urban Development. For purposes of this subchapter, any area classified as "rural" or a "rural area" prior to October 1, 1990, and determined not to be "rural" or a "rural area" as a result of data received from or after the 1990, 2000, 2010, or 2020 decennial census, and any area deemed to be a "rural area" for purposes of this subchapter under any other provision of law at any time during the period beginning January 1, 2000, and ending December 31, 2020, shall continue to be so classified until the receipt of data from the decennial census in the year 2030, if such area has a population in excess of 10,000 but not in excess of 35,000, is rural in character, and has a serious lack of mortgage credit for lower and moderate-income families. Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this subchapter, and the city of Altus, Oklahoma, shall be considered a rural area for purposes of this subchapter until the receipt of data from the decennial census in the year 2000.

(July 15, 1949, ch. 338, title V, §520, as added Pub. L. 89–117, title X, §1007, Aug. 10, 1965, 79 Stat. 502; amended Pub. L. 91–609, title VIII, §803(e), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93–383, title V, §511, Aug. 22, 1974, 88 Stat. 695; Pub. L. 94–375, §25(b), Aug. 3, 1976, 90 Stat. 1078; Pub.

L. 98–181, title I [title V, §515], Nov. 30, 1983, 97 Stat. 1247; Pub. L. 98–479, title I, §105(g), Oct. 17, 1984, 98 Stat. 2227; Pub. L. 99–120, §3(b), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §3(b), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §3(b), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §3(b), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3009(b), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title III, §308, Feb. 5, 1988, 101 Stat. 1896; Pub. L. 101–137, §7(b), Nov. 3, 1989, 103 Stat. 826; Pub. L. 101–625, title VII, §715(a), Nov. 28, 1990, 104 Stat. 4296; Pub. L. 102–550, title VII, §709, Oct. 28, 1992, 106 Stat. 3840; Pub. L. 105–276, title V, §599H(g), Oct. 21, 1998, 112 Stat. 2669; Pub. L. 106–554, §1(a)(4) [div. A, §102], Dec. 21, 2000, 114 Stat. 2763, 2763A–172; Pub. L. 106–569, title VII, §705, Dec. 27, 2000, 114 Stat. 3015; Pub. L. 113–79, title VI, §6208, Feb. 7, 2014, 128 Stat. 861; Pub. L. 115–334, title VI, §6305, Dec. 20, 2018, 132 Stat. 4752.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–334 substituted "2010, or 2020 decennial census" for "or 2010 decennial census", "December 31, 2020," for "December 31, 2010,", and "year 2030" for "year 2020".

2014—Pub. L. 113–79 substituted "1990, 2000, or 2010 decennial census, and any area deemed to be a 'rural area' for purposes of this subchapter under any other provision of law at any time during the period beginning January 1, 2000, and ending December 31, 2010, shall continue to be so classified until the receipt of data from the decennial census in the year 2020" for "1990 or 2000 decennial census shall continue to be so classified until the receipt of data from the decennial census in the year 2010" and "35,000" for "25,000".

2000—Pub. L. 106–554 and Pub. L. 106–569 amended second sentence identically, substituting "1990 or 2000 decennial census" for "1990 decennial census" and "year 2010" for "year 2000".

1998—Pub. L. 105–276 inserted before period at end ", and the city of Altus, Oklahoma, shall be considered a rural area for purposes of this subchapter until the receipt of data from the decennial census in the year 2000".

1992—Pub. L. 102–550 inserted at end "Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this subchapter."

1990—Pub. L. 101–625 substituted "cases" for "case" in first sentence, inserted ", and Guadalupe, in the State of Arizona" after "California", and substituted last sentence for "For purposes of this subchapter, any area classified as 'rural' or a 'rural area' prior to the receipt of data from or after the 1980 decennial census and determined not to be 'rural' or a 'rural area' as a result of such data shall continue to be so classified through September 30, 1990, if such area has a population in excess of 10,000 but not in excess of 20,000."

1989—Pub. L. 101–137 substituted "September 30, 1990" for "September 30, 1989".

1988—Pub. L. 100–242 added parenthetical exception for Pajaro, in the State of California, and substituted "September 30, 1989" for "March 15, 1988".

1987—Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

1986—Pub. L. 99–430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219, substituting "March 17, 1986" for "December 15, 1985".

Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".

1985—Pub. L. 99–219 substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156 substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120 substituted "November 14, 1985" for "the end of fiscal year 1985".

1984—Pub. L. 98–479 substituted "1985" for "1984".

1983—Pub. L. 98–181 inserted provisions relating to applicability of this subchapter through fiscal year

1984 to areas classified pursuant to 1980 decennial census.

1976—Cl. (3)(B). Pub. L. 94–375 inserted "for lower and moderate-income families" after "has a serious lack of mortgage credit".

1974—Cl. (3). Pub. L. 93–383 added cl. (3).

1970—Pub. L. 91–609 substituted as upper population limit "10,000" for "5,500".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title VII, §715(b), Nov. 28, 1990, 104 Stat. 4296, provided that: "The amendment made by this section [amending this section] shall apply with respect to classification of rural areas for fiscal year 1991 and any fiscal year thereafter."

§1490a. Loans to provide occupant owned, rental, and cooperative housing for low and moderate income, elderly or handicapped persons or families

(a) Interest rates; additional assistance; payments to owners; rent limitations

(1)(A) Notwithstanding the provisions of sections 1472, 1487(a) and 1485 of this title, loans to persons of low or moderate income under section 1472 or 1487(a)(1) [1] of this title, loans under section 1485 of this title to provide rental or cooperative housing and related facilities for persons and families of low or moderate income or elderly or handicapped persons or families and loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income, shall bear interest at a rate prescribed by the Secretary at not less than a rate determined by the Secretary of the Treasury upon the request of the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum. Any loan guaranteed under this subchapter shall bear interest at such rate as may be agreed upon by the borrower and the lender.

(B) From the interest rate so determined, the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing. In the case of assistance provided under this subparagraph with respect to a loan under section 1472 of this title, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.

(C) For persons of low income under section 1472 or 1487(a) of this title who the Secretary determines are unable to afford a dwelling with the assistance provided under subparagraph (B) and when the Secretary determines that assisted rental housing programs (as authorized under this subchapter, the National Housing Act [12 U.S.C. 1701 et seq.], and the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]) would be unsuitable in the area in which such persons reside, the Secretary may provide additional assistance, pursuant to amounts approved in appropriation Acts and for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between (i) the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest, taxes, insurance, utilities, and maintenance, and (ii) 25 per centum of the income of such applicant. The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $100,000,000. Such additional assistance may not be so approved with respect to any fiscal year beginning on or after October 1, 1981.

(D)(i) With respect to borrowers under section 1472 or 1487(a) of this title who have received assistance under subparagraph (B) or (C), the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition or nonoccupancy of the property by the

borrower. In providing for such recapture, the Secretary shall make provisions to provide incentives for the borrower to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 1472(a)(3) of this title for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of the dwelling based on any agreement between the borrower and the community land trust that limits the sale price or appreciation of the dwelling.

(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public assistance programs.

(F) Loans subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under the National Housing Act [12 U.S.C. 1701 et seq.] and the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(G) Interest on loans under section 1472 or 1487(a) of this title to victims of a natural disaster shall not exceed the rate which would be applicable to such loans under section 1472 of this title without regard to this section.

(2)(A) The Secretary shall make and insure loans under this section and sections 1484, 1485, and 1487 of this title to provide rental or cooperative housing and related facilities for persons and families of low income in multifamily housing projects, and shall make, and contract to make, assistance payments to the owners of such rental, congregate, or cooperative housing in order to make available to low-income occupants of such housing rentals at rates commensurate to income and not exceeding the highest of (i) 30 per centum of monthly adjusted income, (ii) 10 per centum of monthly income, or (iii) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs. Any rent or contribution of any recipient shall not increase as a result of this section or any other provision of Federal law or regulation by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law or regulation.

(B) The owner of any project assisted under this paragraph or paragraph (5) shall be required to provide at least annually a budget of operating expenses and record of tenants' income. The budget (and the income, in the case of a project assisted under this paragraph) shall be used to determine the amount of the assistance for each project.

(C) The project owner shall accumulate, safeguard, and periodically pay to the Secretary any rental charges collected in excess of basic rental charges as established by the Secretary in conformity with subparagraph (A). These funds may be credited to the appropriation and used by the Secretary for making such assistance payments through the end of the next fiscal year. Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 1485 of this title during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).

(D) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance contracts aggregating not more than $398,000,000 in carrying out subparagraph (A) with respect to the fiscal year ending on September 30, 1982.

(E) In order to assist elderly or handicapped persons or families who elect to live in a shared

housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit rental assistance to be used by such persons or families if the shared housing arrangement is in a single-family dwelling. For the purpose of this subparagraph, the Secretary shall prescribe minimum habitability standards to assure decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(3)(A) In the case of loans under sections 1484 and 1485 of this title approved prior to the effective date of this paragraph with respect to which rental assistance is provided, the rent for tenants receiving such assistance shall not exceed the highest of (i) 30 per centum of monthly adjusted income, (ii) 10 per centum of monthly income, or (iii) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs.

(B) In the case of a section 1485 loan approved prior to the effective date of this paragraph with respect to which interest credits are provided, the tenant's rent shall not exceed the highest of (i) 30 per centum of monthly adjusted income, (ii) 10 per centum of monthly income, or (iii) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs, or, where no rental assistance authority is available, the rent level established on a basis of a 1 per centum interest rate on debt service.

(C) No rent for a unit financed under section 1484 or 1485 of this title shall be increased as a result of this subsection or other provision of Federal law or Federal regulation by more than 10 per centum in any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law, or regulation.

(4) In the case of a loan with respect to the purchase of a manufactured home with respect to which rental assistance is provided, the monthly payment for principal and interest on the manufactured home and for lot rental and utilities shall not exceed the highest of (A) 30 per centum of monthly adjusted income, (B) 10 per centum of monthly income, or (C) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs.

(5) OPERATING ASSISTANCE FOR MIGRANT FARMWORKER PROJECTS.—

(A) AUTHORITY.—In the case of housing (and related facilities) for migrant farmworkers provided or assisted with a loan under section 1484 of this title or a grant under section 1486 of this title, the Secretary may, at the request of the owner of the project, use amounts provided for rental assistance payments under paragraph (2) to provide assistance for the costs of operating the project. Any tenant or unit assisted under this paragraph may not receive rental assistance under paragraph (2).

(B) AMOUNT.—In any fiscal year, the assistance provided under this paragraph for any project shall not exceed an amount equal to 90 percent of the operating costs for the project for the year, as determined by the Secretary. The amount of assistance to be provided for a project under this paragraph shall be an amount that makes units in the project available to migrant farmworkers in the area of the project at rates not exceeding 30 percent of the monthly adjusted incomes of such farmworkers, based on the prevailing incomes of such farmworkers in the area.

(C) SUBMISSION OF INFORMATION.—The owner of a project assisted under this paragraph shall be required to provide to the Secretary, at least annually, a budget of operating expenses and estimated rental income, which the Secretary may use to determine the amount of assistance for the project.

(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) The term "migrant farmworker" has the same meaning given such term in section 1486(k)(7) of this title.

(ii) The term "operating cost" means expenses incurred in operating a project, including expenses for—

(I) administration, maintenance, repair, and security of the project;

(II) utilities, fuel, furnishings, and equipment for the project; and
(III) maintaining adequate reserve funds for the project.

(b) Location in rural areas; inclusion of qualified nonrural residents who will become rural residents

Housing and related facilities provided with loans described in subsection (a) shall be located in rural areas; and applicants eligible for such loans under section 1472, 1487(a)(1),[1] or 1490f(a) of this title, or for occupancy of housing provided with such loans under section 1485 or 1490f(c) of this title, shall include otherwise qualified nonrural residents who will become rural residents.

(c) Reimbursement of Rural Housing Insurance Fund

There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations (1) the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a)(1) exceed interest due from the borrowers during each year, and (2) the amount of assistance payments described in subsections (a)(2) and (a)(5). There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse such fund for the amount of assistance payments described in subsection (a)(1)(C). The Secretary may from time to time issue notes to the Secretary of the Treasury under section 1487(h) and of this title and section 1490f of this title to obtain amounts equal to such unreimbursed payments, pending the annual reimbursement by appropriation.

(d) Rental assistance contract authority; preconditions, limitations, etc.

(1) In utilizing the rental assistance payments authority pursuant to subsection (a)(2)—

(A) the Secretary shall make such assistance available in existing projects for units occupied by low income families or persons to extend expiring contracts or to provide additional assistance when necessary to provide the full amount authorized pursuant to existing contracts;

(B) any such authority remaining after carrying out subparagraph (A) shall be used in projects receiving commitments under section 1484, 1485, or 1486 of this title after fiscal year 1983 for contracts to assist very low-income families or persons to occupy the units in such projects, except that not more than 5 percent of the units assisted may be occupied by low income families or persons who are not very low-income families or persons; and

(C) any such authority remaining after carrying out subparagraphs (A) and (B) may be used to provide further assistance to existing projects under section 1484, 1485, or 1486 of this title.

(2) The Secretary shall transfer rental assistance contract authority under this section from projects where such authority is unused after initial rentup and not needed because of a lack of eligible tenants in the area to projects where such authority is needed.

(e) Increases in rent or contribution of any recipient

Any rent or contribution of any recipient or any tenant in a project assisted under subsection (a)(5) shall not increase as a result of this section, any amendment thereto, or any other provision of Federal law or regulation by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law or regulation.

(July 15, 1949, ch. 338, title V, §521, as added Pub. L. 90–448, title X, §1001, Aug. 1, 1968, 82 Stat. 551; amended Pub. L. 93–383, title V, §§514(a), (b), 516(c), Aug. 22, 1974, 88 Stat. 696, 698; Pub. L. 94–375, §25(a), Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95–128, title V, §§502(d), 507(a)(4), (5), 511, Oct. 12, 1977, 91 Stat. 1139, 1140, 1142; Pub. L. 95–557, title V, §§506(a), 507, Oct. 31, 1978, 92 Stat. 2112, 2113; Pub. L. 96–153, title V, §§501(c), 502(a), 504, Dec. 21, 1979, 93 Stat. 1133–1135; Pub. L. 96–372, §6(d), Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96–399, title V, §§501(e), (f), 505, Oct. 8, 1980, 94 Stat. 1668, 1669; Pub. L. 97–35, title III, §§351(d), 352, Aug. 13, 1981, 95 Stat. 421; Pub. L. 98–181, title I [title V, §§516, 517(a)–(c), (e)], Nov. 30, 1983, 97 Stat. 1247–1249; Pub. L. 98–479, title I, §105(h), Oct. 17, 1984, 98 Stat. 2227; Pub. L. 100–242, title III, §§309, 316(d), Feb. 5, 1988, 101 Stat. 1896, 1898; Pub. L. 101–625, title VII, §716, Nov. 28, 1990, 104

Stat. 4296; Pub. L. 102–550, title VII, §702(b), Oct. 28, 1992, 106 Stat. 3834; Pub. L. 105–276, title V, §599C(e)(1), (e)(2)(D)–(F), Oct. 21, 1998, 112 Stat. 2661, 2663; Pub. L. 106–569, title VII, §706, Dec. 27, 2000, 114 Stat. 3015.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1487(a) of this title, referred to in subsecs. (a)(1)(A) and (b), was amended by Pub. L. 98–181, title I [title V, §514(a)(1)], Nov. 30, 1983, 98 Stat. 1247, and, as so amended, does not contain a par. (1).

The National Housing Act, referred to in subsec. (a)(1)(C), (F), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The United States Housing Act of 1937, referred to in subsec. (a)(1)(C), (F), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The effective date of this paragraph, referred to in subsec. (a)(3)(A), (B), is six months after Nov. 30, 1983, or upon the earlier promulgation of implementing regulations by the Secretary. See section 517(f) of Pub. L. 98–181, set out as an Effective Date of 1983 Amendment note below.

AMENDMENTS

2000—Subsec. (a)(5)(A). Pub. L. 106–569 substituted "Any tenant or unit assisted" for "Any project assisted" in last sentence.

1998—Subsec. (a)(2)(B). Pub. L. 105–276, §599C(e)(2)(D), inserted "or paragraph (5)" after "this paragraph" and substituted ". The budget (and the income, in the case of a project assisted under this paragraph) shall be used to determine the amount of the assistance for each project." for "which shall be used to determine the amount of assistance for each project."

Subsec. (a)(5). Pub. L. 105–276, §599C(e)(1), added par. (5).

Subsec. (c)(2). Pub. L. 105–276, §599C(e)(2)(E), substituted "subsections (a)(2) and (a)(5)" for "subsection (a)(2)".

Subsec. (e). Pub. L. 105–276, §599C(e)(2)(F), inserted "or any tenant in a project assisted under subsection (a)(5)" after "recipient".

1992—Subsec. (a)(1)(D). Pub. L. 102–550 designated existing provisions as cl. (i) and added cl. (ii).

1990—Subsec. (a)(2)(C). Pub. L. 101–625 inserted at end "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 1485 of this title during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A)."

1988—Subsec. (a)(1)(A). Pub. L. 100–242, §316(d)(1), struck out before period at end ", except that such loans to provide housing and related facilities for persons or families of moderate income shall bear interest at the rate established by the Secretary of Housing and Urban Development under section 1709–1 of title 12 with respect to maximum interest rates established for mortgages insured under section 1709(b) of title 12 if the Secretary determines that the borrower can afford such higher interest charges."

Subsec. (a)(1)(B). Pub. L. 100–242, §309, inserted at end "In the case of assistance provided under this subparagraph with respect to a loan under section 1472 of this title, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan."

Subsec. (a)(2)(A). Pub. L. 100–242, §316(d)(2), substituted comma for semicolon at end of cl. (ii).

1984—Subsec. (d)(1). Pub. L. 98–479 in amending par. (1) generally, inserted provisions preceding subpar. (A), in subpar. (A) substituted provisions authorizing Secretary to make assistance available in existing projects for former provisions which required Secretary to first assure that expiring contracts are extended for those units occupied by persons or families of low income and that additional assistance is used when necessary to provide the full amount authorized pursuant to existing contracts, in subpar. (B) substituted "any such authority remaining after carrying out subparagraph (A)" for "Remaining funds" and inserted provisions

relating to persons who are not very low-income families or persons, and in subpar. (C) substituted provisions that remaining authority may be used to provide assistance under sections 1484 to 1486 of this title for former provisions which authorized the Secretary to use remaining funds for existing projects for very low-income families except that 5 per centum of the units assisted may be occupied by families and persons of low income.

1983—Subsec. (a)(2)(A). Pub. L. 98–181, §517(c), substituted provisions setting forth factors applicable to determination of maximum amount, for provisions setting forth maximum amount as 25 per centum of income, and inserted provisions relating to limitations on increases of any rent or contribution of recipient.

Pub. L. 98–181, §517(a), struck out provisions requiring assistance payments to be made on a unit basis and maximum amount of such payments, and provisions respecting priority for approval of projects under this paragraph.

Subsec. (a)(2)(E). Pub. L. 98–181, §516, added subpar. (E).

Subsec. (a)(3), (4). Pub. L. 98–181, §517(b), added pars. (3) and (4).

Subsecs. (d), (e). Pub. L. 98–181, §517(e), added subsecs. (d) and (e).

1981—Subsec. (a)(1)(B). Pub. L. 97–35, §352, substituted "may provide" for "shall provide".

Subsec. (a)(2)(D). Pub. L. 97–35, §351(d), substituted "$398,000,000" for "$493,000,000", and substituted provisions relating to fiscal year ending Sept. 30, 1982, for provisions relating to fiscal year ending Sept. 30, 1981.

1980—Subsec. (a)(1)(B). Pub. L. 96–399, §505, substituted "the Secretary shall provide" for "the Secretary may provide".

Subsec. (a)(1)(C). Pub. L. 96–399, §501(f), substituted provisions limiting the amount of additional assistance which may be approved to $100,000,000, for provisions limiting such amounts to $985,000,000 for contracts entered into with respect to fiscal year 1979 and $500,000,000 for contracts entered into through Oct. 15, 1980, and substituted "with respect to any fiscal year beginning on or after October 1, 1981" for "after October 15, 1980".

Pub. L. 96–372 substituted "through October 15, 1980" for "with respect to fiscal year 1980" and in last sentence "after October 15, 1980" for "with respect to any fiscal year after fiscal year 1980".

Subsec. (a)(2)(D). Pub. L. 96–399, §501(e), added subpar. (D).

1979—Subsec. (a)(1)(A). Pub. L. 96–153, §502(a), inserted exception that loans to provide housing and related facilities for persons or families of moderate income shall bear interest at the rate established by the Secretary under certain provisions of title 12.

Subsec. (a)(1)(C). Pub. L. 96–153, §501(c)(1), inserted provisions that the amount of such additional assistance which may be approved in appropriation acts may not exceed an aggregate amount of $985,000,000 for contracts entered into with respect to fiscal year 1979 and an aggregate amount of $500,000,000 for contracts entered into with respect to fiscal year 1980 and that such additional assistance may not be so approved with respect to any fiscal year after fiscal year 1980.

Subsec. (a)(1)(H). Pub. L. 96–153, §501(c)(3), repealed subpar. (H) which provided that the aggregate principal amount of loans made to borrowers receiving assistance pursuant to subpar. (C) shall not exceed $440,000,000.

Subsec. (a)(2)(A). Pub. L. 96–153, §504, substituted "assistance payments to the owners of" for "assistance payments to public and private nonprofit owners of", "70 per centum" for "20 per centum" in two places, "by a loan under section 1484 of this title to a public or private nonprofit owner" for "by a loan under section 1484 of this title", the first time section 1484 of this title appeared in cl. (i), and inserted provisions that in approving projects for assistance under this paragraph, the Secretary shall give priority to projects in which assistance is provided to 40 per centum or fewer of the units contained in the project.

Subsec. (c). Pub. L. 96–153, §501(c)(2), inserted authorization of appropriation to Rural Housing Insurance Fund of such sums as may be necessary to reimburse fund for amount of assistance payments under subsec. (a)(1)(C) of this section.

1978—Subsec. (a)(1)(A) to (H). Pub. L. 95–557, §506(a), designated existing provisions as par. (1)(A), and in par. (1)(A) as so designated, struck out "less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per cent per annum: *Provided*, That such a loan may be made only when the Secretary determines that the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under section 1715z or 1715z–1 of title 12: *Provided further*, That interest on loans under section 1472 or 1487(a) of this title to victims of natural disaster shall not exceed the rate which would be applicable to such loans under section 1472 of this title without regard to this section", after "one-eighth of 1 per centum," and added pars. (B) to (H).

Subsec. (a)(2)(A). Pub. L. 95–557, §507, substituted "public and private nonprofit owners" for "the owners", inserted "congregate, or cooperative" after "rental" and inserted "by a loan under section 1484 of this

title" after "section 1485 of this title for elderly or handicapped housing".

1977—Subsec. (a)(1). Pub. L. 95–128, §§502(d), 507(a)(4), provided that any loan guaranteed under this subchapter shall bear interest at the rate as may be agreed upon by the borrower and the lender and provided loans for housing of handicapped persons or families.

Subsec. (a)(2)(A). Pub. L. 95–128, §§507(a)(5), 511, included handicapped housing in cl. (i) and substituted "shall" for "may" wherever appearing, except in cl. (i).

1976—Subsec. (a)(1). Pub. L. 94–375 substituted "rate determined by the Secretary of the Treasury upon the request of the Secretary" for "rate determined annually by the Secretary of the Treasury".

1974—Subsec. (a)(1). Pub. L. 93–383, §§514(a), 516(c)(1), redesignated existing subsec. (a) as (a)(1) and, as so redesignated, substituted "loans under section 1485 of this title" for "and loans under section 1485 of this title" and inserted provisions relating to loans under section 1490f of this title to provide condominium housing for persons and families of low or moderate income.

Subsec. (a)(2). Pub. L. 93–383, §514(a), added par. (2).

Subsec. (b). Pub. L. 93–383, §516(c)(2), inserted references to sections 1490f(a) and 1490f(c) of this title.

Subsec. (c). Pub. L. 93–383, §§514(b), 516(c)(3), reorganized structure of subsec. (c) by designating existing provisions as cl. (1) and, as so designated, substituted reference to subsec. (a)(1) of this section for reference to subsec. (a) of this section, added cl. (2), and made former second clause into second sentence, and, as so amended, inserted reference to section 1490f of this title and struck out "excess" after "unreimbursed".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–181, title I [title V, §517(f)], Nov. 30, 1983, 97 Stat. 1249, provided that: "The amendments made by this section [amending this section and section 1490j of this title] shall take effect six months after the date of enactment of this Act [Nov. 30, 1983], or upon the earlier promulgation of regulations implementing this section by the Secretary."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

[1] *See References in Text note below.*

§1490b. Housing for rural trainees

(a) Authorization; financial and technical assistance; selection of training sites and location of housing

Upon the application of any State or political subdivision thereof, or any public or private nonprofit organization, the Secretary is authorized, after consultation with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, and the Director of the Office of Economic Opportunity, and after the Secretary determines that the housing and related facilities cannot reasonably be provided in any other way, to provide financial and technical assistance for the establishment, in rural areas, of housing and related facilities for trainees and their families who are residents of a rural area and have a rural background, while such trainees are enrolled and participating in training courses designed to improve their employment capability. The selection of training sites and location of housing shall be made with due regard to the economic viability of the area, and only after consideration of a labor area survey and full coordination among all Government agencies having primary responsibility for administering related programs.

(b) Quality of housing and related facilities; design and location

Housing and related facilities assisted under this section shall be safe and sanitary, constructed in the most economical manner, and of modest design, giving due consideration to the purposes to be served and the needs of the occupants, and may, in the discretion of the Secretary, include mobile

family quarters. Design and location shall be such as to facilitate, as feasible, the use of such housing and related facilities for other purposes when no longer needed for the primary purpose.

(c) Contribution of land by applicant

The applicant shall contribute the necessary land, or funds to acquire such land, from its own resources, including land acquired by donation or from funds repayable under subsection (e) or borrowed from other sources.

(d) Conditions precedent to grant of financial assistance

No financial assistance shall be made available under this section unless, to the extent and for the periods required by the Secretary, the applicant agrees that—

(1) such housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State or local law, or, in the absence of such standards, with requirements prescribed by the Secretary;

(2) priority shall be given at all times, in granting occupancy of such housing and facilities, to the trainees and their families described in subsection (a); and

(3) rentals charged them shall not exceed amounts approved by the Secretary after considering the portion of the actual total family income which the family can afford to pay for rent while meeting its other immediate needs during occupancy.

(e) Advances; repayment; limitation on amount

The Secretary may make advances pursuant to any contract for financial assistance under this section at such times and in such manner as may be specified in the contract. Such advances for the purchase of land shall be repayable with interest and within a period not to exceed thirty-three years and may be made upon such security, if any, as the Secretary requires. Advances for other purposes may be made repayable with or without interest or nonrepayable, as determined by the Secretary on the basis of the anticipated income, and cost of operation of the housing and related facilities and the ability of each applicant to finance such facilities. Any advances shall be limited to cover the capital costs of constructing such facilities, plus interest on borrowings to cover such costs.

(f) Sale of housing and related facilities to ineligible transferee or diversion to use other than primary purpose; repayment of advances; return of property to original condition

Should housing and related facilities assisted pursuant to a contract under this section be sold to an ineligible transferee or diverted to a use other than its primary purpose within a period specified in the contract, all advances made under such contract shall be repaid to the Secretary, up to the amount of the sales price or the fair value of the property as determined by the Secretary, whichever is higher, with interest from the date of the sale or diversion. If no suitable alternate use of the property is available, as determined by the Secretary, after the purpose of this section can no longer be served, the property shall be returned to its original condition by the recipient of the assistance.

(g) Interest on advances

Interest charged on advances made under this section shall be at a rate, prescribed by the Secretary, which shall be not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less not to exceed the difference between the adjusted rate determined by the Secretary of the Treasury and 1 per centum per annum, as determined by the Secretary.

(h) Regulations

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated.

(i) "Related facilities" and "trainee" defined

As used in this section (1) the term "related facilities" shall include any necessary community rooms or buildings, infirmaries, utilities, access roads, water and sewer services, and the minimum

fixed or movable equipment determined by the Secretary to be necessary to make the housing reasonably habitable by trainees and their families; and (2) the term "trainee" means any person receiving training under any federally assisted training program.

(j) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(July 15, 1949, ch. 338, title V, §522, as added Pub. L. 90–448, title X, §1002, Aug. 1, 1968, 82 Stat. 551; amended Pub. L. 98–479, title II, §201(c), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 100–242, title III, §316(e), Feb. 5, 1988, 101 Stat. 1898.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–242 substituted "Secretary of Health and Human Services" for "Secretary of Health, and Human Services".

1984—Subsec. (a). Pub. L. 98–479 substituted "Health, and Human Services" for "Health, Education, and Welfare".

STATUTORY NOTES AND RELATED SUBSIDIARIES

OFFICE OF ECONOMIC OPPORTUNITY

Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310 [42 U.S.C. 2941], amended the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] to create the Community Services Administration, an independent agency in the executive branch, as the successor authority to the Office of Economic Opportunity, and provided that references to the Office of Economic Opportunity or to its Director were deemed to refer to the Community Services Administration or to its Director. The Community Services Administration was terminated when the Economic Opportunity Act of 1964, except for titles VIII and X, was repealed, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97–35, title VI, Aug. 13, 1981, 95 Stat. 519 (42 U.S.C. 9912(a)). An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by section 676 of Pub. L. 97–35 (42 U.S.C. 9905).

§1490c. Mutual and self-help housing

(a) Purpose

The purposes of this section are (1) to make financial assistance available on reasonable terms and conditions in rural areas and small towns to needy low-income individuals and their families who, with the benefit of technical assistance and overall guidance and supervision, participate in approved programs of mutual or self-help housing by acquiring and developing necessary land, acquiring building materials, providing their own labor, and working cooperatively with others for the provision of decent, safe, and sanitary dwellings for themselves, their families, and others in the area or town involved, and (2) to facilitate the efforts of both public and private nonprofit organizations providing assistance to such individuals to contribute their technical and supervisory skills toward more effective and comprehensive programs of mutual or self-help housing in rural areas and small towns wherever necessary.

(b) Contract authority; establishment of Self-Help Housing Land Development Fund; authorization to make loans; conditions of loan

In order to carry out the purposes of this section, the Secretary of Agriculture (in this section referred to as the "Secretary") is authorized—

(1)(A) to make grants to, or contract with, public or private nonprofit corporations, agencies, institutions, organizations, Indian tribes, and other associations approved by him, to pay part or all of the costs of developing, conducting, administering, or coordinating effective and

comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and their families in carrying out mutual or self-help housing efforts, including the repair of units financed under section 1472 of this title that are being held in inventory; and

(B) to establish the Self-Help Housing Land Development Fund, referred to herein as the Self-Help Fund, to be used by the Secretary as a revolving fund for making loans, on such terms and conditions and in such amounts as he deems necessary, to public or private nonprofit organizations and to Indian tribes for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, and cooperatives eligible for assistance under section 1715z or 1715z–1 of title 12 or section 1490a of this title. Such a loan, with interest at a rate not to exceed 3 percent per annum, shall be repaid within a period not to exceed five years from the making of the loan, or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes hereof: *Provided*, That the Secretary may advance funds under this paragraph to organizations receiving assistance under clause (A) to enable them to establish revolving accounts for the purchase of land options and any such advances may bear interest at a rate determined by the Secretary and shall be repaid to the Secretary at the expiration of the period for which the grant to the organization involved was made;

(2) to make grants to, or contract with, national or regional private nonprofit corporations to provide training and technical assistance to public or private nonprofit corporations, agencies, institutions, organizations, and other associations, including Indian tribes, eligible to receive assistance under this section in order to expand the use of authorities contained in this section and to improve performance; and

(3) to make loans, on such terms and conditions and in such amounts as he deems necessary, to needy low-income individuals participating in programs of mutual or self-help housing approved by him, for the acquisition and development of land and for the purchase of such other building materials as may be necessary in order to enable them, by providing substantially all of their own labor, and by cooperating with others participating in such programs, to carry out to completion the construction of decent, safe, and sanitary dwellings for such individuals and their families, subject to the following limitations:

(A) there is reasonable assurance of repayment of the loan;

(B) the amount of the loan, together with other funds which may be available, is adequate to achieve the purpose for which the loan is made;

(C) the credit assistance is not otherwise available on like terms or conditions from private sources or through other Federal, State, or local programs;

(D) the loan bears interest at a rate not to exceed 3 per centum per annum on the unpaid balance of principal, plus such additional charge, if any, toward covering other costs of the loan program as the Secretary may determine to be consistent with its purposes; and

(E) the loan is repayable within not more than thirty-three years.

(c) Considerations for financial assistance

In determining whether to extend financial assistance under paragraph (1) or (2) of subsection (b), the Secretary shall take into consideration, among other factors, the suitability of the area within which construction will be carried out to the type of dwelling which can be provided under mutual or self-help housing programs, the extent to which the assistance will facilitate the provision of more decent, safe, and sanitary housing conditions than presently exist in the area, the extent to which the assistance will be utilized efficiently and expeditiously, the extent to which the assistance will effect an increase in the standard of living of low-income individuals participating in the mutual or self-help housing program, and whether the assistance will fulfill a need in the area which is not otherwise being met through other programs, including those carried out by other Federal, State, or local agencies.

(d) "Construction" defined

As used in this section, the term "construction" includes the erection of new dwellings, and the rehabilitation, alteration, conversion, or improvement of existing structures.

(e) Establishment of appropriate criteria and procedures for determining eligibility of applicants

The Secretary is authorized to establish appropriate criteria and procedures in order to determine the eligibility of applicants for the financial assistance provided under this section, including criteria and procedures with respect to the periodic review of any construction carried out with such financial assistance.

(f) Repealed. Pub. L. 102–550, title VII, §710(2), Oct. 28, 1992, 106 Stat. 3840

(g) Deposit in Self-Help Fund; availability of amounts; assets

Amounts appropriated under this subsection, together with principal collections from loans made under appropriations in any previous fiscal years, shall be deposited in the Self-Help Housing Land Development Fund, which shall be available, to the extent approved in appropriation Acts, as a revolving fund for making loans under subsection (b)(1)(B); except that not more than $5,000,000 may be made available during fiscal year 1985. Instruments and property acquired by the Secretary in or as a result of making such loans shall be assets of the Self-Help Housing Land Development Fund.

(h) Rules and regulations

The Secretary shall issue rules and regulations for the orderly processing and review of applications under this section and rules and regulations protecting the rights of grantees under this section in the event he determines to end grant assistance prior to the termination date of any grant agreement.

(July 15, 1949, ch. 338, title V, §523, as added Pub. L. 90–448, title X, §1005, Aug. 1, 1968, 82 Stat. 553; amended Pub. L. 93–117, §13(d), Oct. 2, 1973, 87 Stat. 423; Pub. L. 93–383, title V, §512, Aug. 22, 1974, 88 Stat. 695; Pub. L. 95–60, §4(d), June 30, 1977, 91 Stat. 258; Pub. L. 95–80, §4(d), July 31, 1977, 91 Stat. 340; Pub. L. 95–128, title V, §501(d), Oct. 12, 1977, 91 Stat. 1139; Pub. L. 95–406, §7(d), Sept. 30, 1978, 92 Stat. 881; Pub. L. 95–557, title V, §501(g), (h), Oct. 31, 1978, 92 Stat. 2111; Pub. L. 96–71, §5(d), Sept. 28, 1979, 93 Stat. 502; Pub. L. 96–105, §5(d), Nov. 8, 1979, 93 Stat. 795; Pub. L. 96–153, title V, §§501(d), (e), 505, Dec. 21, 1979, 93 Stat. 1133, 1135; Pub. L. 96–372, §6(e), Oct. 3, 1980, 94 Stat. 1365; Pub. L. 96–399, title V, §§501(d), 507(e), Oct. 8, 1980, 94 Stat. 1668, 1670; Pub. L. 97–35, title III, §351(e), Aug. 13, 1981, 95 Stat. 421; Pub. L. 97–289, §3(c), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §3(c), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §4(c), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title V, §511(d), (e)], Nov. 30, 1983, 97 Stat. 1244; Pub. L. 98–479, title II, §204(c)(2), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 99–120, §3(c), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §3(c), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §3(c), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §3(c), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3009(c), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title III, §301(f), Feb. 5, 1988, 101 Stat. 1893; Pub. L. 101–137, §7(c), Nov. 3, 1989, 103 Stat. 826; Pub. L. 101–625, title VII, §701(f), Nov. 28, 1990, 104 Stat. 4282; Pub. L. 102–142, title VII, §743(b), Oct. 28, 1991, 105 Stat. 915; Pub. L. 102–550, title VII, §710, Oct. 28, 1992, 106 Stat. 3840; Pub. L. 118–42, div. B, title VII, §760, Mar. 9, 2024, 138 Stat. 115.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (b)(1)(B). Pub. L. 118–42 substituted "five years" for "two years".

1992—Subsec. (b)(1)(A). Pub. L. 102–550, §710(1), inserted ", including the repair of units financed under section 1472 of this title that are being held in inventory" after "efforts".

Subsec. (f). Pub. L. 102–550, §710(2), struck out subsec. (f) which read as follows: "No grant or loan may

be made or contract entered into under the authority of this section after September 30, 1992, except pursuant to a commitment or other obligation entered into pursuant to this section before that date."

1991—Subsec. (f). Pub. L. 102–142 substituted "1992" for "1991".

1990—Subsec. (f). Pub. L. 101–625 substituted "1991" for "1990".

1989—Subsec. (f). Pub. L. 101–137 substituted "1990" for "1989".

1988—Subsec. (f). Pub. L. 100–242 substituted "September 30, 1989" for "March 15, 1988".

1987—Subsec. (f). Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100–179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100–170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100–154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100–122 substituted "October 31, 1987" for "September 30, 1987".

1986—Subsec. (f). Pub. L. 99–430 substituted "1987" for "1986".

Pub. L. 99–345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99–289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219, substituting "March 17, 1986" for "December 15, 1985".

Pub. L. 99–267 substituted "April 30, 1986" for "March 17, 1986".

1985—Subsec. (f). Pub. L. 99–219 substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156 substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120 substituted "November 14, 1985" for "September 30, 1985".

1984—Subsec. (g). Pub. L. 98–479 inserted "Housing" before "Land" after "Self-Help" in last sentence.

1983—Subsec. (f). Pub. L. 98–181, §511(d), substituted "September 30, 1985" for "November 30, 1983", and struck out first sentence which authorized not to exceed $5,000,000 to carry out this section for fiscal year 1983.

Pub. L. 98–109 substituted "November 30, 1983" for "September 30, 1983" the second time it appeared.

Pub. L. 98–35 substituted "September 30, 1983" for "May 20, 1983" in two places.

Subsec. (g). Pub. L. 98–181, §511(e), substituted "1985" for "1982" and struck out first sentence which authorized not to exceed $3,000,000 to carry out subsec. (b)(1)(B) for fiscal year 1982.

1982—Subsec. (f). Pub. L. 97–289 substituted "May 20, 1983" for "September 30, 1982" wherever appearing.

1981—Subsec. (f). Pub. L. 97–35, §351(e)(1), substituted "1982" for "1981" in two places.

Subsec. (g). Pub. L. 97–35, §351(e)(2)–(4), inserted provisions relating to availability in appropriation Acts, and substituted provisions relating to authorization of appropriations for fiscal year ending Sept. 30, 1982, for provisions authorizing appropriations for fiscal year ending Sept. 30, 1981.

1980—Subsec. (b). Pub. L. 96–399, §507(e), inserted reference to Indian tribes in subpars. (1)(A) and (B), and in par. (2).

Subsec. (f). Pub. L. 96–399, §501(d)(1), substituted "September 30, 1981" for "October 15, 1980" wherever appearing.

Pub. L. 96–372 substituted "October 15, 1980" for "September 30, 1980" wherever appearing.

Subsec. (g). Pub. L. 96–399, §501(d)(2), substituted provisions authorizing appropriations not to exceed $2,500,000 for fiscal 1981, such amount together with principal collections from loans under appropriations in prior years to be deposited in the Self-Help Housing Land Development Fund, to be available as a revolving fund for loans under subsec. (b)(1)(B) of this section for provisions authorizing appropriations not to exceed $1,000,000, $2,000,000, $3,000,000 and $1,000,000 for fiscal years ending June 30, 1969, June 30, 1970, Sept. 30, 1979, and Sept. 30, 1980, respectively, provisions allowing appropriation of authorized funds in succeeding years, to be deposited in the Self-Help Fund to be available without fiscal year limitation, and provision for deposit in such Fund of sums received from repayment of such loans.

1979—Subsec. (b). Pub. L. 96–153, §505, redesignated existing par. (2) as (3) and added par. (2).

Subsec. (f). Pub. L. 96–153, §501(d), substituted authorization of appropriation of $5,000,000 for fiscal year ending Sept. 30, 1980, for provisions containing authorization of appropriation for fiscal years commencing June 30, 1968 to Oct. 1, 1978, and substituted "September 30, 1980" for "November 30, 1979".

Pub. L. 96–105 substituted "December 1, 1979" and "November 30, 1979" for "November 1, 1979" and "October 31, 1979", respectively.

Pub. L. 96–71 substituted "November 1, 1979" and "October 31, 1979" for "October 1, 1979" and "September 30, 1979", respectively.

Subsec. (g). Pub. L. 96–153, §501(e), inserted authorization of appropriation of $1,000,000 for fiscal year ending September 30, 1980.

1978—Subsec. (f). Pub. L. 95–557, §501(g), substituted "October 1, 1979" for "November 1, 1978",

"September 30, 1979" for "October 31, 1978", and "$16,500,000" for "$10,000,000".

Pub. L. 95–406 substituted "November 1, 1978" for "October 1, 1978" and "October 31, 1978" for "September 30, 1978".

Subsec. (g). Pub. L. 95–557, §501(h), inserted "and not to exceed $3,000,000 for the fiscal year ending September 30, 1979", after "June 30, 1970".

1977—Subsec. (f). Pub. L. 95–128 substituted "1978" for "1977" wherever appearing.

Pub. L. 95–80 substituted "October 1, 1977" for "August 1, 1977" and "September 30, 1977" for "July 31, 1977".

Pub. L. 95–60 substituted "August 1, 1977" for "July 1, 1977" and "July 31, 1977" for "June 30, 1977".

1974—Subsec. (b)(1). Pub. L. 93–383, §512(a), inserted proviso relating to advance of funds by Secretary at end of cl. (B).

Subsec. (f). Pub. L. 93–383, §512(b), substituted "1977" for "1974" wherever appearing and "$10,000,000" for "$5,000,000".

Subsec. (h). Pub. L. 93–383, §512(c), added subsec. (h).

1973—Subsec. (f). Pub. L. 93–117 substituted "1974" for "1973" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§1490d. Loans to nonprofit organizations to provide building sites for eligible families, nonprofit organizations, public agencies, and cooperatives; interest rates; factors determinative in making loan

(a)(1) IN GENERAL.—The Secretary may make loans, on such terms and conditions and in such amounts he deems necessary, to public or private nonprofit organizations and to Indian tribes for the acquisition and development of land as building sites to be subdivided and sold to families, nonprofit organizations, public agencies, and cooperatives eligible for assistance under any section of this subchapter or under any other law which provides financial assistance for housing low- and moderate-income families. Such a loan shall bear interest at a rate prescribed by the Secretary taking into consideration a rate determined annually by the Secretary of the Treasury as the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, and shall be repaid within a period not to exceed five years from the making of the loan or within such additional period as may be authorized by the Secretary in any case as being necessary to carry out the purposes of this section.

(2) REVOLVING FUNDS.—The Secretary may make grants to nonprofit housing agencies to establish revolving loan funds for the acquisition and preparation of building sites for low-income housing. Any proceeds and repayments from such loans shall be returned to the revolving loan fund to be used for purposes related to this section. Loan funds and interest payments shall be used solely for the acquisition of land; the preparation of land for building sites; the payment of reimbursable legal and technical costs; and technical assistance and administrative costs, not to exceed 10 percent of the fund.

(b) In determining whether to extend financial assistance under this section, the Secretary shall take into consideration, among other factors, (1) the suitability of the area to the types of dwellings which can feasibly be provided, and (2) the extent to which the assistance will (i) facilitate providing needed decent, safe, and sanitary housing, (ii) be utilized efficiently and expeditiously, and (iii) fulfill a need in the area which is not otherwise being met through other programs, including those being carried out by other Federal, State, or local agencies.

(July 15, 1949, ch. 338, title V, §524, as added Pub. L. 91–152, title IV, §413(f)(1), Dec. 24, 1969, 83 Stat. 399; amended Pub. L. 93–383, title V, §513, Aug. 22, 1974, 88 Stat. 696; Pub. L. 96–399,

title V, §507(f), Oct. 8, 1980, 94 Stat. 1670; Pub. L. 102–550, title VII, §715, Oct. 28, 1992, 106 Stat. 3842; Pub. L. 118–42, div. B, title VII, §761, Mar. 9, 2024, 138 Stat. 115.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (a)(1). Pub. L. 118–42 substituted "five years" for "two years".

1992—Subsec. (a). Pub. L. 102–550 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1980—Subsec. (a). Pub. L. 96–399 inserted reference to Indian tribes.

1974—Subsec. (a). Pub. L. 93–383 provided for applicability to public agencies and substituted "any section of this subchapter or under any other law which provides financial assistance for housing low- and moderate-income families" for "section 1715z or 1715z–1 of title 12 or section 1490a of this title".

§1490e. Programs of technical and supervisory assistance for low-income individuals and families in rural areas

(a) Grants or contracts with public or private nonprofit corporations, etc., for assistance; preferential treatment of applications sponsored by governmental entity or public body

The Secretary may make grants to or enter into contracts with public or private nonprofit corporations, agencies, institutions, organizations, Indian tribes, and other associations approved by him, to pay part or all of the cost of developing, conducting, administering or coordinating effective and comprehensive programs of technical and supervisory assistance which will aid needy low-income individuals and families in benefiting from Federal, State, and local housing programs in rural areas. In processing applications for such grants or contracts made by private nonprofit corporations, agencies, institutions, organizations, and other associations, the Secretary shall give preference to those which are sponsored (including assistance to the applicant in processing the application, implementing the technical assistance program, and carrying out the obligations of the grant or contract) by a State, county, municipality, or other governmental entity or public body.

(b) Loans to public or private nonprofit corporations, etc., for necessary planning and financing expenses; interest rates; factors determinative of amount; terms and conditions of repayment

The Secretary is authorized to make loans to public or private nonprofit corporations, agencies, institutions, organizations, Indian tribes, and other associations approved by him for the necessary expenses, prior to construction, of planning, and obtaining financing for, the rehabilitation or construction of housing for low-income individuals or families under any Federal, State, or local housing program which is or could be used in rural areas. Such loans shall be made without interest and shall be for the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including but not limited to preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the housing or sooner.

(c) Repealed. Pub. L. 98–181, title I [title V, §518(b)], Nov. 30, 1983, 97 Stat. 1249

(d) Deposit of appropriated funds into low-income sponsor fund; availability; administration of fund as revolving fund; deposit of repayments

All funds appropriated for the purpose of subsection (b) shall be deposited in a fund which shall be known as the low-income sponsor fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of that subsection. Sums received in repayment of loans made under subsection (b) shall be deposited in such fund.

(July 15, 1949, ch. 338, title V, §525, as added Pub. L. 93–383, title V, §515, Aug. 22, 1974, 88 Stat. 697; amended Pub. L. 95–557, title V, §501(i), Oct. 31, 1978, 92 Stat. 2111; Pub. L. 96–399, title V, §507(g), Oct. 8, 1980, 94 Stat. 1670; Pub. L. 98–181, title I [title V, §518], Nov. 30, 1983, 97 Stat. 1249.)

EDITORIAL NOTES

AMENDMENTS

1983—Subsec. (b). Pub. L. 98–181, §518(a), struck out provisions setting forth conditions under which any part or all of the loan is subject to cancellation.

Subsec. (c). Pub. L. 98–181, §518(b), struck out subsec. (c), which related to authorization of appropriations for fiscal years ending June 30, 1975, June 30, 1976, and Sept. 30, 1979, and availability of amounts.

1980—Subsecs. (a), (b). Pub. L. 96–399 inserted references to Indian tribes.

1978—Subsec. (c). Pub. L. 95–557 inserted "There are also authorized to be appropriated for the fiscal year ending September 30, 1979, not to exceed $5,000,000 for the purposes of subsection (a) of this section and not to exceed $5,000,000 for the purposes of subsection (b) of this section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

HOUSING ASSISTANCE COUNCIL

Pub. L. 110–234, title VI, subtitle D, May 22, 2008, 122 Stat. 1210, and Pub. L. 110–246, §4(a), title VI, subtitle D, June 18, 2008, 122 Stat. 1664, 1972, as amended by Pub. L. 113–188, title IX, §901(f), Nov. 26, 2014, 128 Stat. 2020, provided that:

"SEC. 6301. SHORT TITLE.

"This subtitle may be cited as the 'Housing Assistance Council Authorization Act of 2008'.

"SEC. 6302. ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.

"(a) USE.—The Secretary of Housing and Urban Development may provide financial assistance to the Housing Assistance Council for use by the Council to develop the ability and capacity of community-based housing development organizations to undertake community development and affordable housing projects and programs in rural areas. Assistance provided by the Secretary under this section may be used by the Housing Assistance Council for—

"(1) technical assistance, training, support, research, and advice to develop the business and administrative capabilities of rural community-based housing development organizations;

"(2) loans, grants, or other financial assistance to rural community-based housing development organizations to carry out community development and affordable housing activities for low- and moderate-income families; and

"(3) such other activities as may be determined by the Secretary of Housing and Urban Development and the Housing Assistance Council.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for financial assistance under this section for the Housing Assistance Council $10,000,000 for each of fiscal years 2009 through 2011.

"SEC. 6303. AUDITS AND REPORTS.

"(a) AUDIT.—

"(1) IN GENERAL.—The financial transactions and activities of the Housing Assistance Council shall be audited annually by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

"(2) REQUIREMENTS OF AUDITS.—The Comptroller General of the United States may rely on any audit completed under paragraph (1), if the audit complies with—

"(A) the annual programmatic and financial examination requirements established in OMB Circular A-133; and

"(B) generally accepted government auditing standards.

"(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on

Financial Services of the House of Representative on the use of any funds appropriated to the Housing Assistance Council over the past 7 years.

"SEC. 6304. PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES.

"Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this subtitle, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this subtitle shall be construed to alter the restrictions or definitions in such section 214.

"SEC. 6305. LIMITATION ON USE OF AUTHORIZED AMOUNTS.

"None of the amounts authorized by this subtitle may be used to lobby or retain a lobbyist for the purpose of influencing a Federal, State, or local governmental entity or officer."

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

§1490f. Loans and insurance of loans for condominium housing in rural areas

(a) Individual loans and insurance of loans to low or moderate income persons or families for purchase of units; terms and conditions

The Secretary is authorized, upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 1472 of this title) as he may prescribe, to make loans to persons and families of low or moderate income, and to insure and make commitments to insure loans made to persons and families of low or moderate income, to assist them in purchasing dwelling units in condominiums located in rural areas.

(b) Scope of individual loans and insurance of loans; condominium requirements

Any loan made or insured under subsection (a) shall cover a one-family dwelling unit in a condominium, and shall be subject to such provisions as the Secretary determines to be necessary for the maintenance of the common areas and facilities of the condominium project and to such additional requirements as the Secretary deems appropriate for the protection of the consumer.

(c) Blanket loans and insurance of loans; terms and conditions; certification by borrower of future ownership of multifamily project; maximum amount of principal obligation

In addition to individual loans made or insured under subsection (a) the Secretary is authorized, upon such terms and conditions (substantially identical insofar as may be feasible with those specified in section 1485 of this title) as he may prescribe, to make or insure blanket loans to a borrower who shall certify to the Secretary, as a condition of obtaining such loan or insurance, that upon completion of the multifamily project the ownership of the project will be committed to a plan of family unit ownership under which (1) each family unit will be eligible for a loan or insurance under subsection (a), and (2) the individual dwelling units in the project will be sold only on a condominium basis and only to purchasers eligible for a loan or insurance under subsection (a). The principal obligation of any blanket loan made or insured under this subsection shall in no case exceed the sum of the individual amounts of the loans which could be made or insured with respect to the individual dwelling units in the project under subsection (a).

(d) "Condominium" defined

As used in this section, the term "condominium" means a multi-unit housing project which is subject to a plan of family unit ownership acceptable to the Secretary under which each dwelling unit is individually owned and each such owner holds an undivided interest in the common areas and facilities which serve the project.

(July 15, 1949, ch. 338, title V, §526, as added Pub. L. 93–383, title V, §516(a), Aug. 22, 1974, 88 Stat. 698; amended Pub. L. 98–181, title I [title V, §519(a)], Nov. 30, 1983, 97 Stat. 1249; Pub. L. 100–242, title III, §316(f), Feb. 5, 1988, 101 Stat. 1898.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsecs. (a), (c). Pub. L. 100–242 struck out "and" after "is authorized,".

1983—Subsecs. (a), (c). Pub. L. 98–181 struck out "in his discretion" after "Secretary is authorized,".

§1490g. Repealed. Pub. L. 98–181, title I [title V, §503(c)], Nov. 30, 1983, 97 Stat. 1241

Section, act July 15, 1949, ch. 338, title V, §527, as added Aug. 22, 1974, Pub. L. 93–383, title V, §518, 88 Stat. 699, defined "housing" as including mobile homes and mobile home sites, and authorized the Secretary to prescribe property standards for mobile homes financed under this subchapter.

§1490h. Taxation of property held by Secretary

All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this subchapter other than property used for administrative purposes shall be subject to taxation by a State, Commonwealth, territory, possession, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided*, That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

(2) any notes or lien instruments administered under this subchapter which are made, assigned, or held by a person otherwise liable for such tax; or

(3) the value of any property conveyed or transferred to the Secretary, whether as a tax on the instrument, the privilege of conveying or transferring, or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.

(July 15, 1949, ch. 338, title V, §528, as added Pub. L. 95–128, title V, §512(a), Oct. 12, 1977, 91 Stat. 1142; amended Pub. L. 98–479, title II, §204(c)(3), Oct. 17, 1984, 98 Stat. 2233.)

EDITORIAL NOTES

AMENDMENTS

1984—Pub. L. 98–479 substituted "property held by Secretary" for "Farmers Home Administration-held property" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 95–128, title V, §512(c), Oct. 12, 1977, 91 Stat. 1142, provided that: "The amendment made by subsection (a) [enacting this section] shall become effective as of January 1, 1977."

REFUND OF TAX PAYMENTS PRIOR TO OCTOBER 12, 1977, BARRED; FEDERAL OFFICERS OR EMPLOYEES NOT LIABLE FOR SUCH PAYMENTS

Pub. L. 95–128, title V, §512(b), Oct. 12, 1977, 91 Stat. 1142, provided that: "Notwithstanding any other provision of law, no State, Commonwealth, territory, possession, district, or local political subdivision which has received, prior to the date of enactment of this Act [Oct. 12, 1977], tax payments from the Department of Agriculture based on property held by the Farmers Home Administration shall be liable for, or be obligated to refund, the amount of any such payment, which, if it had been made after the date of enactment of this Act, would have been authorized by the provisions of section 528 of the Housing Act of 1949 [this section], and no officer or employee of the United States shall incur or be under any liability by reason of having made or authorized any such payments."

§1490i. Repealed. Pub. L. 98–181, title I [title V, §506(b)], Nov. 30, 1983, 97 Stat. 1242

Section, act July 15, 1949, ch. 338, title V, §529, as added Nov. 9, 1978, Pub. L. 95–619, title II, §252(b), 92 Stat. 3236, required the Secretary of Agriculture to promote the use of energy saving techniques through the establishment of minimum property standards for newly constructed residential housing.

§1490j. Conditions on rent increases in projects receiving assistance under other provisions of law

The Secretary may not approve any increase in rental payments, with respect to units in which the tenants are paying rentals in excess of 30 per centum of their incomes, in any project which is assisted under section 1484, 1485, or 1487 of this title and under section 1490a(a)(1)(B) of this title unless the project owner is receiving, or has applied for (within the most recent period of 180 days prior to the effective date of such increase), assistance payments with respect to such project under section 1490a(a)(2)(A) or 1490a(a)(5) of this title or section 1437f of this title.

(July 15, 1949, ch. 338, title V, §530, as added Pub. L. 96–399, title V, §509, Oct. 8, 1980, 94 Stat. 1670; amended Pub. L. 98–181, title I [title V, §517(d)], Nov. 30, 1983, 97 Stat. 1248; Pub. L. 105–276, title V, §599C(e)(2)(G), Oct. 21, 1998, 112 Stat. 2663.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–276 substituted "assistance payments with respect to such project under section 1490a(a)(2)(A) or 1490a(a)(5) of this title" for "rental assistance payments with respect to such project under section 1490a(a)(2)(A) of this title".

1983—Pub. L. 98–181 substituted "30 per centum" for "25 per centum".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–181 effective six months after Nov. 30, 1983, or upon the earlier promulgation of implementing regulations, see section 517(f) of Pub. L. 98–181, set out as a note under section 1490a of this title.

§1490k. FHA insurance

The Secretary is authorized to act as an agent of the Secretary of Housing and Urban Development to recommend insurance of any mortgage meeting the requirements of section 1709 of title 12.

(July 15, 1949, ch. 338, title V, §531, as added Pub. L. 98–181, title I [title V, §520], Nov. 30, 1983, 97 Stat. 1249.)

§1490*l*. Processing of applications

(a) Priority

Except as otherwise provided in subsection (c), the Secretary shall, in making assistance available under this subchapter, give a priority to applications submitted by—

(1) persons and families that have the greatest housing assistance needs because of their low income and their residing in inadequate dwellings;

(2) applicants applying for assistance for projects that will serve such persons and families; and

(3) applicants residing in areas which are the most rural in character.

(b) Preliminary reservation of assistance at time of initial approval of project

In making available the assistance authorized by section 1483 of this title and section 1490a(a) of this title with respect to projects involving insured and guaranteed loans and interest credits and rental assistance payments, the Secretary shall process and approve requests for such assistance in a manner that provides for a preliminary reservation of assistance at the time of initial approval of the project.

(c) Prioritization of section 1485 housing assistance

(1) In general

The Secretary shall make assistance under section 1485 of this title available pursuant to an objective procedure established by the Secretary, under which the Secretary shall identify counties and communities having the greatest need for such assistance and designate such counties and communities to receive such assistance.

(2) Objective measures

The Secretary shall use the following objective measures to determine the need for rental housing assistance under paragraph (1):

(A) The incidence of poverty.

(B) The lack of affordable housing and the existence of substandard housing.

(C) The lack of mortgage credit.

(D) The rural characteristics of the location.

(E) Other factors as determined by the Secretary, demonstrating the need for affordable housing.

(3) Information

In administering this subsection, the Secretary shall use information from the most recent decennial census of the United States, relevant comprehensive affordable housing strategies under section 12705 of this title, and other reliable sources obtained by the Secretary which demonstrate the need for affordable housing in rural areas.

(4) Designation

A designation under this subsection shall not be effective for a period of more than 3 years, but may be renewed by the Secretary in accordance with the procedure set forth in this subsection. The Secretary shall take such other reasonable actions as the Secretary considers to be appropriate to notify the public of such designations.

(July 15, 1949, ch. 338, title V, §532, as added Pub. L. 98–181, title I [title V, §521], Nov. 30, 1983, 97 Stat. 1250; amended Pub. L. 104–180, title VII, §734(f), Aug. 6, 1996, 110 Stat. 1604.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–180, §734(f)(1), substituted "Except as otherwise provided in subsection (c), the Secretary" for "The Secretary" in introductory provisions.

Subsec. (c). Pub. L. 104–180, §734(f)(2), added subsec. (c).

§1490m. Housing preservation grants

(a) Statement of purposes

The purpose of this section is to authorize the Secretary to make grants to eligible grantees including private nonprofit organizations, Indian tribes, general units of local government, counties, States, and consortia of other eligible grantees, in order to—

(1) rehabilitate or replace single family housing in rural areas which is owned by low- and very

low-income persons and families, and

(2) rehabilitate or replace rental properties or cooperative housing which has a membership resale structure that enables the cooperative to maintain affordability for persons of low income in rural areas serving low- and very low-income occupants.

The Secretary may also provide tenant-based assistance as provided under section 1437f of this title or section 1490r of this title upon the request of grantees in order to minimize the displacement of very low-income tenants residing in units rehabilitated or replaced with assistance under this section.

(b) Mandatory program requirements

Preservation programs assisted under this section shall—

(1) be used to provide loans or grants to owners of single family housing in order to cover the cost of repairs and improvements;

(2) be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 1472 of this title for replacement housing;

(3) be used to provide interest reduction payment;

(4) be used to provide loans or grants to owners of rental housing, except that rental rehabilitation or replacement assistance provided under this subsection for any structure shall not exceed 75 per centum of the total costs associated with the rehabilitation or replacement of that structure;

(5) be used to provide other comparable assistance that the Secretary deems appropriate to carry out the purpose of this section, designed to reduce the costs of such repair, rehabilitation, and replacement in order to make such housing affordable by persons of low income and, to the extent feasible, by persons and families whose incomes do not exceed 50 per centum of the area median income;

(6) benefit low- and very low-income persons and families in rural areas, without causing the displacement of current residents; and

(7) raise health and safety conditions to meet those specified in section 1479(a) of this title.

(c) Allocation formula; transfer of funds; maximum amounts

(1) The Secretary shall allocate grant funds under this section for use in each State on the basis of a formula contained in a regulation prescribed by the Secretary using the average of the ratios between—

(A) the population of the rural areas in that State and the population of the rural areas of all States;

(B) the extent of poverty in the rural areas in that State and the extent of poverty in the rural areas of all States; and

(C) the extent of substandard housing in the rural areas of that State and the extent of substandard housing in the rural areas of all States.

Any funds which are allocated to a State but uncommitted to grantees will be transferred to the State office of the Farmers Home Administration in a timely manner and be used for authorized rehabilitation activities under section 1474 of this title. Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years.

(2) Unless there is only one eligible grantee in a State, a single grantee may not receive more than 50 per centum of a State's allocation.

(d) Statement of activity by grantee; submission; contents; availability; consultations; evaluation by Secretary; criteria applicable; maximum amounts

(1) Eligible grantees may submit a statement of activity to the Secretary at the time specified by

the program administrator, containing a description of its proposed preservation program. The statement shall consist of the activities each entity proposes to undertake for the fiscal year, and the projected progress in carrying out those activities. The statement of activities shall be made available to the public for comment.

(2) In preparing such statement, the grantee shall consult with and consider the views of appropriate local officials.

(3) The Secretary shall evaluate the merits of each statement on the basis of such criteria as the Secretary shall prescribe, including the extent—

(A) to which the repair, rehabilitation, and replacement activities will assist persons of low income who lack adequate shelter, with priority given to applications assisting the maximum number of persons and families whose incomes do not exceed 50 per centum of the area median income;

(B) to which the repair, rehabilitation, and replacement activities include the participation of other public or private organizations in providing assistance, in addition to the assistance provided under this section, in order to lower the costs of such activities or provide for the leveraging of available funds to supplement the rural housing preservation grant program;

(C) to which such activities will be undertaken in rural areas having populations below 10,000 or in remote parts of other rural areas;

(D) to which the repair, rehabilitation, and replacement activities may be expected to result in achieving the greatest degree of repair or improvement for the least cost per unit or dwelling;

(E) to which the program would minimize displacement;

(F) to which the program would alleviate overcrowding in rural residences inhabited by low- and very low-income persons and families;

(G) to which the program would minimize the use of grant funds for administrative purposes; and

(H) to which the owner agrees to meet the requirement of subsection (e)(1)(B)(iv) for a period longer than 5 years;

and shall assess the demonstrated capacity of the grantee to carry out the program as well as the financial feasibility of the program.

(4) The amount of assistance provided under this section with respect to any housing shall be the least amount that the Secretary determines is necessary to provide, through the repair and rehabilitation, or replacement, of such housing, decent housing of modest design that is affordable for persons of low income.

(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 1472 of this title; and

(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford.

(e) Limitations on assistance; failure to implement required agreement

(1) Assistance under this section may be provided with respect to rental or cooperative housing only if—

(A) the owner has entered into such agreements with the Secretary as may be necessary to assure compliance with the requirements of this section, to assure the financial feasibility of such housing, and to carry out the other provisions of this section;

(B) the owner agrees—

(i) to pass on to the tenants any reduction in the debt service payments resulting from the assistance provided under this section;

(ii) not to convert the units to condominium ownership (or in the case of a cooperative, to condominium ownership or any form of cooperative ownership not eligible for assistance under

this section);

(iii) not to refuse to rent a dwelling unit in the structure to a family solely because the family is receiving or is eligible to receive assistance under any Federal, State, or local housing assistance program; and

(iv) that the units repaired and rehabilitated with such assistance will be occupied, or available for occupancy, by persons of low income;

during the 5-year period beginning on the date on which the units in the housing are available for occupancy;

(C) the unit of general local government or nonprofit organization that receives the assistance certifies to the satisfaction of the Secretary that the assistance will be made available in conformity with Public Law 88–352 [42 U.S.C. 2000a et seq.] and Public Law 90–284;

(D) the owner agrees to enter into and abide by written leases with the tenants, which leases shall provide that tenants may be evicted only for good cause; and

(E) the unit of general local government or nonprofit organization will agree to supervise repairs and rehabilitation and will agree to have a disinterested party inspect such repairs and rehabilitation.

(2) Assistance under this section provided with respect to any housing other than rental or cooperative housing may be provided only if the owner complies with the requirements set forth in subparagraph (E) of paragraph (1) and any other requirements established by the Secretary to carry out the purpose of this section.

(3)(A) The Secretary shall provide that if the owner or his or her successors in interest fail to carry out the agreements described in subparagraphs (A) and (B) of paragraph (1) during the applicable period, the owner or his or her successors in interest shall make a payment to the Secretary of an amount that equals the total amount of assistance provided under this section with respect to such housing, plus interest thereon (without compounding), for each year and any fraction thereof that the assistance was outstanding, at a rate determined by the Secretary taking into account the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which the assistance was made available.

(B) Notwithstanding any other provision of law, any assistance provided under this section shall constitute a debt, which is payable in the case of any failure to carry out the agreements described in subparagraphs (A), (B), and (C) of paragraph (1), and shall be secured by the security instruments provided by the owner to the Secretary.

(f) Advance payments of assistance

The Secretary shall provide for such advance payments of assistance under this section as the Secretary determines is necessary to effectively carry out the provisions of this section.

(g) Annual review and audit by Secretary of activities; adjustment, etc., of resources; reallocation of amounts

The Secretary shall, at least on an annual basis, make such review and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner and in accordance with the requirements of this section, the degree to which the activities assisted benefitted low income families or persons and very low-income families or persons who lacked adequate housing, and whether the grantee has a continuing capacity to carry out the activities in a timely manner. The Secretary may adjust, reduce, or withdraw resources made available to grantees receiving assistance under this section, or take other action as appropriate in accordance with the findings of these reviews and audits. Any amounts which become available as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine.

(h) Rules and regulations; delegation of authority

(1) The Secretary is authorized to prescribe such rules and regulations and make such delegations

of authority as he deems necessary to carry out this section within 90 days after November 30, 1983.

(2) The Secretary shall, not later than the expiration of the 30-day period following February 5, 1988, issue regulations to carry out the program of grants under subsection (a)(2).

(i) National historic preservation objectives affected by rehabilitation activities; establishment of procedures for determining consonant purposes and measures

The Secretary shall establish procedures which support national historic preservation objectives and which assure that, if any rehabilitation proposed to be assisted under this section would affect property that is included or is eligible for inclusion on the National Register of Historic Places, such activity shall not be undertaken unless (1) it will reasonably meet the standards for rehabilitation issued by the Secretary of the Interior and the appropriate State historic preservation officer is afforded the opportunity to comment on the specific rehabilitation plan, or (2) the Advisory Council on Historic Preservation is afforded an opportunity to comment on cases for which the recipient of assistance, in consultation with the State historic preservation officer, determines that the proposed rehabilitation activity cannot reasonably meet such standards or would adversely affect historic property as defined therein.

(July 15, 1949, ch. 338, title V, §533, as added Pub. L. 98–181, title I [title V, §522], Nov. 30, 1983, 97 Stat. 1250; amended Pub. L. 100–242, title III, §§310, 316(g), Feb. 5, 1988, 101 Stat. 1896, 1898; Pub. L. 101–625, title VII, §717, Nov. 28, 1990, 104 Stat. 4296; Pub. L. 102–550, title VII, §§706(1), 711, Oct. 28, 1992, 106 Stat. 3835, 3840; Pub. L. 105–276, title V, §550(e), Oct. 21, 1998, 112 Stat. 2610; Pub. L. 105–362, title I, §101(h), Nov. 10, 1998, 112 Stat. 3281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 88–352, referred to in subsec. (e)(1)(C), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX (§2000a et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Public Law 90–284, referred to in subsec. (e)(1)(C), is Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73, known as the Civil Rights Act of 1968. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–276 substituted "tenant-based assistance as provided under section 1437f of this title" for "assistance payments as provided by section 1437f(o) of this title" in concluding provisions.

Subsec. (j). Pub. L. 105–362 struck out subsec. (j) which read as follows: "Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall submit to the Congress a report which shall contain—

"(1) a description of the progress made in accomplishing the objectives of this section; and

"(2) a summary of the use of such funds during the preceding year.

The Secretary shall require grantees under this section to submit to him such reports, and other information as may be necessary in order for the Secretary to make the report required by this subsection."

1992—Subsec. (a). Pub. L. 102–550, §§706(1), 711(1)(B), in concluding provisions, inserted reference to section 1490r of this title and "or replaced" after "rehabilitated".

Subsec. (a)(1), (2). Pub. L. 102–550, §711(1)(A), inserted "or replace" after "rehabilitate".

Subsec. (b). Pub. L. 102–550, §711(2)(A), substituted "Preservation programs" for "Rehabilitation programs" in introductory provisions.

Subsec. (b)(2). Pub. L. 102–550, §711(2)(E), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 102–550, §711(2)(D), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102–550, §711(2)(B), inserted "or replacement" after "rehabilitation" in two places.

Subsec. (b)(4). Pub. L. 102–550, §711(2)(D), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Pub. L. 102–550, §711(2)(C), substituted "repair, rehabilitation, and replacement" for "repair and rehabilitation".

Subsec. (b)(5) to (7). Pub. L. 102–550, §711(2)(D), redesignated pars. (4) to (6) as (5) to (7), respectively.

Subsec. (c)(1). Pub. L. 102–550, §711(3), substituted "grant funds under this section" for "rehabilitation

grant funds" in introductory provisions.

Subsec. (d)(1). Pub. L. 102–550, §711(4)(A), substituted "preservation program" for "rehabilitation program".

Subsec. (d)(3)(A), (B), (D). Pub. L. 102–550, §711(4)(B), substituted "repair, rehabilitation, and replacement" for "repair and rehabilitation".

Subsec. (d)(4). Pub. L. 102–550, §711(4)(C), inserted ", or replacement," after "rehabilitation".

Subsec. (d)(5). Pub. L. 102–550, §711(4)(D), added par. (5).

1990—Subsec. (c)(1). Pub. L. 101–625, §717(a), inserted at end "Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years."

Subsec. (g). Pub. L. 101–625, §717(b), substituted last sentence for "Any amounts which became available as a result of actions under this subsection shall be reallocated in the year in which they become available to such grantee or grantees as the Secretary may determine."

1988—Subsec. (e)(1)(B)(iii). Pub. L. 100–242, §316(g)(1), inserted "to" before "refuse".

Subsec. (g). Pub. L. 100–242, §316(g)(2), substituted "low income families or persons and very low-income families or persons" for "persons of low income and very low-income".

Subsec. (h). Pub. L. 100–242, §310, designated existing provisions as par. (1) and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

RURAL RENTAL REHABILITATION DEMONSTRATION

Pub. L. 100–242, title III, §311, Feb. 5, 1988, 101 Stat. 1896, as amended by Pub. L. 100–628, title X, §1044, Nov. 7, 1988, 102 Stat. 3273; Pub. L. 101–137, §7(d), Nov. 3, 1989, 103 Stat. 826; Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 846; Pub. L. 105–362, title VII, §701(f), Nov. 10, 1998, 112 Stat. 3287, directed Secretary of Housing and Urban Development to carry out a rural rental rehabilitation demonstration program, provided funding for program, and terminated authority for such program after Sept. 30, 1991.

§1490n. Review of rules and regulations

(a) Publication for public comment in Federal Register

Notwithstanding any other provision of law, no rule or regulation pursuant to this subchapter may become effective unless it has first been published for public comment in the Federal Register for at least 60 days, and published in final form for at least 30 days.

(b) Transmittal to Congressional committee members prior to publication in Federal Register

The Secretary shall transmit to the chairman and ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House, all rules and regulations at least 15 days before they are sent to the Federal Register for purposes of subsection (a).

(c) Rules and regulations issued on emergency basis

The provisions of this section shall not apply to a rule or regulation which the Secretary certifies is issued on an emergency basis.

(d) Regulatory authority

The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this section a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.

(July 15, 1949, ch. 338, title V, §534, as added Pub. L. 98–181, title I [title V, §523], Nov. 30, 1983,

97 Stat. 1254; amended Pub. L. 100–242, title V, §563(b), Feb. 5, 1988, 101 Stat. 1944.)

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–242 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§1490*o*. Reciprocity in approval of housing subdivisions among Federal agencies

(a) Administrative approval of housing subdivisions

The Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs shall each accept an administrative approval of any housing subdivision made by any of the others so that not later than January 1, 1984, there is total reciprocity for housing subdivision approvals among the agencies which they head.

(b) Certificates of reasonable value for one or more properties as constituting administrative approval of subdivision

For purposes of complying with subsection (a), the Secretary of Housing and Urban Development shall consider the issuance by the Secretary of Veterans Affairs of a certificate of reasonable value for 1 or more properties in a subdivision to be an administrative approval for the entire subdivision. This subsection shall not apply after September 30, 1994.

(c) Report to Congress

Before the expiration of the period referred to in subsection (b), the Secretary of Housing and Urban Development shall report to the Congress on housing subdivision approval policies and practices, if any, of the Departments of Housing and Urban Development and Agriculture and the Department of Veterans Affairs. The report shall focus on the administration of environmental laws in connection with any such policies and practices, and shall recommend any statutory, regulatory, and administrative changes needed to achieve total reciprocity for such housing subdivision approvals. The Secretary of Housing and Urban Development shall consult with the foregoing agencies, and such other agencies as the Secretary selects, in preparing the report.

(d) Approval by local, county, or State agencies

For loans made under this subchapter, the Secretary may accept subdivisions that have been approved by local, county, or State agencies.

(July 15, 1949, ch. 338, title V, §535, as added Pub. L. 98–181, title I [title V, §523], Nov. 30, 1983, 97 Stat. 1254; amended Pub. L. 100–628, title X, §1067, Nov. 7, 1988, 102 Stat. 3276; Pub. L. 101–235, title III, §303, Dec. 15, 1989, 103 Stat. 2044; Pub. L. 101–625, title VII, §718(a), Nov. 28, 1990, 104 Stat. 4297; Pub. L. 102–54, §13(q)(5), June 13, 1991, 105 Stat. 280; Pub. L. 102–550, title VII, §716(a), (c), Oct. 28, 1992, 106 Stat. 3842; Pub. L. 103–120, §8(a), Oct. 27, 1993, 107 Stat. 1151.)

EDITORIAL NOTES

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–120 substituted "September 30, 1994" for "June 15, 1993".

1992—Subsec. (b). Pub. L. 102–550, §716(a), inserted last sentence and struck out former last sentence which read as follows: "This subsection shall not apply after the expiration of the 18-month period beginning on December 15, 1989."

Subsec. (d). Pub. L. 102–550, §716(c), added subsec. (d).

1991—Subsecs. (a), (b). Pub. L. 102–54, §13(q)(5)(A), substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

Subsec. (c). Pub. L. 102–54, §13(q)(5)(B), substituted "Department of Veterans Affairs" for "Veterans' Administration".

1990—Subsec. (b). Pub. L. 101–625 substituted "18-month period" for "6-month period".

1989—Subsec. (b). Pub. L. 101–235 substituted "6-month period beginning on December 15, 1989" for "1-year period beginning on November 7, 1988".

1988—Pub. L. 100–628 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

RETROACTIVITY OF APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES

Pub. L. 103–120, §8(b), Oct. 27, 1993, 107 Stat. 1151, provided that: "An administrative approval of a housing subdivision made after June 15, 1993, and before the date of the enactment of this Act [Oct. 27, 1993] is approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949 [42 U.S.C. 1490o(b)]."

Pub. L. 102–550, title VII, §716(b), Oct. 28, 1992, 106 Stat. 3842, provided that: "Any administrative approval of any housing subdivision made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 [Dec. 15, 1989] and before the date of the enactment of this Act [Oct. 28, 1992] is approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949 [42 U.S.C. 1490o(b)]."

Pub. L. 101–625, title VII, §718(b), Nov. 28, 1990, 104 Stat. 4297, provided that: "Any administrative approval of any housing subdivision made after the expiration of the 6-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 [Dec. 15, 1989] and before the date of the enactment of this Act [Nov. 28, 1990] is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949 [42 U.S.C. 1490o(b)]."

§1490p. Accountability

(a) Notice regarding assistance

(1) Publication of notice of availability

The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary under this subchapter.

(2) Publication of application procedures

The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be sufficient to enable any eligible applicant to apply for such assistance.

(3) Publication of selection criteria

Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made.

Such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) Documentation of decisions

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

(C) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B) is readily available for public inspection for a period of not less than 10 years, beginning not less than 30 days following the date on which the award or allocation is made.

(5) Emergency exception

The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for adequate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

(b) Disclosures by applicants

The Secretary shall require the disclosure of information with respect to any application for assistance under this subchapter submitted by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance under this subchapter in excess of $200,000 in the aggregate during any fiscal year. Such information shall include the following:

(1) Other government assistance

Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance under this subchapter. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) Interested parties

The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance under this subchapter or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

(3) Expected sources and uses

A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) Updating of disclosure

During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) Repealed. Pub. L. 104–65, §11(b)(2), Dec. 19, 1995, 109 Stat. 701

(e) Remedies and penalties

(1) Administrative remedies

If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b), (c), or (d) this [1] section has occurred, the Secretary shall—

(A) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(B) in the case of a selection that has been made, determine whether to—

(i) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(ii) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(iii) recapture any funds that have been disbursed;

(iv) permit the violating applicant selected to continue to participate in the program; or

(v) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this paragraph.

(2) Civil penalties

Whoever violates any section [2] of this section shall be subject to the imposition of a civil penalty in a civil action brought by the United States in an appropriate district court of the United States. A civil penalty under this paragraph may not exceed—

(A) $100,000 in the case of an individual; or

(B) $1,000,000 in the case of an applicant other than an individual.

(3) Deposit of penalties in insurance funds

Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the Rural Housing Insurance Fund.

(4) Nonexclusiveness of remedies

This subsection may not be construed to limit the applicability of any requirements, sanctions, penalties, or remedies established under any other law. The Secretary shall not be relieved of any obligation to carry out the requirements of this section because such other requirements, sanctions, penalties, or remedies apply.

(f) Limitation of assistance

The Secretary shall certify that assistance provided by the Secretary to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources. The Secretary shall adjust the amount of assistance provided to an applicant to compensate for any changes reported under subsection (c).

(g) Regulations

Not less than 180 days following December 15, 1989, the Secretary shall promulgate regulations to implement this section.

(h) "Assistance" defined

For purposes of this section, the term "assistance" means any housing grant, loan, guarantee, insurance, rebate, subsidy, tax credit benefit, or other form of direct or indirect assistance, for the original construction or development of the project.

(i) Report by Secretary

The Secretary shall submit to the Congress, not later than 180 days following December 15, 1989, a report describing actions taken to carry out this section, including actions to inform and educate officers and employees of the Department of Agriculture regarding the provisions of this section.

(July 15, 1949, ch. 338, title V, §536, as added Pub. L. 101–235, title IV, §401(a), Dec. 15, 1989, 103 Stat. 2045; amended Pub. L. 101–625, title VII, §719(a), Nov. 28, 1990, 104 Stat. 4297; Pub. L. 104–65, §11(b)(2), Dec. 19, 1995, 109 Stat. 701.)

EDITORIAL NOTES

CODIFICATION

December 15, 1989, referred to in subsec. (g), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 101–235, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–65 struck out subsec. (d) which related to regulation of lobbyists and consultants.

1990—Subsec. (h). Pub. L. 101–625 inserted before period at end ", for the original construction or development of the project".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE

Pub. L. 101–235, title IV, §401(b), Dec. 15, 1989, 103 Stat. 2048, provided that: "Section 536 of the Housing Act of 1949 [this section], as added by subsection (a), shall take effect on the effective date of regulations implementing such section."

[1] So in original. Probably should be "of this".

[2] So in original. Probably should be "subsection".

§1490p–1. Office of Rural Housing Preservation

(a) Establishment

There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director designated by the Secretary of Agriculture.

(b) Purposes

The purposes of the Office are:

(1) to review and process applications under section 1472(c) of this title and section 1485(t) of this title related to the preservation of rural rental housing;

(2) to provide technical or financial assistance to any other projects needing such assistance;

(3) to coordinate and direct all other activities related to the preservation of rural housing; and

(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.

(July 15, 1949, ch. 338, title V, §537, as added Pub. L. 102–550, title VII, §712(c), Oct. 28, 1992, 106 Stat. 3841.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (b)(4), is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

§1490p–2. Loan guarantees for multifamily rental housing in rural areas

(a) Authority

The Secretary may make commitments to guarantee eligible loans for the development costs of eligible housing and related facilities, and may guarantee such eligible loans, in accordance with this section.

(b) Extent of guarantee

A guarantee made under this section shall guarantee repayment of an amount not exceeding the total of the amount of the unpaid principal and interest of the loan for which the guarantee is made. The liability of the United States under any guarantee under this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c) Eligible borrowers

A loan guaranteed under this section may be made to a nonprofit organization, an agency or body of any State government or political subdivision thereof, an Indian tribe, or a private entity.

(d) Eligible housing

A loan may be guaranteed under this section only if the loan is used for the development costs of housing and related facilities (as such terms are defined in section 1485(e) of this title) that—

(1) consists of 5 or more adequate dwellings;

(2) is available for occupancy only by low or moderate income [1] families or persons, whose incomes at the time of initial occupancy do not exceed 115 percent of the median income of the area, as determined by the Secretary;

(3) will remain available as provided in paragraph (2), according to such binding commitments as the Secretary may require, for the period of the original term of the loan guaranteed, unless the housing is acquired by foreclosure (or instrument in lieu of foreclosure) or the Secretary waives the applicability of such requirement for the loan only after determining, based on objective information, that—

(A) there is no longer a need for low- and moderate-income housing in the market area in which the housing is located;

(B) housing opportunities for low-income households and minorities will not be reduced as a result of the waiver; and

(C) additional Federal assistance will not be necessary as a result of the waiver; and

(4) is located in a rural area.

(e) Eligible lenders

(1) Requirement

A loan may be guaranteed under this section only if the loan is made by a lender that the Secretary determines—

(A) meets the qualifications, and has been approved by the Secretary of Housing and Urban Development, to make loans for multifamily housing that are to be insured under the National Housing Act [12 U.S.C. 1701 et seq.];

(B) meets the qualifications, and has been approved by the Federal National Mortgage

Association and the Federal Home Loan Mortgage Corporation, to make loans for multifamily housing that are to be sold to such corporations; or

(C) meets any qualifications that the Secretary may, by regulation, establish for participation of lenders in the loan guarantee program under this section.

(2) Eligibility list and annual audit

The Secretary shall establish a list of eligible lenders and shall annually conduct an audit of each lender included in the list for purposes of determining whether such lender continues to be an eligible lender.

(f) Loan terms

Each loan guaranteed pursuant to this section shall—

(1) be made for a period of not less than 25 nor greater than 40 years from the date the loan was made and may provide for amortization of the loan over a period of not to exceed 40 years with a final payment of the balance due at the end of the loan term;

(2) involve a rate of interest agreed upon by the borrower and the lender that does not exceed the maximum allowable rate established by the Secretary for purposes of this section and is fixed over the term of the loan;

(3) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve) not to exceed—

(A) in the case of a borrower that is a nonprofit organization or an agency or body of any State or local government, 97 percent of the development costs of the housing and related facilities or the value of the housing and facilities, whichever is less;

(B) in the case of a borrower that is a for-profit entity not referred to in subparagraph (A), 90 percent of the development costs of the housing and related facilities or the value of the housing and facilities, whichever is less; and

(C) in the case of any borrower, for such part of the property as may be attributable to dwelling use, the applicable maximum per unit dollar amount limitations under section 207(c) of the National Housing Act [12 U.S.C. 1713(c)];

(4) be secured by a first mortgage on the housing and related facilities for which the loan is made, or otherwise, as the Secretary may determine necessary to ensure repayment of the obligation; and

(5) for at least 20 percent of the loans made under this section, the Secretary shall provide the borrower with assistance in the form of credits pursuant to section 1490a(a)(1)(B) of this title to the extent necessary to reduce the rate of interest under paragraph (2) to the applicable Federal rate, as such term is used in section 42(i)(2)(D) [2] of title 26.

(g) Guarantee fee

At the time of issuance of a loan guaranteed under this section, the Secretary may collect from the lender a fee equal to not more than 1 percent of the principal obligation of the loan.

(h) Authority for lenders to issue certificates of guarantee

The Secretary may authorize certain eligible lenders to determine whether a loan meets the requirements for guarantee under this section and, subject to the availability of authority to enter into guarantees under this section, execute a firm commitment for a guarantee binding upon the Secretary and issue a certificate of guarantee evidencing a guarantee, without review and approval by the Secretary of the specific loan. The Secretary may establish standards for approving eligible lenders for a delegation of authority under this subsection.

(i) Payment under guarantee

(1) Notice of default

In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate for the loan shall provide written notice of the default to the Secretary.

(2) Foreclosure

After receiving notice under paragraph (1) and providing written notice of action under this paragraph to the Secretary, the holder of the guarantee certificate for the loan may initiate foreclosure proceedings for the loan in a court of competent jurisdiction, in accordance with regulations issued by the Secretary, to obtain possession of the security property. After the court issues a final order authorizing foreclosure on the property, the holder of the certificate shall be entitled to payment by the Secretary under the guarantee (in the amount provided under subsection (b)) upon (A) submission to the Secretary of a claim for payment under the guarantee, and (B) assignment to the Secretary of all the claims of the holder of the guarantee against the borrower or others arising out of the loan transaction or foreclosure proceedings, except claims released with the consent of the Secretary.

(3) Assignment by Secretary

After receiving notice under paragraph (1), the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Assignment of a loan under this paragraph shall include conveyance to the Secretary of title to the security property, assignment to the Secretary of all rights and interests arising under the loan, and assignment to the Secretary of all claims against the borrower or others arising out of the loan transaction. Upon assignment of a loan under this paragraph, the holder of a guarantee certificate for the loan shall be entitled to payment by the Secretary under the guarantee (in the amount provided under subsection (b)).

(4) Requirements

Before any payment under a guarantee is made under paragraph (2) or (3), the holder of the guarantee certificate shall exhaust all reasonable possibilities of collection on the loan guaranteed. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(j) Violation of guarantee requirements by lenders issuing guarantees

(1) Indemnification

If the Secretary determines that a loan guaranteed by an eligible lender pursuant to delegation of authority under subsection (h) was not originated in accordance with the requirements under this section and the Secretary pays a claim under the guarantee for the loan, the Secretary may require the eligible lender authorized under subsection (h) to issue the guarantee certificate for the loan—

(A) to indemnify the Secretary for the loss, if the payment under the guarantee was made within a reasonable period specified by the Secretary; or

(B) to indemnify the Secretary for the loss regardless of when payment under the guarantee was made, if the Secretary determines that fraud or misrepresentation was involved in connection with the origination of the loan.

(2) Termination of authority to issue guarantees

The Secretary may cancel a delegation of authority under subsection (h) to an eligible lender if the Secretary determines that the lender has violated the requirements and procedures for guaranteed loans under this section or for other good cause. Any such cancellation shall be made by giving notice to the eligible lender and shall take effect upon receipt of the notice by the mortgagee or at a later date, as the Secretary may provide. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

(k) Refinancing

Any loan guaranteed under this section may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term that exceeds the limitations under subsection (f).

(l) Geographical targeting

(1) Study

The Secretary shall provide for an independent entity to conduct a study to determine the extent to which borrowers in the United States will utilize loan guarantees under this section, the rural areas in the United States in which borrowers can best utilize and most need loans guaranteed under this section, and the rural areas in the United States in which housing of the type eligible for a loan guarantee under this section is most needed by low- and moderate-income families. The Secretary shall require the independent entity conducting the study to submit a report to the Secretary and to the Congress describing the results of the study not later than the expiration of the 90-day period beginning on March 28, 1996.

(2) Targeting

In providing loan guarantees under this section, the Secretary shall establish standards to target and give priority to rural areas in which borrowers can best utilize and most need loans guaranteed under this section, as determined by the Secretary based on the results of the study under paragraph (1) and any other information the Secretary considers appropriate.

(m) Inapplicability of credit-elsewhere test

Section 1471(c) of this title shall not apply to guarantees, or loans guaranteed, under this section.

(n) Tenant protections

The Secretary shall establish standards for the treatment of tenants of housing developed using amounts from a loan guaranteed under this section, which shall incorporate, to the extent applicable, existing standards applicable to tenants of housing developed with loans made under section 1485 of this title. Such standards shall include standards for fair housing and equal opportunity, lease and grievance procedures, and tenant appeals of adverse actions.

(o) Housing standards

The standards established under section 1485(m) of this title for housing and related facilities assisted under section 1485 of this title shall apply to housing and related facilities the development costs of which are financed in whole or in part with a loan guaranteed under this section.

(p) Limitation on commitments to guarantee loans

(1) Requirement of appropriations for cost subsidy

The authority of the Secretary to enter into commitments to guarantee loans under this section, and to guarantee loans, shall be effective for each fiscal year only to the extent that appropriations of budget authority to cover the costs (as such term is defined in section 661a of title 2) of the guarantees are made in advance for such fiscal year.

(2) Annual limitation on amount of loan guarantee

In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.

(q) Report

(1) In general

The Secretary shall submit a report to the Congress, not later than the expiration of the 2-year period beginning on March 28, 1996, describing the program under this section for guaranteeing loans.

(2) Contents

The report shall—

(A) describe the types of borrowers providing housing with loans guaranteed under this section, the areas served by the housing provided and the geographical distribution of the housing, the levels of income of the residents of the housing, the number of dwelling units

provided, the extent to which borrowers under such loans have obtained other financial assistance for development costs of housing provided with the loans, and the extent to which borrowers under such loans have used low-income housing tax credits provided under section 42 of title 26 in connection with the housing provided with the loans;

(B) analyze the financial viability of the housing provided with loans guaranteed under this section and the need for project-based rental assistance for such housing;

(C) include any recommendations of the Secretary for expanding or improving the program under this section for guaranteeing loans; and

(D) include any other information regarding the program for guaranteeing loans under this section that the Secretary considers appropriate.

(r) Definitions

For purposes of this section, the following definitions shall apply:

(1) The term "development cost" has the meaning given the term in section 1485(e) of this title.

(2) The term "eligible lender" means a lender determined by the Secretary to meet the requirements of subparagraph (A), (B), (C), or (D) of subsection (e)(1).

(3) The terms "housing" and "related facilities" have the meanings given such terms in section 1485(e) of this title.

(4) INDIAN TRIBE.—The term "Indian tribe" means—

(A) any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation, as defined by or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.); [2] or

(B) any entity established by the governing body of an Indian tribe described in subparagraph (A) for the purpose of financing economic development.

(s) Authorization of appropriations

There are authorized to be appropriated for each fiscal year for costs (as such term is defined in section 661a of title 2) of loan guarantees made under this section such sums as may be necessary for such fiscal year to provide guarantees under this section for eligible loans having an aggregate principal amount of $500,000,000.

(t) Tax-exempt financing

The Secretary may not deny a guarantee under this section on the basis that the interest on the loan or on an obligation supporting the loan for which a guarantee is sought is exempt from inclusion in gross income for purposes of chapter I [3] of title 26.

(u) Fee authority

Any amounts collected by the Secretary pursuant to the fees charged to lenders for loan guarantees issued under this section shall be used to offset costs (as defined by section 661a of title 2) of loan guarantees made under this section.

(v) Defaults of loans secured by reservation lands

In the event of a default involving a loan to an Indian tribe or tribal corporation made under this section which is secured by an interest in land within such tribe's reservation (as determined by the Secretary of the Interior), including a community in Alaska incorporated by the Secretary of the Interior pursuant to the Indian Reorganization Act (25 U.S.C. 461 et seq.),[2] the lender shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe. If the lender subsequently proceeds to liquidate the account, the lender shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(July 15, 1949, ch. 338, title V, §538, as added and amended Pub. L. 104–120, §5, Mar. 28, 1996,

110 Stat. 835; Pub. L. 105–86, title VII, §735(c), Nov. 18, 1997, 111 Stat. 2111; Pub. L. 105–276, title V, §599C(c), Oct. 21, 1998, 112 Stat. 2661; Pub. L. 106–569, title VII, §707, Dec. 27, 2000, 114 Stat. 3015.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(1)(A), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Subpar. (D) of section 42(i)(2) of title 26, referred to in subsec. (f)(5), was repealed by Pub. L. 110–289, div. C, title I, §3002(b)(2)(C), July 30, 2008, 122 Stat. 2880.

The Alaska Native Claims Settlement Act, referred to in subsec. (r)(4)(A), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), referred to in subsec. (r)(4)(A), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians, prior to editorial reclassification as chapter 46 (§5301 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

The Indian Reorganization Act (25 U.S.C. 461 et seq.), referred to in subsec. (v), is act June 18, 1934, ch. 576, 48 Stat. 984, which was classified generally to subchapter V (§461 et seq.) of chapter 14 of Title 25, Indians, prior to editorial reclassification as chapter 45 (§5101 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of Title 25 and Tables.

CODIFICATION

Section is based on section 5(a) of H.R. 1691, One Hundred Fourth Congress, as passed by the House of Representatives on Oct. 30, 1995, which was enacted into law by Pub. L. 104–120.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–569, §707(1), inserted "an Indian tribe," after "political subdivision thereof,".

Subsec. (f)(1). Pub. L. 106–569, §707(2), added par. (1) and struck out former par. (1) which read as follows: "provide for complete amortization by periodic payments to be made for a term not to exceed 40 years;".

Subsec. (i)(2). Pub. L. 106–569, §707(3), substituted "(A) submission to the Secretary of a claim for payment under the guarantee, and (B) assignment" for "(A) conveyance to the Secretary of title to the security property, (B) submission to the Secretary of a claim for payment under the guarantee, and (C) assignment".

Subsec. (l). Pub. L. 106–569, §707(6), (7), redesignated subsec. (m) as (l) and struck out heading and text of former subsec. (l). Text read as follows: "The borrower under a loan that is guaranteed under this section and under which any portion of the principal obligation or interest remains outstanding may not be relieved of liability with respect to the loan, notwithstanding the transfer of property for which the loan was made."

Subsecs. (m) to (r). Pub. L. 106–569, §707(7), redesignated subsecs. (n) to (s) as (m) to (r), respectively. Former subsec. (m) redesignated (l).

Subsec. (s). Pub. L. 106–569, §707(7), redesignated subsec. (t) as (s). Former subsec. (s) redesignated (r).

Subsec. (s)(4). Pub. L. 106–569, §707(4), added par. (4).

Subsec. (t). Pub. L. 106–569, §707(7), redesignated subsec. (u) as (t). Former subsec. (t) redesignated (s).

Pub. L. 106–569, §707(5), inserted before period at end "to provide guarantees under this section for eligible loans having an aggregate principal amount of $500,000,000".

Subsec. (u). Pub. L. 106–569, §707(8), added subsec. (u). Former subsec. (u) redesignated (t).

Subsec. (v). Pub. L. 106–569, §707(8), added subsec. (v).

1998—Subsec. (t). Pub. L. 105–276, §599C(c)(1), substituted "each fiscal year" for "fiscal year 1998".

Subsec. (u). Pub. L. 105–276, §599C(c)(2), added subsec. (u) and struck out heading and text of former subsec. (u). Text read as follows: "A loan may not be guaranteed under this section after September 30, 1998."

1997—Subsec. (q)(2). Pub. L. 105–86, §735(c)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "In fiscal year 1996, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do

not exceed $1,000,000."

Subsec. (t). Pub. L. 105–86, §735(c)(2), added subsec. (t) and struck out text of former subsec. (t). Text read as follows: "There is authorized to be appropriated for fiscal year 1996 $1,000,000 for costs (as such term is defined in section 661a of title 2) of loan guarantees made under this section."

Subsec. (u). Pub. L. 105–86, §735(c)(3), substituted "1998" for "1996".

1996—Subsecs. (m)(1), (r)(1). Pub. L. 104–120, §5(b), made technical amendment to reference in original act which appears in text as reference to March 28, 1996.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104–120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of this title.

[1] So in original. Probably should be "low- or moderate-income".

[2] See References in Text note below.

[3] So in original. Probably should be chapter "1".

§1490q. Disaster assistance

(a) Authority

(1) In general

Notwithstanding any other provision of this subchapter, in the event of a natural disaster, so declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], the Secretary shall allocate, for assistance under this section to the States affected for use in the counties designated as disaster areas and the counties contiguous to such counties, amounts made available to the Secretary by an appropriations Act for such purpose. Allocations under this section may be made for each of the fiscal years ending during the 3-year period beginning on the declaration of the disaster by the President.

(2) Amount

Subject to the availability of amounts pursuant to appropriations Acts, assistance under paragraph (1) shall be made in an amount equal to the product of—

(A) the sum of the official State estimate of the number of dwelling units in the counties described in paragraph (1) within the eligible service area of the Farmers Home Administration (or otherwise if the Secretary provides for a waiver under subsection (d)) that are destroyed or seriously damaged; and

(B) 20 percent of the average cost of all dwelling units assisted by the Secretary in the State during the previous 3 years.

(b) Use

The assistance made available under this section may be used for the housing purposes authorized under this subchapter, and the Secretary shall issue such regulations as may be necessary to carry out this section to assure the prompt and expeditious use of such funds for the restoration of decent, safe, and sanitary housing within the areas described in subsection (a)(1). In implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

(c) Eligibility

Notwithstanding any other provision of this subchapter, assistance allocated under this section shall be available to units of general local government and their agencies and to local nonprofit

organizations, agencies, and corporations for the construction or rehabilitation of housing for agricultural employees and their families.

(d) Waiver of rural area requirements

The Secretary may waive the application of the provisions of section 1490 of this title with respect to assistance under this section, as the Secretary considers appropriate.

(e) Rural Housing Insurance Fund

The Secretary is authorized to advance from the Rural Housing Insurance Fund such sums as may be necessary to meet the requirements of subsection (a)(1), subject to limits previously approved in appropriations Acts.

(July 15, 1949, ch. 338, title V, §541, as added Pub. L. 101–625, title IX, §934, Nov. 28, 1990, 104 Stat. 4404; amended Pub. L. 102–550, title VII, §713, Oct. 28, 1992, 106 Stat. 3842.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(1), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–550 substituted "amounts made available to the Secretary by an appropriations Act for such purpose" for "amounts available under this subchapter".

§1490r. Rural housing voucher program

(a) In general

To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a rural housing voucher program to assist very low-income families and persons to reside in rental housing in rural areas. For such purposes, the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area. The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly gross income.

(b) Coordination and limitation

In carrying out the rural housing voucher program under this section, the Secretary shall—

(1) coordinate activities under this section with activities assisted under sections 1485 and 1490m of this title; and

(2) enter into contracts for assistance for not more than 5000 units in any fiscal year.

(July 15, 1949, ch. 338, title V, §542, as added Pub. L. 102–550, title VII, §706(2), Oct. 28, 1992, 106 Stat. 3835.)

§1490s. Enforcement provisions

(a) Equity skimming

(1) Criminal penalty

Whoever, as an owner, agent, employee, or manager, or is otherwise in custody, control, or

possession of property that is security for a loan made or guaranteed under this subchapter, willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other funds derived from such property, for any purpose other than to meet actual, reasonable, and necessary expenses of the property, or for any other purpose not authorized by this subchapter or the regulations adopted pursuant to this subchapter, shall be fined under title 18 or imprisoned not more than 5 years, or both.

(2) Civil sanctions

An entity or individual who as an owner, operator, employee, or manager, or who acts as an agent for a property that is security for a loan made or guaranteed under this subchapter where any part of the rents, assets, proceeds, income, or other funds derived from such property are used for any purpose other than to meet actual, reasonable, and necessary expenses of the property, or for any other purpose not authorized by this subchapter or the regulations adopted pursuant to this subchapter, shall be subject to a fine of not more than $25,000 per violation. The sanctions provided in this paragraph may be imposed in addition to any other civil sanctions or civil monetary penalties authorized by law.

(b) Civil monetary penalties

(1) In general

The Secretary may, after notice and opportunity for a hearing, impose a civil monetary penalty in accordance with this subsection against any individual or entity, including its owners, officers, directors, general partners, limited partners, or employees, who knowingly and materially violate, or participate in the violation of, the provisions of this subchapter, the regulations issued by the Secretary pursuant to this subchapter, or agreements made in accordance with this subchapter, by—

(A) submitting information to the Secretary that is false;

(B) providing the Secretary with false certifications;

(C) failing to submit information requested by the Secretary in a timely manner;

(D) failing to maintain the property subject to loans made or guaranteed under this subchapter in good repair and condition, as determined by the Secretary;

(E) failing to provide management for a project which received a loan made or guaranteed under this subchapter that is acceptable to the Secretary; or

(F) failing to comply with the provisions of applicable civil rights statutes and regulations.

(2) Conditions for renewal or extension

The Secretary may require that expiring loan or assistance agreements entered into under this subchapter shall not be renewed or extended unless the owner executes an agreement to comply with additional conditions prescribed by the Secretary, or executes a new loan or assistance agreement in the form prescribed by the Secretary.

(3) Amount

(A) In general

The amount of a civil monetary penalty imposed under this subsection shall not exceed the greater of—

(i) twice the damages the Department of Agriculture, the guaranteed lender, or the project that is secured for a loan under this section suffered or would have suffered as a result of the violation; or

(ii) $50,000 per violation.

(B) Determination

In determining the amount of a civil monetary penalty under this subsection, the Secretary shall take into consideration—

(i) the gravity of the offense;

(ii) any history of prior offenses by the violator (including offenses occurring prior to the

enactment of this section);
(iii) the ability of the violator to pay the penalty;
(iv) any injury to tenants;
(v) any injury to the public;
(vi) any benefits received by the violator as a result of the violation;
(vii) deterrence of future violations; and
(viii) such other factors as the Secretary may establish by regulation.

(4) Payment of penalties

No payment of a penalty assessed under this section may be made from funds provided under this subchapter or from funds of a project which serve as security for a loan made or guaranteed under this subchapter.

(5) Remedies for noncompliance

(A) Judicial intervention

If a person or entity fails to comply with a final determination by the Secretary imposing a civil monetary penalty under this subsection, the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against such individual or entity and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(B) Reviewability of determination

In an action under this paragraph, the validity and appropriateness of a determination by the Secretary imposing the penalty shall not be subject to review.

(July 15, 1949, ch. 338, title V, §543, as added Pub. L. 106–569, title VII, §708(a), Dec. 27, 2000, 114 Stat. 3016.)

EDITORIAL NOTES

REFERENCES IN TEXT

Enactment of this section, referred to in subsec. (b)(3)(B)(ii), means enactment of Pub. L. 106–569, which enacted this section and was approved Dec. 27, 2000.

§1490t. Indian tribes

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to actions by federally recognized Indian tribes (including instrumentalities of such Indian tribes) under this Act.

(July 15, 1949, ch. 338, title V, §544, as added Pub. L. 109–136, §4, Dec. 22, 2005, 119 Stat. 2644.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Civil Rights Act of 1968, referred to in text, is Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 73. Title VIII of the Act, known as the Fair Housing Act, is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, known as the Housing Act of 1949, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

CHAPTER 8B—PUBLIC WORKS OR FACILITIES

§§1491 to 1497. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under this chapter after Jan. 1, 1975.

Section 1491, acts Aug. 11, 1955, ch. 783, title II, §201, 69 Stat. 642; June 30, 1961, Pub. L. 87–70, title V, §501(a), 75 Stat. 173; Oct. 15, 1962, Pub. L. 87–808, §1, 76 Stat. 920, set forth Congressional declaration of policy for public works or facilities provisions.

Section 1492, acts Aug. 11, 1955, ch. 783, title II, §202, 69 Stat. 643; June 30, 1961, Pub. L. 87–70, title V, §501(b)–(d)(1), (e)–(g), 75 Stat. 173, 174; Sept. 5, 1962, Pub. L. 87–634, 76 Stat. 435; Sept. 14, 1962, Pub. L. 87–658, §5, 76 Stat. 543; Oct. 15, 1962, Pub. L. 87–808, §2, 76 Stat. 920; Oct. 15, 1962, Pub. L. 87–809, 76 Stat. 920; Sept. 2, 1964, Pub. L. 88–560, title VI, §601, 78 Stat. 798; Aug. 10, 1965, Pub. L. 89–117, title XI, §1107, 79 Stat. 503; Nov. 3, 1966, Pub. L. 89–754, title IV, §407, title X, §1009, 80 Stat. 1273, 1286; May 25, 1967, Pub. L. 90–19, §12(b), (c), 81 Stat. 23; Aug. 1, 1968, Pub. L. 90–448, title IV, §416(a), 82 Stat. 518; Dec. 31, 1970, Pub. L. 91–609, title VII, §727(b), 84 Stat. 1802, related to purchase of securities or obligations and loans, restrictions and limitations upon such powers, priority for applications, etc.

Section 1493, acts Aug. 11, 1955, ch. 783, title II, §203, 69 Stat. 643; Sept. 14, 1960, Pub. L. 86–788, §2(c), 74 Stat. 1028; June 30, 1961, Pub. L. 87–70, title V, §501(d)(2), (h), (j), 75 Stat. 174, 175; May 25, 1967, Pub. L. 90–19, §12(b), 81 Stat. 23; Oct. 17, 1984, Pub. L. 98–479, title II, §203(f), 98 Stat. 2230, related to forms and denominations, maturities, terms and conditions, etc., respecting notes and obligations.

Section 1494, acts Aug. 11, 1955, ch. 783, title II, §204, 69 Stat. 644; May 25, 1967, Pub. L. 90–19, §12(b), 81 Stat. 23, related to functions, powers, and duties of the Secretary, and administrative expenses.

Section 1495, act Aug. 11, 1955, ch. 783, title II, §205, 69 Stat. 644, prohibited making of loans under section 459 of former Title 40, Public Buildings, Property, and Works, after Aug. 11, 1955, except pursuant to an application for such loan filed prior to such date.

Section 1496, act Aug. 11, 1955, ch. 783, title II, §206, as added Aug. 7, 1956, ch. 1029, title VI, §603, 70 Stat. 1114; amended Dec. 24, 1969, Pub. L. 91–152, title IV, §403(b), 83 Stat. 395, defined "States" for purposes of this chapter.

Section 1497, act Aug. 11, 1955, ch. 783, title II, §207, as added June 30, 1961, Pub. L. 87–70, title V, §501(i), 75 Stat. 175; amended Oct. 15, 1962, Pub. L. 87–808, §3, 76 Stat. 920; May 25, 1967, Pub. L. 90–19, §12(b), 81 Stat. 23, related to technical advisory services in budgeting, financing, planning, and construction of community facilities, and appropriations.

CHAPTER 8C—OPEN-SPACE LAND

§§1500 to 1500b. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under this chapter after Jan. 1, 1975.

Section 1500, Pub. L. 87–70, title VII, §701, June 30, 1961, 75 Stat. 183; Pub. L. 89–177, title IX, §901(b), (c), Aug. 10, 1965, 79 Stat. 494; Pub. L. 89–754, title VI, §605(b), (c), Nov. 3, 1966, 80 Stat. 1279; Pub. L.

91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1781, set forth Congressional declaration of findings and purpose for open-space land provisions.

Section 1500a, Pub. L. 87–70, title VII, §702, June 30, 1961, 75 Stat. 184; Pub. L. 88–560, title X, §1001, Sept. 2, 1964, 78 Stat. 806; Pub. L. 89–117, title IX, §§902(a), (b), 903, 904, 909(b), (c), Aug. 10, 1965, 79 Stat. 495, 497; Pub. L. 89–754, title VI, §605(d), Nov. 3, 1966, 80 Stat. 1279; Pub. L. 90–19, §18(c), (d), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title VI, §606(a), Aug. 1, 1968, 82 Stat. 534; Pub. L. 91–152, title III, §303, Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1781, related to authorizations, limitations and restrictions, etc., respecting grants to States and local public bodies for acquisition and development of open-space land.

Section 1500b, Pub. L. 87–70, title VII, §703, June 30, 1961, 75 Stat. 184; Pub. L. 89–117, title IX, §905, Aug. 10, 1965, 79 Stat. 495; Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1782, related to planning requirements.

§1500c. Repealed. Pub. L. 98–181, title I [title I, §126(b)(3)], Nov. 30, 1983, 97 Stat. 1175

Section, Pub. L. 87–70, title VII, §704, June 30, 1961, 75 Stat. 185; Pub. L. 89–117, title IX, §909(d), Aug. 10, 1965, 79 Stat. 497; Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat 25; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1782, related to conversion to other uses.

§§1500c–1 to 1500e. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 1500c–1 to 1500d–1 were omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under this chapter after Jan. 1, 1975.

Section 1500c–1, Pub. L. 87–70, title VII, §705, as added Pub. L. 89–117, title IX, §906, Aug. 10, 1965, 79 Stat. 496; amended Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1782, related to conversions of land involving historic or architectural purposes.

Section 1500c–2, Pub. L. 87–70, title VII, §706, as added Pub. L. 89–117, title IX, §906, Aug. 10, 1965, 79 Stat. 496; amended Pub. L. 89–754, title VI, §605(e), Nov. 3, 1966, 80 Stat. 1280; Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1783; Pub. L. 98–181, title I [title I, §126(b)(3)], Nov. 30, 1983, 97 Stat. 1175, related to acquisition of interests to guide urban development.

Section 1500c–3, Pub. L. 87–70, title VII, §707, as added Pub. L. 89–117, title IX, §907, Aug. 10, 1965, 79 Stat. 496; amended Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat. 25; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1783, related to labor standards.

Section 1500d, Pub. L. 87–70, title VII, §708, formerly §705, June 30, 1961, 75 Stat. 185, renumbered §708 and amended Pub. L. 89–117, title IX, §§906, 908, Aug. 10, 1965, 79 Stat. 495, 497; Pub. L. 89–754, title VI, §605(f), Nov. 3, 1966, 80 Stat. 1280; Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat, 25; Pub. L. 90–448, title VI, §606(b), Aug. 1, 1968, 82 Stat. 534; Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1783; Pub. L. 92–213, §8(b), Dec. 22, 1971, 85 Stat. 776; Pub. L. 92–335, §5, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, §7, Oct. 2, 1973, 87 Stat. 422, authorized appropriations for purpose of making grants under this chapter.

Section 1500d–1, Pub. L. 87–70, title VII, §709, as added Pub. L. 89–754, title VI, §605(g), Nov. 3, 1966, 80 Stat. 1280; amended Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1783, defined the terms "open-space land", "urban area", "State", "local public body", and "open-space uses" for purposes of this chapter.

Section 1500e, Pub. L. 87–70, title VII, §710, formerly §706, June 30, 1961, 75 Stat. 185; renumbered §709 and amended Pub. L. 89–117, title IX, §§902(c), 906, Aug. 10, 1965, 79 Stat. 495; renumbered §710, Pub. L. 89–754, title VI, §605(g), Nov. 3, 1966, 80 Stat. 1280; amended Pub. L. 90–19, §18(c), May 25, 1967, 81 Stat. 25, which defined "open-space land", "urban area", "State", and "open space uses", was omitted in the general amendment of this chapter by Pub. L. 91–609, title IV, §401, Dec. 31, 1970, 84 Stat. 1781.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CRITERIA FOR GRANTS FOR HISTORIC PRESERVATION

Pub. L. 89–754, title VI, §605(h), Nov. 3, 1966, 80 Stat. 1280, provided that beginning three years after Nov. 3, 1966, no grant shall be made (except pursuant to a contract or commitment entered into less than three years after such date) under provisions of sections 1453 or 1500d–1 of this title or section 461(h) of former Title 40, Public Buildings, Property, and Works, to the extent that it was to be used for historic or architectural preservation, except with respect to districts, sites, buildings, structures, and objects which the Secretary of Housing and Urban Development found met criteria comparable to those used in establishing the National Register maintained by the Secretary of the Interior pursuant to other provisions of law.

CHAPTER 9—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

SUBCHAPTER I—PROJECTS GENERALLY

Sec.

1501. Cooperation between departments; definitions; limitation of projects.
1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.
1502a. Repealed.
1503. Development of projects by Secretary; financial assistance to public housing agencies.
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SUBCHAPTER II—DEFENSE HOUSING

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1523. Omitted.
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SUBCHAPTER III—DEFENSE PUBLIC WORKS

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1548. Rules and regulations; standards of safety, convenience, and health.
1549. Laborers and mechanics; wages; preference in employment.
1550. Separability.
1551. Repealed.
1552. Powers of certain agencies designated to provide temporary shelter.
1553. Removal by Secretary of certain housing of temporary character; exceptions for local communities; report to Congress.

SUBCHAPTER V—DEFENSE HOUSING AND PUBLIC WORKS FOR DISTRICT OF COLUMBIA

1561 to 1563. Omitted.
1564. Definitions.

SUBCHAPTER VI—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

1571 to 1576. Omitted or Repealed.

SUBCHAPTER VII—DISPOSAL OF WAR AND VETERANS' HOUSING

1581. Housing disposition.
1582. Temporary housing exempted from provisions of section 1553 of this title.
1583. Redetermination of demountable housing as temporary or permanent.
1584. Removal of all dwelling structures on land under Secretary's control; temporary housing exempted; preference in fulfilling vacancies.
1585. Acquisition of housing sites.
1586. Sale of specific housing projects.
1587. Disposition of other permanent war housing.
1588. Sale of vacant land to local housing authorities; sale of personal property.
1589. Conveyance of land and nondwelling structures thereon to States for National Guard purposes.
1589a. Extension by President of dates for disposal and other actions relating to housing under this subchapter.
1589b. Establishment of income limitations for occupancy of housing; effect on prior tenants.
1589c. Transfer of certain housing to Indians.
1589d. Undisposed housing.
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SUBCHAPTER VIII—CRITICAL DEFENSE HOUSING AREAS

1591. Determination of critical areas by President; requisite conditions.
1591a. Construction by private enterprise.
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SUBCHAPTER IX—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

1592. Authority of Secretary.
1592a. Construction of housing.
1592b. Maximum construction costs; determinations by Secretary in certain condemnation proceedings.
1592c. Loans or grants for community facilities or services; conditions; maximum amounts; annual adjustments.
1592d. Secretary's powers with respect to housing, facilities, and services.
1592e. Interagency transfers of property; application of rules and regulations.
1592f. Preservation of local civil and criminal jurisdiction, and civil rights; jurisdiction of State courts.
1592g. Payment of annual sums to local authorities in lieu of taxes.
1592h. Conditions and requirements as to contracts; utilization of existing facilities; disposition of facilities constructed by United States.
1592i. Laborers and mechanics.
1592j. Disposition of moneys derived from rentals, operation, and disposition of property.
1592k. Determination of fair rentals and classes of occupants by Secretary.
1592*l*. Authorization of appropriations.
1592m. Transfer of functions and funds in certain cases.
1592n. Definitions.
1592*o*. Powers of Surgeon General of Public Health Service.

SUBCHAPTER X—DEVELOPMENT SITES FOR ISOLATED DEFENSE INSTALLATIONS

1593 to 1593d. Repealed.
1593e. Housing of persons displaced by acquisition of property for defense installations or industries.

SUBCHAPTER XI—HOUSING FOR MILITARY PERSONNEL

1594. Contracts for construction.
1594a. Acquisition of military housing financed under Armed Services Housing Mortgage Insurance Fund and rental housing at military bases.
1594a–1, 1594a–2. Repealed.
1594b. Maintenance and operation of housing; use of quarters; payment of principal, interest, and other obligations.
1594c. Services of architects and engineers; use of appropriations; acquisition of sites.
1594d. Appropriations; use of quarters allowances.
1594e. Definitions.
1594f. Net floor area limitations.
1594g to 1594k. Repealed.

SUBCHAPTER I—PROJECTS GENERALLY

§1501. Cooperation between departments; definitions; limitation of projects

In connection with the national defense program, the Departments of the Navy, Army, and Air Force and the Secretary of Housing and Urban Development are authorized to cooperate in making necessary housing available for persons engaged in national defense activities, as provided in this subchapter. "Persons engaged in national defense activities" (as that term is used in this subchapter) shall include (i) enlisted men with families, who are in the naval and military service and officers of the Army, Air Force, and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant and employees of the Departments of the Navy, Army, and Air Force who are assigned to duty at naval or military reservations, posts, or bases, and (ii) workers with families, who are engaged or to be engaged in industries connected with and essential to the national defense program. No project shall be developed or assisted for the purposes of this subchapter except with the approval of the President and upon a determination by him that there is an acute shortage of housing in the locality involved which impedes the national defense program.

(June 28, 1940, ch. 440, title II, §201, 54 Stat. 681; Oct. 26, 1942, ch. 626, §1(a), 56 Stat. 988; July 26, 1947, ch. 343, title II, §§205(a), 207(a), (f), 61 Stat. 501–503; 1947 Reorg. Plan No. 3, §4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

AMENDMENTS

1942—Act Oct. 26, 1942, substituted "and officers of the Army and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant" for "(excluding officers)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Department of the Air Force inserted to conform to act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, 503, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B (123)], July 22, 1949. Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, §1, 70A Stat. 1, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued Departments of Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

SHORT TITLE OF 1951 AMENDMENT

Act Sept. 1, 1951, ch. 378, §1, 65 Stat. 293, provided: "That this Act [enacting sections 1507, 1589a, 1589b, and 1591 to 1593e of this title, sections 1701g–1 to 1701g–3, 1701i–1, 1715g, 1715h, 1716a, 1748g–1, 1750, 1750a, and 1750b to 1750g of Title 12, Banks and Banking, and former section 2136 of the former Appendix to Title 50, War and National Defense, amended sections 1584 and 1585 of this title, sections 371, 1430, 1701g, 1701j, 1702, 1706, 1710, 1713, 1715c, 1715d, 1715f, 1716, 1743, 1747a, 1747f, and 1747l, 1748b of Title 12, and former section 2135 of the former Appendix to Title 50, and enacted provisions set out as notes under section 1591 of this title and section 1748b of Title 12] may be cited as the 'Defense Housing and Community Facilities and Services Act'."

SHORT TITLE

Act Oct. 14, 1940, ch. 862, 54 Stat. 1125, which is classified to subchapters II to VII of this chapter, is popularly known as the "Lanham Public War Housing Act".

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Housing Administration and Housing and Home Finance Agency (of which Public Housing Administration was a constituent agency) and of heads thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency and Public Housing Administration have lapsed.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

United States Housing Authority consolidated into Housing and Home Finance Agency by Reorg. Plan No. 3 of 1947, §1, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, and name of Authority changed to Public Housing Administration by section 4(a) of such Plan. Section 9 of Reorg. Plan No. 3 of 1947 abolished office of Administrator of United States Housing Authority, whose functions were transferred by section 4 of such Plan to Public Housing Commissioner.

§1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.

(a) Projects may be initiated under this subchapter by the Department of the Navy or Army or the Air Force to provide dwellings on or near naval or military reservations, posts or bases for rental to the officers, enlisted men and employees of the Departments of the Navy, Army, and Air Force described in section 1501 of this title. Such projects shall be developed by the Department of the Navy or Army or the Air Force or by the Secretary of Housing and Urban Development, whichever the President determines is better suited to the fulfillment of the purposes of this subchapter with respect to any particular project. If the development of such project is to be undertaken by the Department of the Navy or Army or Air Force, the Secretary of Housing and Urban Development is authorized to aid the development of the project by furnishing technical assistance and by transferring to such Department the funds necessary for the development of the project. Any project developed for the purpose of this section shall be leased to the Department of the Navy or Army or Air Force by the Secretary of Housing and Urban Development (who shall have title to such project until repayment of the cost thereof to the Secretary of Housing and Urban Development as prescribed in such lease) upon such terms as shall be prescribed in the lease, which may be the same terms as are authorized by the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], with

respect to leases to public housing agencies. All the provisions of said Act which apply to the development of projects by the Secretary of Housing and Urban Development shall (insofar as applicable and not inconsistent herewith) apply to the development of projects by the Department of the Navy or Army or Air Force. Notwithstanding other provisions of this or any other law, the Department leasing a project shall have the same jurisdiction over such project as it has over the reservation, post or base in connection with which the project is developed.

(b) The Department of the Navy or Army or Air Force, in connection with any project developed or leased by it, and the Secretary of Housing and Urban Development, in connection with any project developed or assisted by him, for the purposes of this subchapter, may acquire real or personal property or any interest therein by purchase, eminent domain, gift, lease or otherwise. The provisions of sections 3111 and 3112 of title 40 shall not apply to the acquisition of any real property by the Department of the Navy or Army or Air Force or by the Secretary of Housing and Urban Development for the purposes of this subchapter or to the project developed thereon, and the provisions of section 1302 of title 40, shall not apply to any lease of any project developed for the purposes of this subchapter or of any dwelling therein. Condemnation proceedings instituted by the Secretary of Housing and Urban Development shall be in the Secretary's own name and the practice and procedure governing such proceedings by the United States shall be followed, and the Secretary of Housing and Urban Development shall likewise be entitled to proceed in accordance with the provisions of sections 3114 to 3116 and 3118 of title 40 and an Act of Congress approved March 1, 1929 (45 Stat. 1415).[1] If the Secretary of Housing and Urban Development acquires land in connection with a project to be assisted for the purposes of this subchapter, the Secretary may convey such land to the public housing agency involved for a consideration equal to the cost of the land to the Secretary of Housing and Urban Development. The Departments of the Navy, Army, and Air Force and the Secretary of Housing and Urban Development may negotiate, contract and fix such fees as they determine are reasonable for the services of architects, engineers, surveyors, appraisers, title examiners and real estate negotiators in connection with specific projects developed by them under this subchapter. The Secretaries of Navy, Army, and Air Force are authorized to make available to the Secretary of Housing and Urban Development any land that is needed for a project to be developed by the Secretary of Housing and Urban Development and leased to the Department of the Navy or Army or Air Force and to execute such leases, agreements and other instruments with the Secretary of Housing and Urban Development as may be necessary to carry out the purposes of this subchapter.

(June 28, 1940, ch. 440, title II, §202, 54 Stat. 682; Oct. 26, 1942, ch. 626, §1(b), 56 Stat. 988; July 26, 1947, ch. 343, title II, §§205(a), 207(a), (f), 61 Stat. 501–503; 1947 Reorg. Plan No. 3, §4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937 and said Act, referred to in subsec. (a), are act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Act of Congress approved March 1, 1929, referred to in subsec. (b), is act Mar. 1, 1929, ch. 416, 45 Stat. 1415, which was classified to chapter 7 (§361 et seq.) of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 88–241, §21(b), Dec. 23, 1963, 77 Stat. 627.

CODIFICATION

In subsec. (b), "sections 3111 and 3112 of title 40" substituted for "section 355 of the Revised Statutes", "section 1302 of title 40" substituted for "section 321 of the Act of June 30, 1932 (U.S.C. 1934 edition, title 40, sec. 303b)", and "sections 3114 to 3116 and 3118 of title 40" substituted for "the Act of Congress approved February 26, 1931 (46 Stat. 1421)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1942—Subsec. (a). Act Oct. 26, 1942, inserted "officers," after "rental to the" in first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Department of the Air Force inserted to conform to act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, 503, and Secretary of Defense Transfer Order No. 40 [App. A(75)], July 22, 1949. Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, §1, 70A Stat. 1, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued Departments of the Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1501 of this title.

[1] *See References in Text note below.*

§1502a. Repealed. Pub. L. 85–861, §36A, Sept. 2, 1958, 72 Stat. 1569

Section, act July 15, 1955, ch. 368, title V, §509, 69 Stat. 351, related to acquisition of housing units for military personnel and dependents. See section 2678 of Title 10, Armed Forces.

§1503. Development of projects by Secretary; financial assistance to public housing agencies

In any localities where the President determines that there is an acute shortage of housing which impedes the national defense program and that the necessary housing would not otherwise be provided when needed for persons engaged in national defense activities, the Secretary of Housing and Urban Development may undertake the development and administration of projects to assure the availability of dwellings in such localities for such persons and their families, or the Secretary of Housing and Urban Development may extend financial assistance of public housing agencies for the development and administration of such projects. Such financial assistance to public housing agencies shall be extended (except as otherwise provided herein and not inconsistent herewith) under the provisions of, and in the same manner and forms as provided in, title I [1] of the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], with respect to other housing projects.

(June 28, 1940, ch. 440, title II, §203, 54 Stat. 683; 1947 Reorg. Plan No. 3, §4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1501 of this title.

[1] So in original. Reference should probably be to entire "United States Housing Act of 1937" because such Act is not divided into titles. See section 1437 et seq. of this title.

§1504. Rental rates; exemption from limitations of United States Housing Act of 1937

Any contract made for financial assistance under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], may be revised so as to provide that the project involved will be assisted for any of the purposes of this subchapter. The Department of the Navy or Army or the Air Force or the Secretary of Housing and Urban Development, in the administration of any project developed for the purposes of this subchapter, shall fix rentals for persons engaged in national defense activities and their families which will be within their financial reach, and the Secretary of Housing and Urban Development, in any contract for financial assistance or any lease of such a project, shall require the fixing of such rentals. Projects developed by the Department of the Navy or Army or Air Force, or developed or assisted by the Secretary of Housing and Urban Development, for the purposes of this subchapter shall not be subject to the elimination requirements of sections 10(a) and 11(a) of said Act [42 U.S.C. 1410(a), 1411(a)], or to any provisions of section 9 of said Act [42 U.S.C. 1409] which would require any part of the development cost thereof to be met in any manner other than from funds loaned or furnished by the Secretary of Housing and Urban Development. Funds expended for the purposes of this subchapter shall be excluded in determining, for the purposes of section 21(d) [1] of said Act [42 U.S.C. 1421(d)], the amounts expended within each State. Except as otherwise provided in this subchapter or as may be inconsistent with this subchapter, all the provisions of title I [2] of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall apply to this subchapter. During the period when the President determines that in any locality there is an acute need for housing to assure the availability of dwellings for persons engaged in national defense activities, dwellings in a project developed or assisted in said locality which are devoted to the purposes of providing housing for persons engaged in national defense activities shall not be subject to sections 2(1) and 2(2) of the United States Housing Act of 1937, as amended [42 U.S.C. 1402(1), (2)], and during such period such projects shall be deemed projects of a low-rent character for the purposes of any of the applicable provisions in title I [2] of the United States Housing Act of 1937.

(June 28, 1940, ch. 440, title II, §204, 54 Stat. 683; July 26, 1947, ch. 343, title II, §§205(a), 207(a), (f), 61 Stat. 501–503; 1947 Reorg. Plan No. 3, §4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Sections 2, 9, 10(a), and 11(a) of the United States Housing Act of 1937, referred to in text, is a reference to sections of the Act prior to the general revision of the Act by Pub. L. 93–383. The Act as so revised is classified to section 1437 et seq. of this title. Provisions of former sections 2, 9, and 10(a) are covered by sections 3, 4, and 5(a) of the Act which are classified to sections 1437a, 1437b, and 1437c(a) of this title.

Section 21(d) of said Act, referred to in text, was repealed by Pub. L. 87–70, title II, §204(c), June 30, 1961, 75 Stat. 164.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Department of the Air Force inserted to conform to act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, 503, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(124)], July 22, 1949. Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, §1, 70A Stat. 1, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued Departments of Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1501 of this title.

[1] See References in Text note below.

[2] So in original. Reference should probably be to entire "United States Housing Act of 1937" because such Act is not divided into titles. See section 1437 et seq. of this title.

§1505. Funds of Secretary of Housing and Urban Development

The Secretary of Housing and Urban Development may use for the purposes of this subchapter any of the funds or authorizations heretofore or hereafter made available to it.

(June 28, 1940, ch. 440, title II, §205, 54 Stat. 683; 1947 Reorg. Plan No. 3, §4(a), eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 955; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1501 of this title.

PROVISIONS INAPPLICABLE TO THIS SUBCHAPTER

Act June 28, 1940, ch. 440, title II, §205, 54 Stat. 683, provided in part: "The provisions of title I of this Act shall not apply to this title [this subchapter]." The provisions of title I of act June 28, 1940, enacted section 1262a of former Title 10, Armed Forces, section 546e of former Title 34, Navy, and former sections 1151 to 1162 of the former Appendix to Title 50, War and National Defense, and amended section 40 of former Title 41, Public Contracts.

§1506. Administration of utilities and utility services; granting of easements

(a) Any Federal agency (including any wholly owned Government corporation) administering utility installations connected to a utility system for housing under the jurisdiction of the Secretary of Housing and Urban Development is authorized—

(1) to continue to provide utilities and utility services to such housing as long as it is under the jurisdiction of the Secretary;

(2) to contract with the purchasers or transferees of such housing to continue the utility connection with such installations and furnish such utilities and services as may be available and needed in connection with such housing, for such period of time (not exceeding the period of Federal administration of such installations) and subject to such terms (including the payment of

the pro rata cost to the Government or the market value of the utilities and services furnished, whichever is greater) as may be determined by the head of the agency;

(3) to dispose of such installations, when excess to the needs of the agency, and where not excess to grant an option to purchase, to the purchasers or transferees of such housing, for an amount not less than the appraised value of the installations and upon such terms and conditions as the head of the agency shall establish.

(b) Any Federal agency (including any wholly owned Government corporation) having under its jurisdiction lands across which run any part of a utility system for housing under the jurisdiction of the Secretary is authorized to grant to the Secretary, or to the purchasers or transferees of such housing, easements (which may be perpetual) on such land for utility purposes.

(June 28, 1948, ch. 688, §2, 62 Stat. 1063; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of title II of act June 28, 1948, ch. 440, 54 Stat. 681, known as title II of the National Defense Expediting Act which comprises this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions of Public Housing Administration and Housing and Home Finance Agency (of which Public Housing Administration was a constituent agency) and of heads thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency and Public Housing Administration have lapsed.

§1507. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Sept. 1, 1951, ch. 378, title VI, §616, 65 Stat. 317, prohibited from Sept. 1, 1951 to June 30, 1953, initiation of projects, and waiver or suspension of income limitations contained in United States Housing Act of 1937, pursuant to authorization contained in sections 1501 and 1505 of this title.

SUBCHAPTER II—DEFENSE HOUSING

STATUTORY NOTES AND RELATED SUBSIDIARIES

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with public war housing under sections 1521 to 1524 of this title, see section 1701g–5 of Title 12, Banks and Banking.

§1521. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title I, §1, 54 Stat. 1125; Apr. 29, 1941, ch. 80, §1, 55 Stat. 147; June 28, 1941, ch. 260, §2, 55 Stat. 361; Jan. 21, 1942, ch. 14, §§1, 11, 56 Stat. 11, 13; Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, which related to the powers of the Housing and Home Administrator respecting defense housing, was omitted pursuant to act July 3, 1952, ch. 570, §1(a)(12), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, which provided that this section continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A. 454, set out as a note preceding section 1 of Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

§1522. Definitions; actions to recover developed property

As used in subchapters II to VII of this chapter, (a) the term "persons engaged in national-defense activities" shall include (1) enlisted men in the naval or military services of the United States; (2) employees of the United States in the Departments of the Navy, Army, and Air Force assigned to duty at naval or military reservations, posts, or bases; (3) workers engaged or to be engaged in industries connected with and essential to the national defense; (4) officers of the Army, Air Force, and Marine Corps not above the grade of captain, and officers of the Navy and Coast Guard, not above the grade of lieutenant, senior grade, assigned to duty at naval or military reservations, posts, or bases, or to duty at defense industries: *Provided*, That any proceedings for the recovery of possession of any property or project developed or constructed under this subchapter shall be brought by the Secretary of Housing and Urban Development in the courts of the States having jurisdiction of such causes and the laws of the States shall be applicable thereto; (b) the term "Federal agency" means any executive department or office (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly.

(Oct. 14, 1940, ch. 862, title I, §2, 54 Stat. 1126; Jan. 21, 1942, ch. 14, §2, 56 Stat. 11; Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; July 26, 1947, ch. 343, title II, §§205(a), 207(a), (f), 61 Stat. 501–503; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter III of this chapter, referred to in text, was comprised of sections 1531 to 1536 of this title. Section 1532 was omitted from the Code pursuant to the time limitation set out in act July 3, 1952, ch. 570, §1(a)(12), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18. Sections 1531, 1533, and 1534 were omitted from the Code upon the termination of section 1532. Section 1535 was omitted from the Code as executed. Section 1536 was omitted from the Code as not having been repeated in subsequent appropriation acts.

Subchapter VI of this chapter, referred to in text, was comprised of sections 1571 to 1576 of this title. Sections 1571 and 1573 have been omitted from the Code pursuant to the time limitation set out in act July 3, 1952, ch. 570, §1(a)(12), (21), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18. Sections 1572 and 1575 were omitted upon the termination of sections 1571 and 1573. Section 1574 was repealed by act Oct. 31, 1951, ch. 654, §1(113), 65 Stat. 706. Section 1576 was omitted from the Code as not having been repeated in subsequent appropriation acts.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing

Administrator".

1942—Act Jan. 21, 1942, inserted cl. (a)(4) and proviso.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Department of the Air Force inserted on authority of act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, 503. Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, §1, 70A Stat. 1, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued Departments of the Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Housing and Home Finance Agency transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency has lapsed.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1523. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title I, §3, 54 Stat. 1126; Apr. 29, 1941, ch. 80, §2, 55 Stat. 147; June 28, 1941, ch. 260, §2, 55 Stat. 361; Jan. 21, 1942, ch. 14, §3, 56 Stat. 12; Ex. Ord. No. 9070, §1, eff. Feb 24, 1942, 7 F.R. 1529; Oct. 1, 1942, ch. 572, 56 Stat. 763; July 7, 1943, ch. 196, §§1, 2, 57 Stat. 387; July 1, 1944, ch. 374, 58 Stat. 720; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, which related to authorization of appropriations for the purpose of this subchapter, was omitted in view of the omission of section 1521 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PRIOR ADDITIONAL APPROPRIATIONS

Joint Res. Oct. 14, 1940, ch. 857, 54 Stat. 1115, $75,000,000.
Acts Mar. 1, 1941, ch. 9, 55 Stat. 14, $5,000,000.
May 24, 1941, ch. 132, 55 Stat. 199, $150,000,000.
Dec. 17, 1941, ch. 591, title III, 55 Stat. 818, $300,000,000.
Dec. 23, 1941, ch. 621, 55 Stat. 855, $300,000,000.
July 12, 1943, ch. 229, title I, 57 Stat. 540, $50,000,000.
Dec. 23, 1943, ch. 380, title I, 57 Stat. 618, $50,000,000.

Apr. 1, 1944, ch. 152, title I, 58 Stat. 153, $115,000,000.
June 28, 1944, ch. 304, title I, 58 Stat. 604.
Apr. 25, 1945, ch. 95 title I, 59 Stat. 82; July 5, 1945, ch. 271, title I, 59 Stat. 420, $84,373,000.

§1524. Declaration of policy; disposal of housing

It is declared to be the policy of this subchapter to further the national defense by providing housing in those areas where it cannot otherwise be provided by private enterprise when needed, and that such housing may be sold and disposed of as expeditiously as possible: *Provided*, That in disposing of said housing consideration shall be given to its full market value and said housing or any part thereof shall not, unless specifically authorized by Congress, be conveyed to any public or private agency organized for slum clearance or to provide subsidized housing for persons of low income: *Provided further*, That the Secretary of Housing and Urban Development may, in his discretion, upon the request of the Secretaries of the Army, Air Force or Navy transfer to the jurisdiction of the Army, Air Force or Navy Departments such housing constructed under the provisions of subchapters II to VII of this chapter as may be considered to be permanently useful to the Army, Air Force or Navy: *Provided further*, That whenever the Secretary of Housing and Urban Development disposes of any permanent house or structure containing not more than four family dwelling units under authority of this subchapter by offering such house or structure for sale on an individual basis, he shall, when the purchaser is a veteran buying for his own occupancy, sell any such house or structure (1) at a purchase price not in excess of the apportioned cost of such house or structure and of the land and appurtenances allocated thereto, together with the apportioned share of the cost of all utilities and other facilities provided for and common to the project of which such house or structure is a part, or (2) at a purchase price not in excess of such considered full market value of such house or structure and the land, appurtenances, utilities and facilities allocated thereto, whichever purchase price is the less: *Provided further*, That, for the purposes of this section, housing constructed or acquired under the provisions of Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Law 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, shall be deemed to be housing constructed or acquired under subchapters II to VII of this chapter.

(Oct. 14, 1940, ch. 862, title I, §4, as added Jan. 21, 1942, ch. 14, §4, 56 Stat. 12; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1259; July 26, 1947, ch. 343, title II, §§205(a), 207(a), (f), 61 Stat. 501–503; June 19, 1948, ch. 520, 62 Stat. 492; June 28, 1948, ch. 688, §3, 62 Stat. 1064; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 of this title, and sections 1571 to 1576 of this title, respectively, and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

Public Law 781, Seventy-sixth Congress, approved September 9, 1940, referred to in text, is the Second Supplemental National Defense Appropriation Act, 1941, act Sept. 9, 1940, ch. 717, 54 Stat. 872. Section 201 thereof appropriated $100,000,000 to the President for allocation to the former "War" Department, and to the Navy Department, for the construction of housing necessary to the national defense program. This provision is not classified to the Code.

Public Laws 9, 73, or 353, Seventy-seventh Congress, referred to in text, refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of $320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions are not classified to the Code, although all three acts are cited in a "Prior Additional Appropriations" note under section 1523 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing Administrator" wherever appearing.

1948—Act June 19, 1948, inserted proviso to permit sale of certain permanent war housing to veterans at a purchase price not in excess of cost of construction.

Act June 28, 1948, inserted last proviso.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Department of the Air Force inserted to conform to act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, 503, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(126)], July 29, 1949. Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, §1, 70A Stat. 1, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued Departments of the Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTER III—DEFENSE PUBLIC WORKS

§§1531 to 1536. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1531, act Oct. 14, 1940, ch. 862, title II, §201, as added June 28, 1941, ch. 260, §3, 55 Stat. 361, which declared the policy of this subchapter was to provide means by which public works were to be acquired, operated, and maintained in the areas described in section 1532 of this title, and defined public works, was omitted in view of the omission of section 1532 of this title.

Section 1532, act Oct. 14, 1940, ch. 862, title II, §202, as added June 28, 1941, ch. 260, §3, 55 Stat. 362; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; 1950 Reorg. Plan No. 17, §1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, which related to the powers of the Housing and Home Administrator respecting defense public works and defined private agency, was omitted pursuant to act July 3, 1952, ch. 570, §1(a)(12), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, which provided that this section continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029 64 Stat. A 454, set out as a note preceding section 1 of Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

Section 1533, act Oct. 14, 1940, ch. 862, title II, §203, as added June 28, 1941, ch. 260, §3, 55 Stat. 362; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1259; June 30, 1949, ch. 288, title I, §103, 63 Stat.

380; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; 1950 Reorg. Plan No. 17, §1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, which related to the terms to be observed in the application of this subchapter and restricted governmental supervision over schools and hospitals, was omitted in view of the omission of section 1532 of this title.

Section 1534, act Oct. 14, 1940, ch. 862, title II, §204, as added June 28, 1941, ch. 260, §3, 55 Stat. 363; amended Jan. 21, 1942, ch. 14, §5, 56 Stat. 12; July 15, 1943, ch. 240, 57 Stat. 565; July 3, 1945, ch. 264, §1, 59 Stat. 383, which authorized appropriations to carry out the purposes of this subchapter, was omitted in view of the omission of section 1532 of this title.

Section 1535, act Oct. 14, 1940, ch. 862, title II, §205, as added June 26, 1946, ch. 498, 60 Stat. 314, which authorized, for the fiscal year ending June 30, 1947, contributions for the operation and maintenance of school facilities in order to enable school authorities that were still over-burdened with war-incurred school enrollments to meet their needs during transition from war to peacetime conditions.

Section 1536, act July 31, 1953, ch. 302, title I, §101, 67 Stat. 305, which authorized the Administrator to transfer projects or facilities to other departments or agencies which request a transfer, was enacted as a part of the First Independent Offices Appropriation Act, 1954, and not as a part of title II of the Lanham Public War Housing Act which comprised this subchapter, and was not repeated in subsequent appropriation acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

LIMITATION ON USE OF FUNDS

Act July 15, 1943, as amended by act July 3, 1945, provided in part that no funds be used for loans, grants, or contributions for the operation day care or extended school services for children of mothers employed in war areas if and when the War-Area-Child-Care Act of 1943 (S. 1130, Seventy-eighth Congress, first session), becomes law, no grant, loan, or contribution for the maintenance or operation of public schools in any State be made without prior consultation with the State department of education and the United States Office of Education, and that none of the funds authorized herein be used to acquire public works already operated by public or private agencies, except where funds were allotted for substantial additions or improvements to such works with the consent of the owner, and that the total amount for contributions to public and private agencies for the maintenance and operation of public works after July 1, 1943, not exceed $120,000,000.

ADDITIONAL APPROPRIATIONS

Acts Apr. 25, 1945, ch. 95, title I, 59 Stat. 80; July 3, 1945, ch. 264, §§2, 3, 59 Stat. 383, provided in part for an additional $20,000,000 to enable the Federal Works Administrator to carry out the functions vested in him by sections 1531 to 1534 and 1541 of this title, which amount was to remain available during the continuance of the unlimited national emergency declared by the President on May 27, 1941 but which was not to be available for new projects after June 30, 1946 and of which amount $800,000 was to be available for administrative expenses, and the limitation of $80,000,000 in the First Supplemental Appropriation Act, 1945, act Mar. 31, 1945, ch. 47, 95 Stat. 46, on the total amount to be allocated for contributions to public and private agencies for the maintenance and operation of public works after July 1, 1943 be increased to $85,000,000, and that in making allocations from the funds herein appropriated for construction projects, priority be given to emergency projects involving an estimated cost to the Federal Government of less than $250,000.

SUBCHAPTER IV—GENERAL PROVISIONS AFFECTING SUBCHAPTERS II TO VII

§1541. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title III, §301, formerly §4, 54 Stat. 1127; renumbered title III, §301, and amended June 28, 1941, ch. 260, §4(a), 55 Stat. 363; Apr. 10, 1942, ch. 239, §1, 56 Stat. 212, which

provided that when President declared that emergency declared by him on Sept. 8, 1939, ceased to exist, the authority contained in sections 1521, 1532, 1561, and 1562 of this title terminate and that property acquired or constructed under subchapters II to VII of this subchapter be disposed of as promptly as advantageous under circumstances and in public interest, was omitted pursuant to act July 3, 1952, ch. 570, §1(a)(12), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, which provided that this section continue in force until six months after the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A. 454, set out as a note preceding section 1 of Title 50, War and National Defense, or on such earlier date or dates as approved by Congress, but in no event beyond July 1, 1953.

§1542. Transfer of funds from other Federal agencies to Secretary of Housing and Urban Development

Where any Federal agency has funds for the provision of housing in connection with national-defense activities it may, in its discretion, make transfers of those funds, in whole or in part, to the Secretary of Housing and Urban Development, and the funds so transferred shall be available for, but only for, any or all of the objects and purposes of and in accordance with all the authority and limitations contained in subchapters II to VII of this chapter, and for administrative expenses in connection therewith.

(Oct. 14, 1940, ch. 862, title III, §302, formerly §5, 54 Stat. 1127; renumbered title III, §302, June 28, 1941, ch. 260, §4(b), 55 Stat. 363; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1543. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title III, §303, formerly §6, 54 Stat. 1127; renumbered title III, §303,

June 28, 1941, ch. 260, §4(b), 55 Stat. 363; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; July 7, 1943, ch. 196, §3, 57 Stat. 388; Feb. 18, 1946, ch. 30, title I, §101, 60 Stat. 9; June 11, 1948, ch. 448, 62 Stat. 356; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, which related to disposition of moneys derived from rentals or operations of acquired or constructed property and to establishment, limitations on, and termination of reserves, was omitted in view of the omission of section 1541 of this title.

§1544. Power of Secretary of Housing and Urban Development to manage, convey, etc., housing properties

Notwithstanding any other provisions of law, whether relating to the acquisition, handling, or disposal of real or other property by the United States or to other matters, the Secretary of Housing and Urban Development, with respect to any property acquired or constructed under the provisions of subchapters II to VII of this chapter, is authorized by means of Government personnel, selected qualified private agencies, or public agencies (a) to deal with, maintain, operate, administer, and insure; (b) to pursue to final collection by way of compromise or otherwise, all claims arising therefrom; (c) to rent, lease, exchange, sell for cash or credit, and convey the whole or any part of such property and to convey without cost portions thereof to local municipalities for street or other public use: *Provided*, That any such transaction shall be upon such terms, including the period of any lease, as may be deemed by the Secretary of Housing and Urban Development to be in the public interest: *Provided further*, That the Secretary of Housing and Urban Development shall fix fair rentals, on projects developed pursuant to subchapters II to VII of this chapter, which shall be based on the value thereof as determined by him, with power during the emergency, in exceptional cases, to adjust the rent to the income of the persons to be housed, and that rentals to be charged for Army, Air Force, and Navy personnel shall be fixed by the Departments of the Army, Air Force, and Navy: *Provided further*, That any lease authorized hereunder shall not be subject to the provisions of section 1302 of title 40. As used in this section the term "local municipalities" shall include the District of Columbia.

(Oct. 14, 1940, ch. 862, title III, §304, formerly §7, 54 Stat. 1127; renumbered title III, §304, June 28, 1941, ch. 260, §4(b), 55 Stat. 363; amended Jan. 21, 1942, ch. 14, §6, 56 Stat. 12; Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 10, 1942, ch. 239, §2, 56 Stat. 212; July 26, 1947, ch. 343, title II, §§205(a), 207(a), (f), 61 Stat. 501–503; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

CODIFICATION

In text, "section 1302 of title 40" substituted for "section 321 of the Act of June 30, 1932 (47 Stat. 412)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing Administrator" wherever appearing.

1942—Act Apr. 10, 1942, inserted last sentence.

Act Jan. 21, 1942, amended second proviso.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Department of the Air Force inserted to conform to act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, 503, and Secretary of Defense Transfer Orders No. 14, eff. July 1, 1948, and No. 40 [App. B(129)], July 29, 1949. Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501. Sections 205(a) and 207(a), (f) of act July 26, 1947, were repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, §1, 70A Stat. 1, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 and 8010 to 8013 continued Departments of the Army and Air Force under administrative supervision of Secretary of the Army and Secretary of the Air Force, respectively.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1545. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts Oct. 14, 1940, ch. 862, title III, §305, formerly §8, 54 Stat. 1127; renumbered title III, §305, June 28, 1941, ch. 260, §4(b), 55 Stat. 363; amended Jan. 21, 1942, ch. 14, §7, 56 Stat. 12; Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, which related to utilization of Federal and local agencies and private services, was omitted in view of the omission of section 1541 of this title.

§1546. Payment of annual sums to local authorities in lieu of taxes

The Secretary of Housing and Urban Development shall pay from rentals annual sums in lieu of taxes to any State and/or political subdivision thereof, with respect to any real property acquired and held by him under subchapters II to VII of this chapter, including improvements thereon. The amount so paid for any year upon such property shall approximate the taxes which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation, with such allowance as may be considered by him to be appropriate for expenditure by the Government for streets, utilities, or other public services to serve such property. As used in this section the term "State" shall include the District of Columbia.

(Oct. 14, 1940, ch. 862, title III, §306, formerly §9, 54 Stat. 1127; renumbered title III, §306, and amended June 28, 1941, ch. 260, §4(b), 55 Stat. 363; Jan. 21, 1942, ch. 14, §8, 56 Stat. 12; Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 10, 1942, ch. 239, §3(a), 56 Stat. 212; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

CODIFICATION

Words "including any Territory or possession of the United States" appearing in text prior to amendment by act Jan. 21, 1942, inserted on authority of act June 28, 1941, ch. 260, §4(b), 55 Stat. 363, which provided that when used in this section the term " 'State' includes any Territory or possession of the United States".

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

1942—Act Apr. 10, 1942, inserted last sentence.

Act Jan. 21, 1942, amended section generally.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1547. Preservation of local civil and criminal jurisdiction and civil rights

Notwithstanding any other provision of law, the acquisition by the Secretary of Housing and Urban Development of any real property pursuant to subchapters II to VII of this chapter shall not deprive any State or political subdivision thereof, including any Territory or possession of the United States, of its civil and criminal jurisdiction in and over such property, or impair the civil rights under the State or local law of the inhabitants on such property. As used in this section the term "State" shall include the District of Columbia.

(Oct. 14, 1940, ch. 862, title III, §307, formerly §10, 54 Stat. 1128; renumbered title III, §307, and amended June 28, 1941, ch. 260, §4(b), 55 Stat. 363; Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 10, 1942, ch. 239, §3(b), 56 Stat. 212; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

CODIFICATION

Words "including any Territory or possession of the United States" were inserted upon authority of act June 28, 1941, ch. 260, §4(b), 55 Stat. 363, which provided that when used in this section the term " 'State' includes any Territory or possession of the United States".

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

1942—Act Apr. 10, 1942, inserted last sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1548. Rules and regulations; standards of safety, convenience, and health

The Secretary of Housing and Urban Development is authorized to make such rules and regulations as may be necessary to carry out the provisions of subchapters II to VII of this chapter, and shall establish reasonable standards of safety, convenience, and health.

(Oct. 14, 1940, ch. 862, title III, §308, formerly §11, 54 Stat. 1128; renumbered title III, §308, June 28, 1941, ch. 260, §4(b), 55 Stat. 363; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" and "Housing and Home Finance Agency" for "National Housing Administrator" and "National Housing Agency", respectively, wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1549. Laborers and mechanics; wages; preference in employment

Notwithstanding any other provision of law, the wages of every laborer and mechanic employed on any construction, repair or demolition work authorized by subchapters II to VII of this chapter shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. Not less than the prevailing wages shall be paid in the construction of defense housing authorized herein. Preference in such employment shall be given to qualified local residents.

(Oct. 14, 1940, ch. 862, title III, §309, formerly §12, 54 Stat. 1128; renumbered title III, §309, June 28, 1941, ch. 260, §4(b), 55 Stat. 363; amended Jan. 21, 1942, ch. 14, §9, 56 Stat. 12.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

AMENDMENTS

1942—Act Jan. 21, 1942, inserted last sentence.

§1550. Separability

If any provision of subchapters II to VII of this chapter, or the application thereof to any persons or circumstances, is held invalid, the remainder of said subchapters, or application of such provision to other persons or circumstances shall not be affected thereby.

(Oct. 14, 1940, ch. 862, title III, §310, formerly §13, 54 Stat. 1128; renumbered title III, §310, June 28, 1941, ch. 260, §4(b), 55 Stat. 363.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

§1551. Repealed. Aug. 2, 1954, ch. 649, title VIII, §802(b), 68 Stat. 642

Section, act Oct. 14, 1940, ch. 862, title III, §311, formerly §14, 54 Stat. 1128; renumbered title III, §311, June 28, 1941, ch. 260, §4(b), 55 Stat. 363, related to reports to Congress. See section 1701o of Title 12, Banks and Banking.

§1552. Powers of certain agencies designated to provide temporary shelter

Any agency designated by the President to provide temporary shelter under the provisions of Public Law Numbered 9, Seventy-seventh Congress, Public Law Numbered 73, Seventy-seventh Congress, or the Third Supplemental National Defense Appropriations Act, 1942, shall have the same powers with respect to the management, maintenance, operation, and administration of such temporary shelter as are granted to the Secretary of Housing and Urban Development under section 1544 and section 1546 of this title with respect to projects constructed hereunder, and the provisions of section 1547 of this title shall apply to such temporary shelter projects and the occupants thereof.

(Oct. 14, 1940, ch. 862, title III, §312, as added Jan. 21, 1942, ch. 14, §10, 56 Stat. 13; amended Ex. Ord. No. 9070, §1, eff. Feb. 24, 1942, 7 F.R. 1529; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The provisions of Public Laws 9 and 73, referred to in text, are not classified to the Code. The Third Supplemental National Defense Appropriation Act, 1942, referred to in text, is Public Law 353, the relevant

provisions of which are not classified to the Code. For further details, see note set out under section 1524 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" for "National Housing Administrator".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

§1553. Removal by Secretary of certain housing of temporary character; exceptions for local communities; report to Congress

Except as otherwise provided in subchapters II to VII of this chapter, the Secretary of Housing and Urban Development shall, as promptly as may be practicable and in the public interest, remove (by demolition or otherwise) all housing under his jurisdiction which is of a temporary character, as determined by him, and constructed under the provisions of this subchapter, Public Law 781, Seventy-sixth Congress, and Public Laws 9, 73, 353, Seventy-seventh Congress. Such removal shall, in any event, be accomplished not later than July 1, 1954 or by such later date as may be required because of extensions of time in accordance with section 1584 of this title, with the exception only of such housing as the Secretary of Housing and Urban Development, after consultation with local communities, finds is still urgently needed because of a particularly acute housing shortage in the area: *Provided*, That all such exceptions shall be reexamined annually by the Secretary of Housing and Urban Development and that all such exceptions and reexaminations shall be reported to the Congress. Notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, no Federal statute, or regulation thereunder, shall prohibit or restrict any action or proceeding to recover possession of any housing accommodations for the purpose of carrying out the provisions of this section or section 1584 of this title.

(Oct. 14, 1940, ch. 862, title III, §313, as added July 7, 1943, ch. 196, §4, 57 Stat. 388; amended June 28, 1948, ch. 688, §4, 62 Stat. 1064; Oct. 25, 1949, ch. 729, §5, 63 Stat. 906; Apr. 20, 1950, ch. 94, title II, §§202, 204, 64 Stat. 72, 73; Ex. Ord. No. 10385, Aug. 18, 1952, 17 F.R. 7525; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

The provisions of Public Law 781, and Public Laws 9, 73, 353, referred to in text, are not classified to the Code. For further details, see note set out under section 1524 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "December 31, 1952 or by such later date as may be required because of extensions of time in accordance with section 1584 of this title, with the exception only of such housing as

the Administrator, after consultation with local communities, finds is still urgently needed because of a particularly acute housing shortage in the area" for "January 1, 1951, with the exception only of such housing as the Administrator, after consultation with local communities finds is still needed in the interest of orderly demobilization of the war effort," and inserted last sentence.

1949—Act Oct. 25, 1949, inserted "January 1, 1951" for "January 1, 1950".

1948—Act June 28, 1948, substituted "January 1, 1950" for "two years after the President declares that the emergency declared by him on September 8, 1939, has ceased to exist".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1522 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in interpretation of this section, the date July 25, 1947, shall be deemed to be date of termination of any state of war theretofore declared by Congress and of national emergencies proclaimed by President on Sept. 8, 1939, and May 27, 1941.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 10385. EXTENSION OF TIME

Ex. Ord. No. 10385, Aug. 18, 1952, affected section by extending time for the removal of temporary housing from Dec. 31, 1952, to July 1, 1954.

SUBCHAPTER V—DEFENSE HOUSING AND PUBLIC WORKS FOR DISTRICT OF COLUMBIA

§§1561 to 1563. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1561, act Oct. 14, 1940, ch. 862, title IV, §401, as added Apr. 10, 1942, ch. 239, §4, 56 Stat. 212; amended Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, which authorized appropriations for housing of United States employees, was omitted pursuant to act July 3, 1952, ch. 570, §1(a)(12), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, which provided that this section and section 1562 of this title continue in force until six months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A 454, set out as a note preceding section 1 of Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

Section 1562, act Oct. 14, 1940, ch. 862, title IV, §402, as added Apr. 10, 1942, ch. 239, §4, 56 Stat. 213; amended June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, authorized appropriations for public works projects. See par. set out above.

Section 1563, act Oct. 14, 1940, ch. 862, title IV, §403, as added Apr. 10, 1942, ch. 239, §4, 56 Stat. 213; amended June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, which related to advancements to District of Columbia Commissioner for public works and reports to Congress, was omitted in view of the omission of sections 1561 and 1562 of this title.

§1564. Definitions

As used in subchapters II to VII of this chapter the term "Federal Works Administrator" or "Administrator", or "Federal Works Agency" shall, with respect to housing, be deemed to refer to the Housing and Home Finance Administrator or the Housing and Home Finance Agency, as the case may be. Such terms shall, with respect to public works and equipment therefor, be deemed to refer to the Federal Works Administrator or the Federal Works Agency, as the case may be.

(Oct. 14, 1940, ch. 862, title IV, §404, as added Apr. 10, 1942, ch. 239, §4, 56 Stat. 213; amended Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

AMENDMENTS

1950—Act Apr. 20, 1950, substituted "Housing and Home Finance Administrator" and "Housing and Home Finance Agency" for "National Housing Administrator" and "National Housing Agency", respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions of Housing and Home Finance Agency transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency has lapsed.

Functions under sections 1531 to 1534 of this title transferred from Federal Works Administrator to Administrator of General Services by act June 30, 1949, ch. 288, title I, §103(a), 63 Stat. 380, which was classified to section 753(a) of former Title 40, Public Buildings, Property, and Works, and subsequently transferred to Housing and Home Finance Administrator by Reorg. Plan No. 17 of 1950, §1, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, set out in the Appendix to Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Federal Works Administrator relating to defense housing consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070.

SUBCHAPTER VI—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

§§1571 to 1573. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1571, acts Oct. 14, 1940, ch. 862, title V, §501, as added June 23, 1945, ch. 192, 59 Stat. 260; amended Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, related to the construction of temporary housing facilities, and was omitted pursuant to act July 3, 1952, ch. 570, §1(a)(12), 66 Stat. 332, as amended by act

Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, which provided that this section and sections 1572, 1573, 1575, and 1576 of this title continue in force until six months after the termination of the National emergency proclaimed by the President on Dec. 16, 1950 by Proc. No. 2914, 15 F.R. 9029, 64 Stat. A 454, set out as a note preceding section 1 of Title 50, War and National Defense, or on such earlier date or dates as provided by Congress, but in no event beyond July 1, 1953.

Section 1572, acts Oct. 14, 1940, ch. 862, title V, §502, as added June 23, 1945, ch. 192, 59 Stat. 260; amended Dec. 31, 1945, ch. 657, 59 Stat. 674; Mar. 28, 1946, ch. 118, §§1, 2, 60 Stat. 85; Aug. 8, 1946, ch. 917, §1, 60 Stat. 958; May 31, 1947, ch. 91, §1, 61 Stat. 128; Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73, related to the availability of funds for purposes of this subchapter, and was omitted in view of the termination of sections 1571 and 1573 of this title.

Section 1573, acts Oct. 14, 1940, ch. 862, title V, §503, as added June 23, 1945, ch. 192, 59 Stat. 260; amended June 30, 1953, ch. 174, §1, 67 Stat. 132, related to definitions for purposes of this subchapter, and was omitted pursuant to the time limitation set out in act July 3, 1952, ch. 570, §1(a)(21), 66 Stat. 332, as amended by act Mar. 31, 1953, ch. 13, §1, 67 Stat. 18. See section 1571 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AVAILABILITY OF FUNDS

Act May 31, 1947, ch. 91, §2, 61 Stat. 128, provided that there were to be additional funds available under sections 1571, 1572, and 1573 of this title for necessary expenses incurred in completing the provision of temporary housing pursuant to a contract in writing executed prior to May 31, 1947, for reimbursement of certain eligible organizations for particular expenditures, and for payments to meet certain actual expenses prior to Apr. 1, 1947.

§1574. Repealed. Oct. 31, 1951, ch. 654, §1(113), 65 Stat. 706

Section, act Oct. 14, 1940, ch. 862, title V, §504, as added Aug. 8, 1946, ch. 912, §2, 60 Stat. 958, related to the use or reuse of structures or facilities of Federal agencies as educational facilities for persons receiving training courses or education under title II of the Servicemen's Readjustment Act of 1944, as amended (act June 22, 1944, ch. 268, title II, 58 Stat. 284).

§§1575, 1576. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1575, acts Oct. 14, 1940, ch. 862, title V, §505, as added June 28, 1948, ch. 688, §1, 62 Stat. 1062; amended Apr. 20, 1950, ch. 94, title II, §204, 64 Stat. 73; Oct. 26, 1951, ch. 577, §2, 65 Stat. 648, related to relinquishment of Government's rights in temporary housing on campuses or other educational lands.

Section 1576, acts Aug. 24, 1949, ch. 506, title II, §201, 63 Stat. 659; Sept. 6, 1950, ch. 896, ch. VIII, title II, §201, 64 Stat. 723, which was not repeated in the Independent Offices Appropriation Act, 1952, act Aug. 31, 1951, ch. 376, 65 Stat. 268, provided that application for relinquishment had to be filed by Dec. 30, 1950. Section was enacted as a part of act Aug. 24, 1949, popularly known as the Independent Offices Appropriation Act, 1951, and not as a part of title V of the Lanham Public War Housing Act, act Oct. 14, 1940, ch. 862, as added June 23, 1945, ch. 192, 59 Stat. 260, which comprises this subchapter.

SUBCHAPTER VII—DISPOSAL OF WAR AND VETERANS' HOUSING

§1581. Housing disposition

(a) Mandatory transfers

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development shall (subject to the provisions of this section) relinquish and transfer, without monetary consideration, to any State or political subdivision thereof, local housing authority, local public agency, nonprofit organization, or educational institution, all contractual rights (including the right to revenues and other proceeds) and all property right, title, and interest of the United States in and with respect to (1) any temporary housing located on land owned or controlled by such transferee and in which the United States has no leasehold or other property interest, and (2) housing materials which have been made available to the transferee by the Secretary of Housing and Urban Development pursuant to section 1572 of this title.

(b) Transfer to provide housing for parents of deceased World War II servicemen

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development may (subject to the provisions of this section) relinquish and transfer, without monetary consideration other than that specifically required by this subsection, to any State, county, municipality, or local housing authority, or to any educational institution where the housing involved is being operated for its student veterans or where the land underlying the housing is in the ownership of two or more educational institutions, or to any other local public agency or nonprofit organization where the housing involved has been made available by the United States to such agency or organization pursuant to section 1572 of this title or where the Secretary of Housing and Urban Development determines that the housing involved is urgently needed by parents of persons who served in the Armed forces at any time on or after September 16, 1940, and prior to July 26, 1947, or on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President and died of service-connected illness or injury (in which case the preferences in subsection (d)(1) shall not apply), all right, title, and interest of the United States in and with respect to any temporary housing (excluding commercial facilities which the Secretary of Housing and Urban Development determines are suitable for separate disposal and community facilities which the Secretary of Housing and Urban Development determines should be disposed of separately) located on land in which the United States has a property interest through ownership, lease, or otherwise, under the following conditions:

(1) If the land is owned by the United States and under the jurisdiction of the Secretary of Housing and Urban Development, the transferee shall have purchased such land from the Secretary of Housing and Urban Development at a price substantially equal to the cost to the United States of the land (including survey, title examination, and other similar expenses incident to acquisition but excluding the cost or value of all improvements thereto by the United States other than extraordinary fill), or, if the Secretary of Housing and Urban Development determines the amount of such cost to be nominal or not readily ascertainable, at a price which the Secretary of Housing and Urban Development determines to be fair and reasonable. Payment for such land shall be made in full at the time of sale or in not more than ten equal annual installments (the first of which shall be paid within one year from the date of conveyance) all of which shall be secured as determined by the Secretary of Housing and Urban Development with interest from the date of conveyance at the going Federal rate of interest at the time of conveyance.

(2) If the land is owned by the United States and not under the jurisdiction of the Secretary of Housing and Urban Development, the transferee shall have purchased such land from the Federal agency having jurisdiction thereof. The Federal agency having jurisdiction of any such land is authorized to sell and convey the same to any such transferee on the terms authorized herein except that the determinations required to be made by the Secretary of Housing and Urban Development shall be made by the agency having jurisdiction of such land.

(3) If the United States does not own the land but has an interest therein through lease or otherwise, the transferee shall (i) where it is not the landowner, obtain the right to possession of such land for a term satisfactory to the Secretary of Housing and Urban Development, (ii) obtain from the landowner a release (or, if the transferee is the landowner, furnish a release) of the United States from all liability in connection therewith, including any liability for removal of structures or restoration of the land, except for any rental or use payment due at the time of transfer, and (iii) reimburse the United States for the proportionate amount of any payments made by the United

States for the right to use the land and for taxes or payments in lieu of taxes for any period extending beyond the time of the transfer, and (iv) if the interest of the United States is not under the jurisdiction of the Secretary of Housing and Urban Development, the transferee shall obtain a transfer or release of the interest of the United States from the Federal agency having jurisdiction, which transfers and releases by such Federal agencies are authorized on such terms as the head of the respective agency determines to be in the public interest.

(c) Requests for relinquishment and transfer

The filing of a request under subsections (a), (b), (g), or (h) of this section must be made on or before June 30, 1953, unless the Secretary of Housing and Urban Development shall, in any specific case, authorize the filing of a request subsequent to such date but on or before June 30, 1951, and, in any such case, the Secretary of Housing and Urban Development may extend, for a specified period not beyond December 31, 1951, the time hereinafter prescribed for complying with all conditions to the relinquishment or transfer. Such request shall be in the form of a resolution adopted by the governing body of the applicant, except that, in the case of a State, such request may be in the form of a written request from the governor, and, in the case of a local housing authority (other than the Alaska Housing Authority), or a local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment, shall be accompanied by a resolution of the governing body of the municipality or county approving the request for transfer. Such request shall be accompanied by either (1) a final opinion of the chief law officer or legal counsel of the applicant to the effect that it has legal authority to make the request, to accept the transfer of and operate any property involved, and to perform its obligations under this subchapter, or (2) a preliminary opinion of such officer or counsel concerning the legal authority of the applicant with respect to the proposed relinquishment or transfer including a statement of the reasons for not furnishing the final opinion with the request and the time required to furnish such opinion. If a request has been submitted as herein provided, the applicant shall comply with all conditions to the relinquishment or transfer (including the furnishing of the final legal opinion) on or before June 30, 1953: *Provided*, That, in any case where the applicant is unable to comply with all conditions to the relinquishment or transfer because of the need for the enactment of State legislation or charter amendment, such date shall be June 30, 1952, and may be extended by the Secretary of Housing and Urban Development, upon request in a particular case, to December 31, 1952. The Secretary of Housing and Urban Development shall act as promptly as practicable on any request which complies with the provisions of this section and is supported as herein required, and shall as promptly as practicable arrange for the making of any survey or the performance of other work necessary to the transfer: *Provided*, That, notwithstanding the provisions of this section, the Secretary of Housing and Urban Development may at any time, except with respect to housing for which a request has been or may be submitted under subsection (a) of this section, remove, dispose of, or retain any temporary housing, or part thereof, in accordance with any provision of subchapters II to VII of this chapter.

(d) Representations by transferee as to use of property; preferences

No relinquishment or transfer with respect to temporary housing shall be made under this section unless the transferee represents in its request therefor that it proposes, to the extent permitted by law:

(1) As among eligible applicants for occupancy in dwellings of given sizes and at specified rents, to extend the following preferences in the selection of tenants:

First, to families which are to be displaced by any low-rent housing project or by any public slum-clearance or redevelopment project initiated after January 1, 1947, or which were so displaced within three years prior to making application for admission to such housing; and as among such families first preference shall be given to families of disabled veterans whose disability has been determined by the Secretary of Veterans Affairs to be service-connected, and second preference shall be given to families of deceased veterans and servicemen whose death has been determined by the Secretary of Veterans Affairs to be service-connected, and third preference shall be given to families of other veterans and servicemen;

Second, to families of other veterans and servicemen; and as among such families first preference shall be given to families of disabled veterans whose disability has been determined

by the Secretary of Veterans Affairs to be service-connected, and second preference shall be given to families of deceased veterans and servicemen whose death has been determined by the Secretary of Veterans Affairs to be service-connected: *Provided*, That if the transferee is an educational institution it may limit such preferences to student veterans and servicemen, and their families, and may, in lieu of such preferences, make available to veterans or servicemen and their families accommodations in any housing of the institution equal in number to the accommodations relinquished or transferred to it: *And provided further*, That, notwithstanding such preferences, if the transferee is a State, political subdivision, local housing authority, or local public agency, it will, in filling vacancies in housing transferred under subsection (b) hereof, give such preferences to military personnel and persons engaged in national defense or mobilization activities as the Secretary of Defense or his designee prescribes to such transferee.

(2) Not to dispose of any right, title, or interest in the property (by sale, transfer, grant, exchange, mortgage, lease, release, termination of the leasehold, or any other relinquishment of interest) either (i) for housing use on the present site or on any other site except to a State or political subdivision thereof, local housing authority, a local public agency, or an educational or eleemosynary institution, or (ii) for any other use unless the governing body of the municipality or county shall have adopted a resolution determining that, on the basis of local need and acceptability, the structures involved are satisfactory for such use and need not be removed: *Provided*, That this representation will not apply to any disposal through demolition for salvage, lease to tenants for residential occupancy, or lease of nondwelling facilities for the continuance of a use existing on the date of transfer, or where such disposal is the result of a bona fide foreclosure or other proceeding to enforce rights given as security for a loan to pay for land under this section: *And provided further*, That nothing contained in this paragraph shall be construed as applicable to the disposition of any land or interest therein after the removal of the structures therefrom.

(3) To manage and operate the property involved in accordance with sound business practices, including the establishment of adequate reserves.

(4) Whenever the structures involved, or a substantial portion thereof, are terminated for housing use and are not to be used for a specific nonhousing use, to promptly demolish such structures terminated for housing use and clear the site thereof.

(e) Waiver of removal requirements

Any relinquishment or transfer by the Secretary of Housing and Urban Development under this section shall constitute a waiver of the requirements of section 1553 of this title (and any contractual obligations pursuant thereto) for removing the housing involved if the request for such relinquishment or transfer was made, as authorized herein, by the governing body of the municipality or county, or by the local housing authority, or, in other cases, if, prior to or within six months after the date of the relinquishment or transfer, there is filed with the Secretary of Housing and Urban Development a resolution of such governing body specifically approving (1) the unconditional waiver of such requirements or (2) the waiver of such requirements subject to conditions specified in the resolution. Any such conditions shall not affect the waiver of removal requirements hereunder, and the United States shall assume no responsibility for compliance therewith.

(f) Disposition of net revenue and proceeds; transfer charges

In any relinquishment or transfer under this section, the net revenues and other proceeds from such housing to which the United States is entitled on the basis of periodic settlements shall continue to accrue to the United States until the end of the month in which the relinquishment or transfer is made, and the obligation of the transferee to pay such accrued amounts shall not be affected by this section. The Secretary of Housing and Urban Development may charge to the transferee the cost to the United States of any survey, title information, or other item incidental to the transfer.

(g) Transfers for slum clearance and community redevelopment projects

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development may (subject to the provisions of this section) relinquish and transfer, without

monetary consideration other than payment for land involved as specifically required by subsection (b) hereof, to any local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment in a municipality in which the total number of persons, who on December 31, 1948, were living in temporary family accommodations provided by the United States or any agency thereof since September 8, 1939, exceeded the total population of such municipality as shown by the 1940 census, all right, title, and interest of the United States in and with respect to any temporary housing located in such municipality under the conditions set forth in said subsection (b). Notwithstanding the provisions of subsection (b) of this section, the Secretary of Housing and Urban Development shall not relinquish or transfer any right, title, or interest of the United States in and with respect to any temporary housing situated in such a municipality except as set forth in this subsection if at the time of the relinquishment or transfer there is in existence in such a municipality a local public agency organized specifically and solely for the purpose of slum clearance and community redevelopment.

(h) Transfers of temporary housing of masonry construction

Upon the filing of a request therefor as herein prescribed, the Secretary of Housing and Urban Development may (subject to the provisions of this section except the provisions of subsection (d) hereof) relinquish and transfer to any municipality, without monetary consideration other than payment for the land involved as specifically required by subsection (b) hereof, all right, title, and interest of the United States in and with respect to unoccupied temporary housing of masonry construction located in such municipality: *Provided*, That such housing has been wholly or partially stripped of trim and fixtures prior to April 20, 1950 and the municipality adopts a resolution determining that the structures, with proposed improvements, will be suitable for long-term housing use.

(Oct. 14, 1940, ch. 862, title VI, §601, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Ex. Ord. No. 10284, §§1, 2, eff. Sept. 4, 1951, 16 F.R. 8971; Oct. 26, 1951, ch. 577, §2, 65 Stat. 648; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F.R. 3012; Ex. Ord. No. 10395, eff. Sept. 19, 1952, 17 F.R. 8449; Ex. Ord. No. 10425, eff. Jan. 16, 1953, 18 F.R. 405; Feb. 15, 1956, ch. 35, 70 Stat. 15; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 102–54, §13(q)(6)(A), June 13, 1991, 105 Stat. 280.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1572 of this title, referred to in subsecs. (a) and (b), has been omitted from the Code.

Subchapters III and VI of this chapter, referred to in subsec. (c), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

CODIFICATION

In subsec. (c), "June 30, 1953" substituted for "December 31, 1950" the first time it appears and "June 30, 1951" the second time it appears pursuant to the executive orders cited as credits to this section. See notes set out below.

AMENDMENTS

1991—Subsec. (d)(1). Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration" wherever appearing.

1956—Subsec. (g). Act Feb. 15, 1956, limited restriction on transfer or relinquishment of temporary housing to a local public slum clearance agency to municipalities having such an agency at time of transfer or relinquishment.

1951—Subsec. (b). Act Oct. 26, 1951, substituted "at any time on or after September 16, 1940, and prior to July 26, 1947, or on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President" for "during World War II".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions of Housing and Home Finance Agency and head thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provided that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency and Public Housing Administration have lapsed.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 10284

Ex. Ord. 10284, Sept. 4, 1951, which extended time for filing requests from Dec. 31, 1950, to Dec. 31, 1951, also extended time for compliance with all conditions to relinquishments or transfers from June 30, 1951, to June 30, 1952. See note set out under section 1589a of this title.

EXECUTIVE ORDER NO. 10339

Ex. Ord. No. 10339, Apr. 7, 1952, set out as a note under section 1589a of this title, extended time for filing requests under subsecs. (a), (b), and (g) from Dec. 31, 1951, to Dec. 31, 1952, and extended time for compliance with all conditions to relinquishments or transfers under subsecs. (a), (b), and (g) from June 30, 1952, to June 30, 1953.

EXECUTIVE ORDER NO. 10395

Ex. Ord. No. 10395, Sept. 19, 1952, set out as a note under section 1589a of this title, extended time for filing requests under subsec. (h) from Dec. 31, 1951, to Dec. 31, 1952, and extended time for compliance with all conditions to relinquishments or transfers under subsec. (h) from June 30, 1952, to June 30, 1953.

EXECUTIVE ORDER NO. 10425

Ex. Ord. No. 10425, Jan. 16, 1953, set out as a note under section 1589a of this title, extended time for filing requests under subsecs. (a), (b), (g), and (h) from Dec. 31, 1952, to June 30, 1953.

§1582. Temporary housing exempted from provisions of section 1553 of this title

The requirements of section 1553 of this title shall not apply to any temporary housing—

(a) for which such requirements have been waived pursuant to section 1575 [1] or section 1581 of this title;

(b) transferred by the Secretary of Housing and Urban Development to the jurisdiction of the Department of the Army, the Navy, or the Air Force pursuant to section 1524 of this title;

(c) disposed of by the Secretary of Housing and Urban Development under subchapter II or IV of this chapter for long-term housing or nonhousing use without any requirement for removal where the governing body of the municipality or county has adopted a resolution determining that, on the basis of local need and acceptability, the structures involved are (1) satisfactory for such long-term use or (2) satisfactory for such long-term use if conditions prescribed in such resolution, affecting the physical characteristics of the project, are met: *Provided*, That any such conditions shall not affect the disposal of any temporary housing hereunder, and the United States shall assume no responsibility for compliance with such conditions: *And provided further*, That any housing disposed of for housing use in accordance with this subsection shall thereafter be deemed to be housing accommodations, the construction of which was completed after June 30, 1947, within the meaning of section 4 of the Housing and Rent Act of 1947, as amended, relating to preference or priority to veterans or their families; or

(d) disposed of or relinquished by the Secretary of Housing and Urban Development prior to April 20, 1950, subject to such requirements or contractual obligations pursuant thereto, where the governing body of the municipality or county on or before December 31, 1950, adopts a resolution

as provided in (c) [2] above; and any contract obligations to the Federal Government for the removal of such housing shall be relinquished upon the filing of such a resolution with the Secretary of Housing and Urban Development.

(Oct. 14, 1940, ch. 862, title VI, §602, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Oct. 26, 1951, ch. 577, §2, 65 Stat. 648; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1575 of this title, referred to in subsec. (a), has been omitted from the Code.

Section 4 of the Housing and Rent Act of 1947, referred to in subsec. (c), is section 4 of act June 30, 1947, ch. 163, title I, 61 Stat. 195, which was formerly classified to section 1884 of the former Appendix to Title 50, War and National Defense, and has been omitted from the Code.

AMENDMENTS

1951—Subsec. (c). Act Oct. 26, 1951, struck "of World War II" thus making section applicable to veterans of Korean war.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

[1] See References in Text note below.

[2] So in original. Probably should be preceded by "subsection".

§1583. Redetermination of demountable housing as temporary or permanent

With respect to any housing classified, prior to April 20, 1950, by the Secretary of Housing and Urban Development as demountable, the Secretary of Housing and Urban Development shall, as soon as practicable but not later in any event than December 31, 1950, and after consultation with the communities affected, redetermine (taking into consideration local standards and conditions) whether such housing is of a temporary or permanent character, and after such redetermination shall dispose of such housing in accordance with the provisions of this subchapter.

(Oct. 14, 1940, ch. 862, title VI, §603, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1584. Removal of all dwelling structures on land under Secretary's control; temporary housing exempted; preference in fulfilling vacancies

With respect to temporary housing remaining under the jurisdiction of the Secretary of Housing and Urban Development on land under his control, the Secretary of Housing and Urban

Development shall (1) permit vacancies, occurring or continuing after July 1, 1953, to be filled only by transfer of tenants of other accommodations in the same locality being removed as required by subchapters II to VII of this chapter; (2) notify, on or before March 31, 1954, all tenants to vacate the premises prior to July 1, 1954; (3) promptly after July 1, 1954, cause actions to be instituted to evict any tenants still remaining; and (4) remove (by demolition or otherwise) all dwelling structures as soon as practicable after they become vacant: *Provided*, That in any case where a request for relinquishment or transfer has been filed pursuant to section 1581 of this title and where under the provisions of section 1581(c) of this title the date for compliance with all conditions to the relinquishment or transfer shall have been extended, each of the foregoing dates shall be extended for a period of time equal to the period of the extension under section 1581(c) of this title: *And provided further*, That nothing heretofore in this section shall apply (1) to any temporary housing in any municipality in which the total number of persons, who on December 31, 1948, were living in temporary family accommodations provided by the United States or any agency thereof since September 8, 1939, exceeds 30 per centum of the total population of such municipality as shown by the 1940 census, nor (2) to any temporary housing as to which the local governing body has adopted a resolution as provided in section 1582(c) of this title, nor (3) to any temporary housing for which a request has been submitted in accordance with section 1581(b) of this title, but which has not been relinquished or transferred solely because the applicant has been unable to obtain from the landowner the right to possession of the land on reasonable terms as determined by the Secretary of Housing and Urban Development: *Provided*, That, in filling vacancies in such housing, the preferences set forth in section 1581(d)(1) of this title shall be applicable and that families within such preference classes shall be eligible for admission to such housing, nor (4) to any temporary housing in which accommodations have been reserved, prior to the enactment of this section, for veterans attending an educational institution if (i) such institution certifies that the accommodations are urgently needed for such veterans and submits facts showing, to the satisfaction of the Secretary of Housing and Urban Development, that all reasonable efforts have been made by the institution to find other accommodations for them and (ii) such institution agrees to reimburse the Secretary of Housing and Urban Development for any financial loss to the Secretary of Housing and Urban Development in the operation of the accommodations after June 30, 1951.

(Oct. 14, 1940, ch. 862, title VI, §604, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended June 30, 1951, ch. 197, 65 Stat. 110; Sept. 1, 1951, ch. 378, title VI, §603(a), 65 Stat. 314; Ex. Ord. No. 10284, §§3–5, eff. Sept. 4, 1951, 16 F.R. 8971; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F.R. 3012; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

AMENDMENTS

1951—Act Sept. 1, 1951, repealed former fourth and fifth provisos which related to adjustments in rentals that might be set for Government-owned temporary housing.

Act June 30, 1951, substituted "August 15, 1951" for "July 1, 1951".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 10284

Ex. Ord. No. 10284, Sept. 4, 1951, extended time for filling vacancies from Aug. 15, 1951, to July 1, 1952, for notices to vacate premises from Mar. 31, 1952, to Mar. 31, 1953, for time of vacating from July 1, 1952, to July 1, 1953, and for eviction from July 1, 1952, to July 1, 1953. See note set out under section 1589a of this title.

EXECUTIVE ORDER NO. 10339

Ex. Ord. No. 10339, Apr. 7, 1952, set out as a note under section 1589a of this title, extended time for filling vacancies from July 1, 1952, to July 1, 1953, for notices to vacate premises from Mar. 31, 1953, to Mar. 31, 1954, for time of vacating from July 1, 1953, to July 1, 1954, and for eviction from July 1, 1953, to July 1, 1954.

§1585. Acquisition of housing sites

(a) Lease, condemnation or purchase; temporary housing

The Secretary of Housing and Urban Development may continue by lease or condemnation any interest less than a fee simple in lands heretofore acquired by the Secretary of Housing and Urban Development for national defense or war housing or for veterans' housing (whether of permanent or temporary character), or held by any Federal agency in connection therewith, and may acquire, by purchase or condemnation, a fee simple title to or lesser interest in any such lands if the Secretary of Housing and Urban Development determines that the acquisition of such fee simple or lesser interest is necessary to protect the Government's investment or to maintain the improvements constructed thereon, or that the cost of fulfilling the Government's obligation to restore the property to its original condition would equal or exceed the cost of acquiring the title thereto.

In any city in which, on March 1, 1953, there were more than ten thousand temporary housing units held by the United States of America, or any two contiguous cities in one of which there were on such date more than ten thousand temporary housing units so held, the Secretary of Housing and Urban Development may acquire, by purchase or condemnation, a fee simple title to any or all lands in which the Secretary holds a leasehold interest, or other interest less than a fee simple, acquired by the Federal Government for national defense or war housing or for veteran's housing where (1) the Secretary of Housing and Urban Development finds that the acquisition by the Secretary of a fee simple title in the land will tend to expedite the orderly disposal or removal of temporary housing under the Secretary's jurisdiction by facilitating the availability of improved sites for privately owned housing needed to replace such temporary housing, and will tend to expedite the transition of the city from a war-affected community containing, as of said date, a large number of temporary houses to a community having additional permanent, well-planned, residential neighborhoods, (2) the local governing body of the city makes a like finding and requests the Secretary of Housing and Urban Development to acquire such title to the land, and (3) the city has furnished assurances satisfactory to the Secretary of Housing and Urban Development that no individual who is employed by, or is an official of, the government of the city in which the land is located, or any agency thereof, shall be permitted, directly or indirectly, to have any financial interest in the purchase or redevelopment of such land: *Provided*, That such acquisitions by the Secretary of Housing and Urban Development pursuant to this sentence shall be limited to not exceeding four hundred and twenty-five acres of land in the general area in which approximately one thousand five hundred units of temporary housing held by the United States of America were unoccupied on said date: *And provided further*, That funds for such acquisition by the Secretary of Housing and Urban Development, which are authorized, pursuant to subsection (c) of this section and title II of the Independent Offices Appropriation Act, 1955, to be expended from the revolving fund established by section 1701g–5 of title 12, shall be taken into consideration, to the extent that they are needed, in making any determination pursuant to the second proviso under that section. All or any part of any land so acquired by the Secretary of Housing and Urban Development may, during the five year period following the date of its acquisition, be sold by the Secretary, through negotiated sale, to such city or any local public agency where (1) the city or local public agency has represented to the Secretary of

Housing and Urban Development that it is duly authorized under State law to purchase and resell such land, that such land will be made available to private enterprise for development in accordance with local zoning and other laws, and that the aggregate of such land and any other land in the same city previously sold under the authority of this paragraph to the city or a local public agency will be developed for predominantly residential use, and (2) the city or local public agency has agreed to pay the fair market value of the land as determined by the Secretary of Housing and Urban Development, after giving consideration, among other relevant information, to the cost to the Federal Government of acquiring the fee simple title and of holding the land pending sale (including estimated amounts to cover legal and overhead expenses of such acquisition and to cover interest costs to the Federal Government of monies invested in the land pending sale). Any such negotiated sale of land to the city or a local public agency shall be made upon terms which require (1) that the city or public agency shall pay in cash at least one third of the price of the land upon its conveyance and the entire price within one year after its conveyance and (2) that any portion of the entire price not paid upon such conveyance shall be represented by an indebtedness which shall bear interest on outstanding balances at a rate of 4 per centum per annum and which shall be secured by a first mortgage lien upon the land or such portion of the land as the Secretary of Housing and Urban Development deems adequate to protect the financial interest of the Federal Government. The Secretary of Housing and Urban Development may, at any time that the Secretary deems it to be in the public interest to do so, dispose, under authority of other provisions of subchapters II to VII of this chapter, of any land acquired by the Secretary pursuant to this paragraph. Any land acquired by the Secretary of Housing and Urban Development pursuant to this paragraph which has not been disposed of within five years after its acquisition shall be disposed of by the Secretary as expeditiously as possible in the public interest in accordance with other authority contained in subchapters II to VII of this chapter. Notwithstanding the provisions of section 1546 of this title or any other provisions of law, no payments in lieu of taxes shall be made for any tax year beginning subsequent to the date of the acquisition of title to the property by the Secretary of Housing and Urban Development.

(b) Land rentals

In any case in which the Secretary of Housing and Urban Development holds, on or after April 1, 1950, an interest in land acquired by the Federal Government for national defense, war housing, or veterans' housing and where (1) the term of such interest (as prescribed in the taking or in the lease or other instruments) is for the "duration of the emergency" or "duration of the war", or "duration of the emergency" or "duration of the war" plus a specific period thereafter, or for some similarly prescribed term, and (2) the rental, award, or other consideration which the Federal Government is obligated to pay or furnish for such interest gives the owner of the land less than an annual return, after payment of real estate taxes, of 6 per centum of the lowest value placed on such land by an independent appraiser, hired by the Government to make such appraisal based on the value of the land before the acquisition of the Government's interest therein, plus 100 per centum of such value, the Secretary of Housing and Urban Development shall, upon request of the owner of the land and, notwithstanding any existing contractual or other rights or obligations, increase the amount of future payments for such interest in order to give the owner of the land a return for the Government's use thereof not exceeding the 6 per centum annual return described in (2) of this subsection: *Provided*, That this subsection shall not affect any payment heretofore made or any future payment accepted by an obligee, nor shall this subsection limit the consideration which may be paid for the use of any land beyond the existing term of the Government's interest therein.

(c) Reserve account; availability of moneys

Notwithstanding any other provisions of law unless hereafter enacted expressly in limitation hereof, moneys shall be deposited in the reserve account established pursuant to subsection (a) and subsection (b) of section 1543 of this title (which account is hereby continued subject to the limitation as to amount specified in subsection (c) thereof) and all moneys deposited in such reserve account shall be and remain available for any or all of the purposes specified in said subsections (a) or (b) or in this section without regard to the time prescribed in subsection (c) of section 1543 of this title with respect to covering moneys in such account into miscellaneous receipts. Moneys in such

reserve accounts shall also be available for the payment of necessary expenses (which shall be considered nonadministrative expenses) in connection with administering (1) transfers pursuant to section 1581 of this title, (2) redeterminations of the temporary or permanent character of demountable housing pursuant to section 1583 of this title, (3) changes in land tenure and revisions in the consideration payable to landowners pursuant to subsection [1] (a) and (b), and (4) transfers of permanent war housing for low-rent use pursuant to section 1586 of this title. Moneys in such reserve account shall also be available for the purpose of making improvements to, or alterations of, any permanent housing or part thereof if (1) the dwelling structures therein are designed for occupancy by not more than four families and are to be sold separately and (2) such improvement or alteration is requested by the local governing body as a condition to the acceptance of the dedication of streets or utilities or is necessary for compliance with local law or regulation relating to the continued operation or occupancy of the housing by a purchaser.

(Oct. 14, 1940, ch. 862, title VI, §605, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Sept. 1, 1951, ch. 378, title VI, §603(b), (c), 65 Stat. 314; Aug. 2, 1954, ch. 649, title VIII, §805(1), 68 Stat. 644; Aug. 11, 1955, ch. 783, title I, §108(d), 69 Stat. 638; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title II of the Independent Offices Appropriation Act, 1955, referred to in subsec. (a), is title II of act June 24, 1954, ch. 359, 68 Stat. 294. Provisions of title II that authorized funds for acquisition of housing sites are not classified to the Code.

Subchapters III and VI of this chapter, referred to in subsec. (a), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

Section 1543 of this title, referred to in subsec. (c), was omitted from the Code.

AMENDMENTS

1955—Subsec. (a). Act Aug. 11, 1955, authorized Administrator to acquire a fee simple title to lands where he finds that such acquisition will tend to expedite the transition of the city from a war-affected community containing a large number of temporary houses to a community having additional permanent, well-planned, residential neighborhoods.

1954—Subsec. (a). Act Aug. 2, 1954, added second par.

1951—Subsec. (b). Act Sept. 1, 1951, in cl. (2), inserted "plus 100 per centum of such value", substituted "shall" for "is authorized" and "increase" for "to increase".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

[1] *So in original. Probably should be "subsections".*

§1586. Sale of specific housing projects

(a) Conditions precedent

The Secretary of Housing and Urban Development is specifically authorized to convey the following housing projects to the following local public housing agencies respectively, if—

(1) on or before January 30, 1953, (i) the conveyance is requested by the governing body of the municipality or county and (ii) the public housing agency has demonstrated to the satisfaction of the Secretary of Housing and Urban Development that there is a need for low-rent housing (as

such term is defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]) within the area of operation of such public housing agency which is not being met by private enterprise;

(2) the Secretary of Housing and Urban Development determines that the project requested will meet such need in whole or in part, and is suitable for low-rent housing use; and

(3) on or before June 30, 1953, the governing body of the municipality or county enters into an agreement with the public housing agency (satisfactory to the Secretary of Housing and Urban Development) providing for local cooperation and payments in lieu of taxes not in excess of the amount permitted by subsection (c)(5) of this section, and the public housing agency enters into an agreement with the Secretary of Housing and Urban Development (in accordance with subsection (c) of this section) or for the administration of the project:

State	*Project number*	*Local public housing agency*
Alabama	1041	Housing Authority of District of Birmingham.
	1061	Housing Authority of Greater Gadsden.
	1062	Housing Authority of Greater Gadsden.
	1031	Housing Board of Mobile.
	1033	Housing Board of Mobile.
	1034	Housing Board of Mobile.
	1035	Housing Board of Mobile.
	1036	Housing Board of Mobile.
	1101	Housing Board of Mobile.
	1102	Housing Board of Mobile.
	1072	Housing Authority of Sylacauga.
	1076	Housing Authority of Sylacauga.
	1073	Housing Authority of City of Talladega.
Arkansas	3023	Housing Authority of City of Conway.
California	4031	Housing Authority of City of Fresno.
	4161	Housing Authority of County of Kern.
	4141	Housing Authority of County of Kern.
	4103	Housing Authority of City of Los Angeles.
	4104	Housing Authority of City of Los Angeles.
	4108	Housing Authority of City of Los Angeles.
	4121	Housing Authority of City of Paso Robles.
	4171	Housing Authority of City of Richmond.
	4174	Housing Authority of City of Richmond.
Connecticut	6091	Housing Authority of City of Bristol.
	6024	Housing Authority of Town of East Hartford.
	6031	Housing Authority of City of New Britain.
	6032	Housing Authority of City of New Britain.
	6101	Housing Authority of City of New Haven.
	6041	Housing Authority of City of Waterbury.
	6213	Housing Authority of City of Waterbury.
District of Columbia	49012	National Capital Housing Authority.
	49017	National Capital Housing Authority.
	49044	National Capital Housing Authority.
Florida	8052	Housing Authority of City of Jacksonville.
	8121	Housing Authority of City of Lakeland.

	8062	Housing Authority of City of Miami.
	8011	Housing Authority of City of Orlando.
	8082	Housing Authority of City of Pensacola.
	8084	Housing Authority of City of Pensacola.
	8085	Housing Authority of City of Pensacola.
	8131	Housing Authority of City of Sebring.
	8041	Housing Authority of City of West Palm Beach.
Georgia	9071	Housing Authority of City of Albany.
	9061	Housing Authority of Macon.
	9063	Housing Authority of Macon.
	9041	Housing Authority of Savannah.
	9042	Housing Authority of Savannah.
	9043	Housing Authority of Savannah.
Illinois	11081	Madison County Housing Authority.
	11082	Madison County Housing Authority.
	11111	Winnebago County Housing Authority.
	11112	Winnebago County Housing Authority.
Indiana	12071	Housing Authority of City of Fort Wayne.
	12021	Housing Authority of City of South Bend.
Louisiana	16051	Housing Authority of Parish of East Baton Rouge.
Maryland	18095	Housing Authority of Baltimore City.
	18096	Housing Authority of Baltimore City.
	18097	Housing Authority of Baltimore City.
	18098	Housing Authority of Baltimore City.
Massachusetts	19051	Boston Housing Authority.
	19021	Chicopee Housing Authority.
	19022	Chicopee Housing Authority.
	19061	Pittsfield Housing Authority.
	19023	Springfield Housing Authority.
Michigan	20042	Housing Commission of Detroit.
Nevada	26021	Housing Authority of City of Las Vegas.
New Hampshire	27021	Housing Authority of City of Manchester.
New Jersey	28044	Housing Authority of City of Camden.
	28021	Housing Authority of City of Long Branch.
	28072	Housing Authority of City of Newark.
	28111	Housing Authority of Town of Phillipsburg.
New York	30031	Buffalo Municipal Housing Authority.
	30032	Buffalo Municipal Housing Authority.
	30042	Elmira Housing Authority.
	30033	Lackawanna Municipal Housing Authority.
	30039	Lackawanna Municipal Housing Authority.
	30034	Niagara Falls Housing Authority.
	30071	Niagara Falls Housing Authority.
	30082	Massena Housing Authority.
North Carolina	31023	Housing Authority of City of Wilmington.
	31024	Housing Authority of City of Wilmington.
Ohio	33031	Canton Metropolitan Housing Authority.
	33033	Canton Metropolitan Housing Authority.

	33021	Cincinnati Metropolitan Housing Authority.
	33071	Cleveland Metropolitan Housing Authority.
	33074	Cleveland Metropolitan Housing Authority.
	33075	Cleveland Metropolitan Housing Authority.
	33112	Lorain Metropolitan Housing Authority.
	33261	Lorain Metropolitan Housing Authority.
	33262	Lorain Metropolitan Housing Authority.
	33041	Warren Metropolitan Housing Authority.
	33043	Warren Metropolitan Housing Authority.
Oregon	35021	Housing Authority of Portland.
Pennsylvania	36051	Housing Authority of County of Beaver.
	36058	Housing Authority of County of Beaver.
	36041	Housing Authority of Bethlehem.
	36042	Housing Authority of Bethlehem.
	36044	Housing Authority of Bethlehem.
	36151	Allegheny County Housing Authority.
	36152	Allegheny County Housing Authority.
	36061	Housing Authority of County of Lawrence.
	36021	Housing Authority of City of Erie.
	36031	Housing Authority of County of Lycoming.
	36011	Housing Authority of Philadelphia.
	36012	Housing Authority of Philadelphia.
	36014	Housing Authority of Philadelphia.
	36015	Housing Authority of Philadelphia.
	36016	Housing Authority of Philadelphia.
	36101	Housing Authority of City of Pittsburgh.
	36212	Allegheny County Housing Authority.
	36295	Housing Authority of City of York.
Rhode Island	37013	Housing Authority of City of Newport.
South Carolina	38023	Housing Authority of City of Charleston.
	38061	Housing Authority of City of Charleston.
	38041	Housing Authority of City of Spartanburg.
	38042	Housing Authority of City of Spartanburg.
Tennessee	40022	Jackson Housing Authority.
	40023	Milan Housing Authority.
	40011	Nashville Housing Authority.
	40025	Trenton Housing Authority.
Texas	41064	Housing Authority of City of Corpus Christi.
	41065	Housing Authority of City of Corpus Christi.
	41133	Housing Authority of City of Freeport.
	41031	Housing Authority of City of Houston.
	41131	Housing Authority of City of Lake Jackson.
	41101	Housing Authority of City of Mineral Wells.
	41103	Housing Authority of City of Mineral Wells.
	41072	Housing Authority of City of Orange.
	41032	Housing Authority of City of Pasadena.
	41141	Housing Authority of City of Texarkana.
	41121	Housing Authority of City of Wichita Falls.

Virginia	44131	Alexandria Redevelopment and Housing Authority.
	44132	Alexandria Redevelopment and Housing Authority.
	44133	Alexandria Redevelopment and Housing Authority.
	44135	Alexandria Redevelopment and Housing Authority.
	44136	Alexandria Redevelopment and Housing Authority.
	44065	Newport News Redevelopment and Housing Authority.
	44074	Norfolk Redevelopment and Housing Authority.
	44086	Portsmouth Redevelopment and Housing Authority.
Washington	45043	Housing Authority of City of Bremerton.
	45277N	Housing Authority of County of Clallam.
	45315N	Housing Authority of County of Clallam.
	45133	Housing Authority of County of King.
	45052	Housing Authority of City of Seattle.
	45053	Housing Authority of City of Seattle.
	45054	Housing Authority of City of Seattle.
	45055	Housing Authority of City of Seattle.
	45056	Housing Authority of City of Seattle.
	45122	Housing Authority of City of Vancouver.

In addition to the authority of the Secretary of Housing and Urban Development under the first sentence of this subsection, the Secretary is specifically authorized to convey any permanent war housing project to a local public housing agency if requested in writing, within sixty days after April 20, 1950, by such agency or the executive head of the municipality (or of the county or parish if such project is not in a municipality) within which the project is located, or by the Governor of the State where an agency of the State has authority to operate the project: *Provided*, That any conveyance by the Secretary of Housing and Urban Development pursuant to this sentence shall be subject to the same conditions and requirements as provided in this section with respect to a project specifically designated herein.

(b) Projects as "low-rent housing"

Upon the conveyance by the Secretary of Housing and Urban Development of any such project pursuant to the provisions of this section, such project shall constitute and be deemed to be "low-rent housing" as that term is used and defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] (and to be a low-rent housing project assisted pursuant to that Act, within the meaning of section 1404a(b) of this title). Any instrument of conveyance by the Administrator stating that it is executed under subchapters II to VII of this chapter shall be conclusive evidence of compliance therewith insofar as any title or other interest in the property is concerned.

(c) Conditions and requirements of agreements

The agreement between the public housing agency and the Secretary of Housing and Urban Development required by subsection (a) of this section shall contain the following conditions and requirements, and may contain such further conditions, requirements, and provisions as the Secretary determines—

(1) during a period of forty years following the conveyance the project shall be administered as low-rent housing in accordance with subsections 2(1) and 2(2) of the United States Housing Act of 1937 [42 U.S.C. 1402(1) and (2)]: *Provided*, That if at any time during such period the public housing agency and the Secretary of Housing and Urban Development agree that the project, or any part thereof, is no longer suitable for use as low-rent housing, the project, or part thereof, shall with the approval of the Secretary of Housing and Urban Development be sold by the public housing agency after which the agreement shall be deemed to have terminated with respect to such

project or part thereof except that the proceeds from such sale, after payment of the reasonable expense thereof, shall be paid to the Secretary of Housing and Urban Development, or, with the Secretary's approval, used to finance the repair or rehabilitation of a project or part thereof conveyed to the public housing agency under this section;

(2) the public housing agency shall, within six months following the conveyance, initiate a program for the removal of all families residing in the project on the date of conveyance who are ineligible under the provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] for continued occupancy therein, and shall have required such ineligible tenants to vacate their dwellings within eighteen months after the initiation of such program: *Provided*, That military personnel as designated by the Secretary of Defense or his designee shall not be subject to such removal until eighteen months after the date of conveyance;

(3) annually during the term of such agreement, the public housing agency shall pay to the Secretary of Housing and Urban Development all income from the project remaining after deducting the amounts necessary (as determined pursuant to regulations of the Secretary of Housing and Urban Development) for (i) the payment of reasonable and proper costs of operating, maintaining, and approving such project, (ii) the payments in lieu of taxes authorized hereunder, (iii) the establishment and maintenance of reasonable and proper reserves as approved by the Secretary of Housing and Urban Development, and (iv) the payment of currently maturing installments of principal of and interest on any indebtedness incurred by such public housing agency with the approval of the Secretary of Housing and Urban Development: *Provided*, That the provisions of this paragraph shall not be applicable to any project which is consolidated under a single contract with one or more low-rent projects being assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], and all income from any such project conveyed under this section may be commingled with funds of the project or projects with which it is consolidated and applied in accordance with the requirements of the consolidated contract and the provisions of section 10(c) of the said Act [42 U.S.C. 1410(c)];

(4) during the term of such agreement, the project shall be exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions;

(5) for the tax year in which the conveyance is made and the next succeeding tax year annual payments in lieu of taxes may be made to the State, city, county, or other political subdivisions in amounts not in excess of the real property taxes which would be paid to such State, city, county, or other political subdivisions if the project were not exempt from taxation; and thereafter, during the term of such agreement, payments in lieu of taxes with respect to the project may be made in annual amounts which do not exceed 10 per centum of the annual shelter rents charged in such project;

(6) in selecting tenants for such project, the public housing agency shall give such preferences as are prescribed by subsection 10(g) of the United States Housing Act of 1937 [42 U.S.C. 1410g], except that for one year after the date of conveyance of a project, the public housing agency shall, to the extent permitted by law, give such preferences, by allocation or otherwise, to military personnel as the Secretary of Defense or his designee prescribes to the public housing agency; and

(7) upon the occurrence of a substantial default in respect to the requirements and conditions to which the public housing agency is subject (as such substantial default shall be defined in such agreement), the public housing agency shall be obligated at the option of the Secretary of Housing and Urban Development, either to convey title in any case where, in the determination of the Secretary of Housing and Urban Development, (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this subchapter and the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], or to deliver possession to the Secretary of Housing and Urban Development of the project, as then constituted, to which such agreement relates: *Provided*, That in the event of such conveyance of title or delivery of possession, the Secretary of Housing and Urban Development may improve and administer such project as low-rent housing, and otherwise deal with such housing or parts thereof, subject, however, to the limitations contained in the applicable provisions of the United States Housing Act of 1937. The Secretary of Housing and Urban Development shall be obligated to reconvey or

to redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such agreement and as soon as practicable after the Secretary of Housing and Urban Development shall be satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this subchapter and the United States Housing Act of 1937, thereafter be operated in accordance with the terms of such agreement. Any prior conveyances and reconveyances, deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary of Housing and Urban Development pursuant to this paragraph upon the subsequent occurrence of a substantial default.

(d) Disposition of payments

At the end of each fiscal year, the total amount of payments during such year to the Secretary of Housing and Urban Development in accordance with subsection (c) of this section shall be covered into the Treasury as miscellaneous receipts.

(Oct. 14, 1940, ch. 862, title VI, §606, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended by Ex. Ord. No. 10284, §§6, 7, eff. Sept. 4, 1951, 16 F.R. 8971; Ex. Ord. No. 10339, eff. Apr. 7, 1952, 17 F.R. 3012; Ex. Ord. No. 10425, eff. Jan. 16, 1953, 18 F.R. 405; Pub. L. 86–372, title VIII, §807, Sept. 23, 1959, 73 Stat. 687; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 93–383, title II, §207, Aug. 22, 1974, 88 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsecs. (a)(1), (b), and (c)(2), (3), (7), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables.

Subchapters III and VI of this chapter, referred to in subsec. (b), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

Subsections 2(1) and 2(2) and section 10 of the United States Housing Act of 1937, referred to in subsec. (c)(1), (3), (6), are references to sections 2 and 10 of the Act prior to the general revision of the Act by Pub. L. 93–383. The Act as so revised is classified to section 1437 et seq. of this title. Provisions of former sections 2 and 10 are covered by sections 3 and 5 of the Act which are classified to sections 1437a and 1437d of this title.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383, §207(a), struck out provisions relating to payment of capital grants or annual contributions to low-rent housing projects.

Subsec. (c)(1). Pub. L. 93–383, §207(b), inserted provision relating to financing repair or rehabilitation of a project or part of project conveyed to public housing agency under this section.

1959—Subsec. (b). Pub. L. 86–372, §807(1), provided that if any such project is consolidated under a single annual contributions contract with any low-rent project being assisted with annual contributions under United States Housing Act of 1937, payment of any annual contribution on account of any project so assisted shall not be deemed to be a capital grant or annual contribution with respect to any project conveyed hereunder.

Subsec. (c)(3). Pub. L. 86–372, §807(2), inserted proviso making provisions of subsec. (c)(3) inapplicable to any project which is consolidated under a single contract with one or more low-rent projects being assisted under United States Housing Act of 1937, and permitting commingling of income from such project with funds of project or projects with which it is consolidated.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 10284

Ex. Ord. No. 10284, Sept. 4, 1951, extended time for request for conveyance of housing projects from Dec. 31, 1950, to Dec. 31, 1951, and extended time for entering agreements with Public Housing Administration from June 30, 1951, to June 30, 1952. See note set out under section 1589a of this title.

EXECUTIVE ORDER NO. 10339

Ex. Ord. No. 10339, Apr. 7, 1952, set out as a note under section 1589a of this title, extended time for request for conveyance of housing projects from Dec. 31, 1951, to Dec. 31, 1952, and extended time for entering agreements with Public Housing Administration from June 30, 1952, to June 30, 1953.

EXECUTIVE ORDER NO. 10425

Ex. Ord. No. 10425, Jan. 16, 1953, set out as a note under section 1589a of this title, extended time for request for conveyance of housing projects from Dec. 31, 1952, to June 30, 1953.

§1587. Disposition of other permanent war housing

(a) Public interest

The Secretary of Housing and Urban Development shall, subject to the provisions of this section, dispose of permanent war housing, other than housing conveyed pursuant to section 1586 of this title, as promptly as practicable and in the public interest.

(b) Preference in sales to individuals

Preference in the purchase of any dwelling structure designed for occupancy by not more than four families and offered for separate sale shall be granted to occupants and to veterans over other prospective purchasers for such period as the Secretary of Housing and Urban Development may determine and in the following order:

(1) a veteran who occupies a unit in the dwelling structure to be sold and who intends to continue to occupy such unit;

(2) a nonveteran who occupies a unit in the dwelling structure to be sold and who intends to continue to occupy such unit;

(3) a veteran who intends to occupy a unit in the dwelling structure to be sold.

Subject to the above order of preference, the Secretary of Housing and Urban Development may establish subordinate preferences for any such dwelling structure. In the disposition of any dwellings under this section which were acquired by the United States from persons occupying the dwellings at the time of such acquisition, the Secretary of Housing and Urban Development may, notwithstanding the order of preference provided in this section, grant a first preference to such persons in the purchase of any of these dwellings for such period and under such conditions as the Secretary may determine to be appropriate and in the public interest. As used in this subsection, the term "veteran" shall include a veteran, a serviceman, or the family of a veteran or a serviceman, or the family of a deceased veteran or serviceman whose death has been determined by the Secretary of Veterans Affairs to be service-connected.

(c) Preference in sales of projects

In the case of any housing project required by this section to be disposed of, which is not offered for separate sale of separate dwelling structures designed for occupancy by not more than four families, such project may be sold as a whole or in such portions as the Secretary of Housing and Urban Development may determine. On such sales of an entire project or portions thereof consisting of more than one dwelling structure or of an individual dwelling structure designed for occupancy by

more than four families, first preference shall be given for such period not less than ninety days nor more than six months from the date of the initial offering of such project or portions thereof as the Secretary of Housing and Urban Development may determine, to groups of veterans organized on a mutual ownership or cooperative basis (provided that any such group shall accept as a member of its organization, on the same terms, subject to the same conditions, and with the same privileges and responsibilities, required of, and extended to other members of the group any tenant occupying a dwelling unit in such project, portion thereof or building, at any time during such period as the Secretary of Housing and Urban Development shall deem appropriate, starting on the date of the announcement by the Secretary of Housing and Urban Development of the availability of such project, portion thereof or building for sale), except that a first preference for said period of not less than ninety days nor more than six months shall be given to any group organized on a mutual or cooperative basis, which, with respect to its proposed purchase of a specific housing project or portions thereof, has, prior to August 1, 1949, been granted an exception by the Secretary of Housing and Urban Development from the sales preference provisions of Public Regulation 1 of the Housing and Home Finance Agency and has been designated as a preferred purchaser.

(d) Equitable selection method for each preference class

The Secretary of Housing and Urban Development shall provide an equitable method of selecting the purchasers to apply when preferred purchasers (or groups of preferred purchasers) in the same preference class or containing members in the same preference class compete with each other.

(e) Veterans' preference

Any housing disposed of in accordance with this section shall after such disposal be deemed to be housing accommodations the construction of which was completed after June 30, 1947, within the meaning of section 4 of the Housing and Rent Act of 1947, as amended, relating to preference or priority to veterans of World War II or their families.

(f) Terms of sales

Sales pursuant to this section shall be upon such terms as the Secretary of Housing and Urban Development shall determine: *Provided*, That full payment to the Government for the property sold shall be required within a period not exceeding twenty-five years with interest on unpaid balances at not less than 4 per centum per annum, except that in the case of projects initially programmed as mutual housing communities under the defense housing program, the terms of sale shall not require a down payment and shall provide for full payment to the United States over a period of forty-five years with interest on unpaid balances at not more than 3 per centum per annum.

(g) Disregard of preferences in certain cases

The Secretary of Housing and Urban Development may dispose of any permanent war housing without regard to the preferences in subsections (b) and (c) of this section when the Secretary determines that (1) such housing, because of design or lack of amenities, is unsuitable for family dwelling use, or (2) it is being used at the time of disposition for other than dwelling purposes, or (3) it was offered, with preferences substantially similar to those provided in the Housing Act of 1950, to veterans and occupants prior to April 20, 1950.

(Oct. 14, 1940, ch. 862, title VI, §607, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Mar. 10, 1954, ch. 61, 68 Stat. 26; Aug. 2, 1954, ch. 649, title VIII, §805(2), 68 Stat. 644; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 102–54, §13(q)(6)(B), June 13, 1991, 105 Stat. 281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4 of the Housing and Rent Act of 1947, as amended, referred to in subsec. (e), is section 4 of act June 30, 1947, ch. 163, title I, 61 Stat. 195, which was formerly classified to section 1884 of the former Appendix to Title 50, War and National Defense, and has been omitted from the Code.

The Housing Act of 1950, referred to in subsec. (g), is act Apr. 20, 1950, ch. 94, 64 Stat. 48. For complete

classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1701 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration" in last sentence.

1954—Subsec. (b). Act Mar. 10, 1954, in last paragraph, inserted sentence permitting Administrator to give, in the disposition of dwellings under this section which were acquired by the United States from persons occupying the dwellings at the time of such acquisition, a first preference to such persons in the purchase thereof.

Subsec. (g). Act Aug. 2, 1954, added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1588. Sale of vacant land to local housing authorities; sale of personal property

(a) Notwithstanding any other provision of law, any land acquired under subchapters II to VII of this chapter or any other Act in connection with war or veterans' housing, but upon which no dwellings are located at the time of sale, may be sold at fair value, as determined by the Secretary of Housing and Urban Development to any agency organized for slum clearance or to provide subsidized housing for persons of low income.

(b) Notwithstanding any other provision of law, any personal property held under subchapters II to VII of this chapter, and not sold with a project or building, may be sold at fair value, as determined by the Secretary of Housing and Urban Development to any agency organized for slum clearance or to provide subsidized housing for persons of low income. Any sale of personal property under this subsection shall be made on a cash basis, payable at the time of settlement.

(Oct. 14, 1940, ch. 862, title VI, §608, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Aug. 11, 1955, ch. 787, 69 Stat. 668; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

AMENDMENTS

1955—Act Aug. 11, 1955, designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1589. Conveyance of land and nondwelling structures thereon to States for National Guard purposes

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development is authorized to convey by quit claim deed, without consideration, to any State for National Guard purposes any land, together with any nondwelling structures thereon, held under subchapters II to VII of this chapter or any other Act in connection with war or veterans' housing: *Provided*, That the United States shall be saved harmless from or reimbursed for such costs incidental to the conveyance as the Secretary of Housing and Urban Development may deem proper: *Provided further*, That the conveyance of such land shall contain the express condition that if the grantee shall fail or cease to use such land for such purposes, or shall alienate (or attempt to alienate) such land, title thereto shall, at the option of the United States, revert to the United States.

(Oct. 14, 1940, ch. 862, title VI, §609, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1589a. Extension by President of dates for disposal and other actions relating to housing under this subchapter

Notwithstanding any other provision of law, the President is authorized to extend, for such period or periods as he shall specify, the time within which any action is required or permitted to be taken by the Secretary of Housing and Urban Development or others under the provisions of this subchapter or section 1553 of this title (or any contract entered into pursuant thereto), upon a determination by him, after considering the needs of national defense and the effect of such extension upon the general housing situation and the national economy, that such extension is in the public interest.

(Oct. 14, 1940, ch. 862, title VI, §611, as added Sept. 1, 1951, ch. 378, title VI, §603(d), 65 Stat. 314; amended July 14, 1952, ch. 723, §6, 66 Stat. 603; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

AMENDMENTS

1952—Act July 14, 1952, inserted "or section 1553 of this title" immediately before parenthetical clause, and substituted "thereto" for "of this subchapter" in parenthetical clause.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 10284

Ex. Ord. No. 10284, Sept. 1, 1951, 16 F.R. 8971, was superseded by Ex. Ord. No. 10339, Apr. 5, 1952, 17 F.R. 3012.

EX. ORD. NO. 10339. EXTENSIONS OF TIME

Ex. Ord. No. 10339, Apr. 7, 1952, 17 F.R. 3012, as amended by Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405, provided:

1. [Superseded. Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405.]

2. The time stipulated in subsection (c) of section 601 of the Act [section 1581(c) of this title] on or before which all conditions to relinquishments or transfers pursuant to requests made under subsections (a), (b) and (g) of that section must be complied with is extended to June 30, 1953.

3. The time stipulated in section 604 of the Act [section 1584 of this title] after which vacancies occurring or continuing in temporary housing remaining under the jurisdiction of the Housing and Home Finance Administrator on land under his control may be filled only by transfer of tenants of other accommodations in the same locality being removed as required by the Act is extended to July 1, 1953.

4. The time stipulated in section 604 of the Act [section 1584 of this title] on or before which all tenants must be notified to vacate the premises is extended to March 31, 1954; and the time required to be stipulated in such notices prior to which the premises must be vacated is extended to July 1, 1954.

5. The time stipulated in section 604 of the Act [section 1584 of this title] promptly after which actions must be instituted to evict any tenants still remaining is extended to July 1, 1954.

6. [Superseded. Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405.]

7. The time stipulated in section 606(a)(3) of the Act [section 1586(a)(3) of this title] on or before which the governing body of the municipality or county must enter into an agreement with the public housing agency satisfactory to the Public Housing Administration providing for local cooperation and payments in lieu of taxes and on or before which the public housing agency must enter into an agreement with the Public Housing Administration for the administration of any project requested under section 606(a) of the Act [section 1586(a) of this title] is extended to June 30, 1953.

This order supersedes Executive Order 10284, dated September 1, 1951.

EX. ORD. NO. 10385. EXTENSION OF TIME RELATING TO THE REMOVAL OF CERTAIN TEMPORARY HOUSING

Ex. Ord. No. 10385, Aug. 16, 1952, 17 F.R. 7525, provided:

The time stipulated in section 313 of the said act approved October 14, 1940, as amended [section 1553 of this title], within which, subject to the qualifications stated in the said section 313 [section 1553 of this title], housing of a temporary character under the jurisdiction of the Housing and Home Finance Administrator and constructed under certain laws must be removed is hereby extended from December 31, 1952, to July 1, 1954.

EX. ORD. NO. 10395. EXTENSION OF TIME

Ex. Ord. No. 10395, Sept. 18, 1952, 17 F.R. 8449, as amended by Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405, provided:

1. [Superseded. Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405.]

2. The time stipulated in subsection (c) of section 601 of the Act [section 1581(c) of this title] on or before which all conditions to relinquishments or transfers pursuant to requests made under subsection (h) of that section must be complied with is extended to June 30, 1953.

EX. ORD. NO. 10425. EXTENSIONS OF TIME

Ex. Ord. No. 10425, Jan. 16, 1953, 18 F.R. 405, provided:

1. The time stipulated in subsection (c) of section 601 of the act [section 1581(c) of this title] on or before which requests must be filed under subsections (a), (b), (g), and (h) of that section is extended to June 30, 1953.

2. The time stipulated in section 606(a)(1) of the action or before which conveyance of the housing projects listed in section 606(a)(3) of the act [section 1586(2)(1) of this title] must be requested by the governing body of the municipality or county and on or before which the need for low-rent housing must be demonstrated to the satisfaction of the Administrator is extended to June 30, 1953.

This order supersedes paragraphs 1 and 6 of Executive Order No. 10339 of April 5, 1952 [set out above], and paragraph 1 of Executive Order No. 10395 of September 18, 1952 [set out above].

EX. ORD. NO. 10462. DELEGATION OF FUNCTIONS TO THE HOUSING AND HOME FINANCE ADMINISTRATOR

Ex. Ord. No. 10462, June 19, 1953, 18 F.R. 3613, provided:

1. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action by the President, the functions vested in the President by section 611 of the act entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended (42 U.S.C. 1589a).

2. The meaning of the terms "perform" and "functions" as used in this order shall be the same as the meaning of those terms as used in chapter 4 of title 3 of the United States Code.

§1589b. Establishment of income limitations for occupancy of housing; effect on prior tenants

The Secretary of Housing and Urban Development notwithstanding any other provisions of subchapters II to VII of this chapter or any other law except provisions hereafter enacted expressly in amendment hereof, is authorized to establish income limitations for occupancy of any housing held by him under subchapters II to VII of this chapter and, giving consideration to the ability of such tenants to obtain other housing accommodations, to require tenants, admitted to occupancy prior to the establishment of such income limitations and who have incomes in excess of limitations established by him, to vacate such housing.

(Oct. 14, 1940, ch. 862, title VI, §612, as added Sept. 1, 1951, ch. 378, title VI, §603(d), 65 Stat. 314; amended Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in text, were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1589c. Transfer of certain housing to Indians

Upon a certification by the Secretary of the Interior that any surplus housing, classified by the Secretary of Housing and Urban Development as demountable, in the area of San Diego, California, is needed to provide dwelling accommodations for members of a tribe of Indians in Riverside County or San Diego County or Imperial County, California, the Secretary of Housing and Urban Development is authorized, notwithstanding any other provision of law, to transfer and convey such housing without consideration to such tribe, the members thereof, or the Secretary of the Interior in trust therefor, as the Secretary may prescribe: *Provided*, That the term housing as used in this section shall not include land.

(Oct. 14, 1940, ch. 862, title VI, §613, as added Aug. 2, 1954, ch. 649, title VIII, §805(3), 68 Stat. 645; amended Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1589d. Undisposed housing

(a) Disposal to highest bidder; rejection of bids; disposal by negotiation

Notwithstanding the provisions of this or any other law, (1) any housing to be sold on-site determined by the Secretary of Housing and Urban Development to be permanent, located on lands owned by the United States and under the jurisdiction of the Secretary, which is not relinquished, transferred, under contract of sale, sold, or otherwise disposed of by the Secretary under other provisions of this subchapter or under the provisions of other law by January 1, 1957, except housing which is determined by the Secretary by that date to be suitable for sale in accordance with section 1587(b) of this title; and (2) any permanent housing to be sold off-site which is not relinquished, transferred, under contract of sale, sold, or otherwise disposed of prior to August 7, 1956, shall be disposed of, as expeditiously as possible, on a competitive basis to the highest responsible bidder upon such terms and after such public advertisement as the Secretary of Housing and Urban Development may deem in the public interest; except that the Secretary of Housing and Urban Development may reject any bid which the Secretary deems less than the fair market value of the property and may thereafter dispose of the property by negotiation.

(b) Contracts; time for passage of title; termination of purchaser's rights

Notwithstanding the provisions of this or any other law, all contracts entered into after August 7, 1956, for the sale, transfer, or other disposal of housing (other than housing subject to the provisions of section 1587(b) of this title) determined by the Secretary of Housing and Urban Development to be permanent, except contracts entered into pursuant to subsection (a) hereof, shall require that if title does not pass to the purchaser by April 1, 1957 (or within sixty days thereafter if such time is necessary to cure defects in title in accordance with the provisions of the contract), the rights of the purchaser shall terminate and thereafter the housing shall be sold under the provisions of subsection (a) hereof. For the purposes of this subsection, title shall be considered to have passed upon the execution of a conditional sales contract.

(c) Dates

The dates set forth in subsections (a) and (b) of this section shall not be subject to change by virtue of the provisions of section 1589a of this title.

(Oct. 14, 1940, ch. 862, title VI, §614, as added Aug. 7, 1956, ch. 1029, title IV, §407(a), 70 Stat. 1106; amended Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1590. Definitions

As used in this subchapter, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates otherwise:

(a) The term "governing body of the municipality or county" means the governing body of the city, village, or other municipality having general governmental authority over the area in which the housing involved is located or, if the housing is not located in such a municipality, the term means the governing body of the county or parish in which the housing is located, or if the housing is located in the District of Columbia the term means the Council of the District of Columbia.

(b) The term "housing" means any housing under the jurisdiction of the Secretary of Housing and

Urban Development (including trailers and other mobile or portable housing) constructed, acquired, or made available under subchapters II to VII of this chapter or Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Laws 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, or any other law, and includes in addition to dwellings any structures, appurtenances, and other property, real or personal, acquired for or held in connection therewith.

(c) The term "temporary housing" means any housing (as defined in (b)) which the Secretary of Housing and Urban Development has determined to be "of a temporary character" pursuant to subchapters II to VII of this chapter and shall also include any such housing after rights thereto have been relinquished or transferred under this subchapter or section 1575 of this title.

(d) The terms "veteran" and "serviceman" mean "veteran" and "serviceman" as those terms are defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(e) The term "State" means any State, Territory, dependency, or possession of the United States, or the District of Columbia.

(f) The term "going Federal rate of interest" means "going Federal rate" as that term is defined in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(g) The term "United States Housing Act of 1937" [42 U.S.C. 1437 et seq.] means the provisions of that Act, including all amendments thereto, now or hereafter adopted, except provisions relating to the initial construction of a project or dwelling units.

(Oct. 14, 1940, ch. 862, title VI, §610, as added June 28, 1948, ch. 688, §7, as added Apr. 20, 1950, ch. 94, title II, §201, 64 Stat. 59; amended Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; 1967 Reorg. Plan No. 3, §402(432), eff. Nov. 3, 1967, 32 F.R. 11669, 81 Stat. 948; Pub. L. 93–198, title IV, §401, Dec. 24, 1973, 87 Stat. 785.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters III and VI of this chapter, referred to in subsecs. (b) and (c), were comprised of sections 1531 to 1536 and 1571 to 1576, respectively, of this title and have been omitted from the Code. For further details, see note set out under section 1522 of this title.

The provisions of Public Law 781, and Public Laws 9, 73, or 353, referred to in subsec. (b), are not classified to the Code. For further details, see note set out under section 1524 of this title.

The United States Housing Act of 1937, referred to in subsecs. (d), (f), and (g), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

In subsec. (a), "Council of the District of Columbia" substituted for "District of Columbia Council" pursuant to Pub. L. 93–198, title IV, §401, Dec. 24, 1973, 87 Stat. 785. District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93–198.

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Previously, reference to Board of Commissioners of District of Columbia had been changed to District of Columbia Council pursuant to section 402(432) of Reorganization Plan No. 3 of 1967, 32 F.R. 11669, eff. Nov. 3, 1967, set out in the Appendix to Title 5, Government Organization and Employees, which transferred

the regulatory and other functions of Board of Commissioners relating to functions under this subchapter previously vested in Board of Commissioners pursuant to this section to District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing District of Columbia Council, see section 201 of the Reorg. Plan No. 3 of 1967.

SUBCHAPTER VIII—CRITICAL DEFENSE HOUSING AREAS

§1591. Determination of critical areas by President; requisite conditions

(a) Notwithstanding any other provisions of this Act, the authority contained in titles II or III of this Act shall not be exercised in any area unless the President shall have determined that such area is a critical defense housing area.

(b) No area shall be determined to be a critical defense housing area pursuant to this section unless the President finds that in such area all the following conditions exist:

(1) a new defense plant or installation has been or is to be provided, or an existing defense plant or installation has been or is to be reactivated or its operation substantially expanded;

(2) substantial in-migration of defense workers or military personnel is required to carry out activities at such plant or installation; and

(3) a substantial shortage of housing required for such defense workers or military personnel exists or impends which impedes or threatens to impede activities at such defense plant or installation, or that community facilities or services required for such defense workers or military personnel are not available or are insufficient, or both, as the case may be.

(Sept. 1, 1951, ch. 378, title I, §101, 65 Stat. 293; June 30, 1953, ch. 170, §15, 67 Stat. 125.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (c), and (d), means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. Title II of this Act enacted subchapter X (§1750 et seq.) of chapter 13 of Title 12, Banks and Banking, and amended sections 371, 1430, 1702, 1706, 1715c, 1715f, 1716, and 1743 of Title 12. Title III of this Act is classified generally to subchapter IX (§1592 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables.

AMENDMENTS

1953—Subsec. (a). Act June 30, 1953, substituted "titles II or III" for "titles II, III, or IV".

STATUTORY NOTES AND RELATED SUBSIDIARIES

INCONSISTENT LAWS

Act Sept. 1, 1951, ch. 378, title VI, §617, 65 Stat. 317, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [see Short Title of 1951 Amendment note set out under section 1501 of this title], the provisions of this Act shall be controlling."

SEPARABILITY

Act Sept. 1, 1951, ch. 378, title VI, §618, 65 Stat. 317, provided in second sentence that: "Notwithstanding any other evidence of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act [see Short Title of 1951 Amendment note set out under section 1501 of this title], or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act or the application thereof to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered."

§1591a. Construction by private enterprise

In order to assure that private enterprise shall be afforded full opportunity to provide the defense housing needed wherever possible, in any area which the President, pursuant to the authority contained in section 1591 of this title, has declared to be a critical defense housing area—

(a) Publication of number of units needed

first, the number of permanent dwelling units (including information as to types, rentals, and general locations) needed for defense workers and military personnel in such critical defense housing area shall be publicly announced and printed in the Federal Register by the Secretary of Housing and Urban Development;

(b) Suspension of credit restrictions

second, residential credit restrictions under the Defense Production Act of 1950, as amended [50 U.S.C. 4501 et seq.], (1) as to housing to be sold at $12,000 or less per unit or to be rented at $85 or less per unit per month, shall be suspended with respect to the number and types of housing units at the sales prices or rentals which the President determines to be needed in such area for defense workers or military personnel, and (2) as to all other housing, shall be relaxed in such manner and to such extent as the President determines to be necessary and appropriate to obtain the production of such housing needed in such area for defense workers or military personnel;

(c) Mortgage insurance

third, the mortgage insurance aids provided under title II of this Act shall be made available to obtain the production of housing needed in such area for defense workers or military personnel; and

(d) Construction by Government as conditional

fourth, no permanent housing shall be constructed by the Federal Government under the provisions of subchapter IX of this chapter except to the extent that private builders or eligible mortgagees have not, within a period of not less than ninety days (as the Secretary of Housing and Urban Development shall specify) following public announcement of the availability of such mortgage insurance aids under title II of this Act, indicated through bona fide applications (which meet the requirements as to types, rentals, or sales prices, and general locations) for exceptions from such residential credit restrictions or for mortgage insurance or guaranty that they will provide the housing determined to be needed in such area for defense workers and military personnel and publicly announced as provided by subsection (a) of this section.

(Sept. 1, 1951, ch. 378, title I, §102, 65 Stat. 294; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in subsec. (b), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which is classified to chapter 55 (§4501 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsecs. (c) and (d), means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. Title II of this Act enacted subchapter X (§1750 et seq.) of chapter 13 of Title 12, Banks and Banking, and amended sections 371, 1430, 1702, 1706, 1715c, 1715f, 1716, and 1743 of Title 12. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section

1581 of this title.

§1591b. Community facilities or services by local agencies

In order to assure that community facilities or services required in connection with national defense activities shall, wherever possible, be provided by the appropriate local agencies with local funds, in any area which the President, pursuant to the authority contained in section 1591 of this title, has declared to be a critical defense housing area—

(a) Certification of necessity for loan

no loan shall be made pursuant to subchapter IX of this chapter for the provision of community facilities or equipment therefor required in connection with national defense activities in such area unless the chief executive officer of the appropriate political subdivision certifies, and the Secretary of Housing and Urban Development finds, that such facilities or equipment could not otherwise be provided when needed;

(b) Certification of necessity for grants or other payments

no grant or other payment shall be made pursuant to subchapter IX of this chapter for the provision, or for the operation and maintenance, of community facilities or equipment therefor, or for the provision of community services, required in connection with national defense activities in such area unless the chief executive officer of the appropriate political subdivision certifies, and the Secretary of Housing and Urban Development finds, that such community facilities or services cannot otherwise be provided when needed, or operated and maintained, as the case may be, without the imposition of an increased excessive tax burden or an unusual or excessive increase in the debt limit of the appropriate local agency; and

(c) Maintenance and operation of facilities

no community facilities or services shall be provided, and no community facilities shall be maintained and operated, by the United States directly except where the appropriate local agency is demonstrably unable to provide such facilities and services, or to maintain or operate such community facilities and services adequately with its own personnel, with loans, grants, or payments authorized to be made pursuant to subchapter IX of this chapter.

For the purposes of this section, the term "chief executive officer of the appropriate political subdivision" shall mean appropriate principal executive officer or governing body having primary responsibility with respect to the community facility or service involved, but shall not, in any case, mean any public housing authority, or its governing body, or any of its officers, acting in such capacity.

(Sept. 1, 1951, ch. 378, title I, §103, 65 Stat. 294; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1591c. Expiration date; exception

After June 30, 1953, no construction of permanent housing may be begun under subchapter IX of this chapter. After July 31, 1954, (a) no mortgage may be insured under title IX of the National Housing Act, as amended [12 U.S.C. 1750 et seq.] (except (i) pursuant to a commitment to insure issued on or before such date or (ii) after July 31, 1954, and until August 1, 1955, during such period, or for such project or projects, as the President may designate hereunder or (iii) pursuant to a

commitment to insure issued pursuant to the preceding clause (ii)), (b) no agreement may be made to extend assistance for the provision of community facilities or services under subchapter IX of this chapter, and no construction of temporary housing or community facilities by the United States may be begun under such subchapter, except after July 31, 1954, and until August 1, 1955, during such period, or for such project or projects, as the President may designate hereunder: *Provided*, That to the extent necessary to assure the adequate completion of any facilities for which prior agreements have been made under subchapter IX, the Secretary of Housing and Urban Development may, at any time after July 31, 1954, enter into amendatory agreements under such subchapter involving the expenditure of additional Federal funds within the balance available therefor on or before such date, (c) no loan may be made or obligations purchased by the Secretary of Housing and Urban Development under section 1701g–1 of title 12 (except pursuant to a commitment issued on or before June 30, 1953, or to refinance an existing loan or existing obligations held under such section by said Secretary on June 30, 1953).

(Sept. 1, 1951, ch. 378, title I, §104, 65 Stat. 295; June 30, 1953, ch. 170, §16, 67 Stat. 125; June 29, 1954, ch. 410, §3, 68 Stat. 320; Aug. 2, 1954, ch. 649, title I, §129, 68 Stat. 609; June 30, 1955, ch. 251, §2, 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, §105, 69 Stat. 637; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246. Title IX of the National Housing Act is title IX of act June 27, 1934, ch. 847, as added by act Sept. 1, 1951, ch. 378, title II, §201, 65 Stat. 295, which is classified generally to subchapter X (§1750 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 1701g–1 of title 12, referred to in text, has been omitted from the Code.

AMENDMENTS

1955—Act Aug. 11, 1955, inserted item (iii) in cl. (a).

Act June 30, 1955, substituted "August 1, 1955" for "July 1, 1955" in two places in second sentence.

1954—Act Aug. 2, 1954, gave President standby authority to use mortgage insurance authority under title IX of the National Housing Act and the provisions in subchapter IX of this chapter for Federal aid in providing defense housing and community facilities and services in critical defense areas, in substitution for provisions under which authority for new projects under these two programs would have expired on June 30, 1954, and authorized the Housing and Home Finance Administrator to enter into amendatory agreements after June 30, 1954, to provide additional Federal assistance with respect to defense community facilities undertaken on or before such date where he finds it necessary to do so to assure the adequate completion of such facilities.

Act June 29, 1954, substituted "July 31, 1954" for "June 30, 1954" at beginning of second sentence.

1953—Act June 30, 1953, inserted sentence prohibiting the beginning of permanent housing construction under subchapter IX of this chapter, after June 30, 1953; substituted "June 30, 1954" for "June 30, 1953" at beginning of present second sentence and "temporary housing" for "housing" in cl. (b) of present second sentence; struck a former cl. (c) out of existing second sentence which provided that (after June 30, 1953) no land might be acquired by the Housing and Home Finance Administrator under subchapter X of this chapter; and redesignated cl. (d) as (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1591d. Powers as cumulative and additional

Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing.

(Sept. 1, 1951, ch. 378, title VI, §618, 65 Stat. 317.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables.

CODIFICATION

Section constitutes the first sentence of section 618 of act Sept. 1, 1951. Remainder of section 618 is set out in Separability note under section 1591 of this title.

SUBCHAPTER IX—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

STATUTORY NOTES AND RELATED SUBSIDIARIES

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with community facilities or defense housing under sections 1592 to 1592o of this title, see section 1701g–5 of Title 12, Banks and Banking.

EXPIRATION DATE

For prohibition of construction of housing or community facilities by United States under this subchapter, see section 1591c of this title.

§1592. Authority of Secretary

Subject to the provisions and limitations of this subchapter and subchapter VIII of this chapter, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to provide housing in any areas (subject to the provisions of section 1591 of this title) needed for defense workers or military personnel or to extend assistance for the provision of, or to provide, community facilities or services required in connection with national defense activities in any area which the President, pursuant to the authority contained in said section, has determined to be a critical defense housing area.

(Sept. 1, 1951, ch. 378, title III, §301, 65 Stat. 303; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592a. Construction of housing

(a) Types, sales, preferences in purchases, and payment

Consistent with other requirements of national defense, any permanent housing constructed pursuant to the authority of this subchapter shall consist of one- to four-family dwelling structures (including row houses) so arranged that they may be offered for separate sale. All housing of permanent construction which is constructed or acquired under the authority of this subchapter shall be sold as expeditiously as possible and in the public interest taking into consideration the continuation of the need for such housing by persons engaged in national defense activities. All dwelling structures of permanent construction designed for occupancy by not more than four families (including row houses) shall be offered for sale, and preference in the purchase of any such dwelling structure shall be granted to occupants and to veterans over other prospective purchasers. As among veterans, preference in the purchase of any such dwelling structure shall be given to disabled veterans whose disability has been determined by the Secretary of Veterans Affairs to be service-connected. All dwelling structures of permanent construction in any housing project which are designed for occupancy by more than four families (and other structures in such project which are not sold separately) shall be sold as an entity. On such sales first preference shall be given for such period not less than ninety days nor more than six months from the date of the initial offering of such project as the Secretary of Housing and Urban Development may determine, to groups of veterans organized on a mutual ownership or cooperative basis (provided that any such group shall accept as a member of its organization, on the same terms, subject to the same conditions, and with the same privileges and responsibilities, required of, and extended to, other members of the group any tenant occupying a dwelling unit in such project, at any time during such period as the Secretary of Housing and Urban Development shall deem appropriate, starting on the date of the announcement by the Secretary of Housing and Urban Development of the availability of such project). The Secretary of Housing and Urban Development shall provide an equitable method of selecting the purchasers when preferred purchasers (or groups of preferred purchasers) in the same preference class or containing members in the same preference class compete with each other. Sales pursuant to this section shall be for cash or credit, upon such terms as the Secretary of Housing and Urban Development shall determine, and at the fair value of the property as determined by the Secretary: *Provided*, That full payment to the Government for the property sold shall be required within a period of not exceeding twenty-five years with interest on unpaid balances at not less than 4 per centum per annum.

(b) Temporary housing

Where it is necessary to provide housing under this subchapter in locations where, in the determination of the Secretary of Housing and Urban Development, there appears to be no need for such housing beyond the period during which it is needed for housing persons engaged in national defense activities, the provisions of section 1591a of this title shall not be applicable and temporary housing which is of a mobile or portable character or which is otherwise constructed so as to be available for reuse at other locations or existing housing built or acquired by the United States under authority of any other law shall be provided. Any temporary housing constructed or acquired under this subchapter which the Secretary of Housing and Urban Development determines to be no longer needed for use under this subchapter shall, unless transferred to the Department of Defense pursuant to section 1592e of this title, or reported as excess to the Administrator of the General Services Administration pursuant to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, be sold as soon as practicable to the highest responsible bidder after public advertising, except that if one or more of such bidders is a veteran purchasing a dwelling unit for his own occupancy the sale of such unit shall be made to the highest responsible bidder who is a veteran so purchasing: *Provided*, That the Secretary of Housing and Urban Development may reject any bid for less than two-thirds of the appraised value as determined by him: *Provided further*, That the housing may be sold at fair value (as determined by the Secretary of Housing and Urban Development) to a public body for public use: *And provided*

further, That the housing structures shall be sold for removal from the site, except that they may be sold for use on the site if the governing body of the locality has adopted a resolution approving use of such structures on the site.

(c) Preference in admission to occupancy pending ultimate disposition

When the Secretary of Housing and Urban Development determines that any housing provided under this subchapter is no longer required for persons engaged in national defense activities, preference in admission to occupancy thereof shall be given to veterans pending its ultimate sale or disposition in accordance with the provisions of this subchapter. As among veterans, preference in admission to occupancy shall be given to disabled veterans whose disability has been determined by the Secretary of Veterans Affairs to be service-connected.

(Sept. 1, 1951, ch. 378, title III, §302, 65 Stat. 303; July 14, 1952, ch. 723, §5, 66 Stat. 602; Aug. 2, 1954, ch. 649, title VIII, §806, 68 Stat. 645; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 102–54, §13(q)(7)(A), June 13, 1991, 105 Stat. 281.)

EDITORIAL NOTES

CODIFICATION

In subsec. (b), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1991—Subsecs. (a), (c). Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

1954—Subsec. (b). Act Aug. 2, 1954, in second sentence, substituted provisions prescribing the disposition procedure, for former provisions that the housing should "be disposed of by the Administrator not later than the date, and subject to the conditions and requirements, hereafter prescribed by the Congress: *Provided*, That nothing in this sentence shall be construed as prohibiting the Administrator from removing any such housing by demolition or otherwise prior to the enactment of such legislation".

1952—Subsec. (b). Act July 14, 1952, inserted "or existing housing built or acquired by the United States under authority of any other law" after "for reuse at other locations".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592b. Maximum construction costs; determinations by Secretary in certain condemnation proceedings

The cost per family dwelling unit for any housing project constructed under the authority of this subchapter shall not exceed an average of $9,000 for two-bedroom units in such project, $10,000 for three-bedroom units in such project, and $11,000 for four-bedroom units in such project: *Provided*, That the Secretary of Housing and Urban Development may increase any such dollar limitation by not exceeding $1,000 in any geographical area where he finds that cost levels so require: *Provided further*, That in the Territories and possessions of the United States the Secretary of Housing and Urban Development may increase any such dollar limitation by 50 per centum: *And provided further*, That for the purposes of this section the cost of any land acquired by the Secretary of Housing and

Urban Development upon the filing of a declaration of taking in proceedings for the condemnation of fee title shall be considered to be the amount determined by the Secretary of Housing and Urban Development upon the basis of competent appraisal, to be the value thereof.

(Sept. 1, 1951, ch. 378, title III, §303, 65 Stat. 305; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592c. Loans or grants for community facilities or services; conditions; maximum amounts; annual adjustments

In furtherance of the purposes of this subchapter and subject to the provisions hereof, the Secretary of Housing and Urban Development may make loans or grants, or other payments, to public and nonprofit agencies for the provision, or for the operation and maintenance, of community facilities and equipment therefor, or for the provision of community services, upon such terms and in such amounts as the Secretary of Housing and Urban Development may consider to be in the public interest: *Provided*, That grants under this subchapter to any local agency for hospital construction may be made only after such action by the local agency to secure assistance under Public Law 725, Seventy-ninth Congress, approved August 13, 1946, as amended, or Public Law 380, Eighty-first Congress, approved October 25, 1949, as is determined to be reasonable under the circumstances, and only to the extent that the required assistance is not available to such local agency under said Public Law 725, or said Public Law 380, as the case may be: *Provided further*, That grants or payments for the provision, or for the maintenance and operation, of community facilities or services under this section shall not exceed the portion of the cost of the provision, or the maintenance and operation, of such facilities or services which the Secretary of Housing and Urban Development estimates to be attributable to the national defense activities in the area and not to be recovered by the public or nonprofit agency from other sources, including payments by the United States under any other provisions of this Act or any other law: *And provided further*, That any such continuing grant or payment shall be reexamined and adjusted annually upon the basis of the ability of the agency to bear a greater portion of the cost of such maintenance, operation, or services as a result of increased revenues made possible by such facility or by such defense activities.

(Sept. 1, 1951, ch. 378, title III, §304, 65 Stat. 305; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 725, Seventy-ninth Congress, approved Aug. 13, 1946, as amended, referred to in text, means act Aug. 13, 1946, ch. 958, 60 Stat. 1041, known as the Hospital Survey and Construction Act. For complete classification of this Act to the Code, see Tables.

Public Law 380, Eighty-first Congress, approved Oct. 25, 1949, referred to in text, means act Oct. 25, 1949, ch. 722, 63 Stat. 898, known as the Hospital Survey and Construction Amendments of 1949, which amended sections 291, 291d, 291f, 291g, 291h, 291i, 291j, 291n, and enacted provisions set out as notes under section 291 of this title. For complete classification of this Act to the Code, see Tables.

This Act, referred to in text, means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

HOSPITAL CONSTRUCTION; REVIVAL AND EXTENSION OF LOAN AND GRANT AUTHORITY; EXPIRATION DATE; APPROPRIATION

Act Aug. 7, 1956, ch. 1029, §605, 70 Stat. 1114, as amended by Pub. L. 86–372, title VIII, §804, Sept. 23, 1959, 73 Stat. 687; Pub. L. 87–70, title IX, §906, June 30, 1961, 75 Stat. 191, provided that notwithstanding section 1591c of this title, the authority under this section to make loans or grants, or other payments to public and non-profit agencies for the construction of hospitals was revived and extended with respect to public and nonprofit agencies which had, prior to June 30, 1953, applied under this section, for such loans or grants, or other payments for the construction of hospitals, and had been denied such loans or grants, or other payments solely because of the unavailability of funds for such purpose, provided that the authority granted by this section was to expire June 30, 1962, and authorized appropriations for fiscal years ending June 30, 1962.

§1592d. Secretary's powers with respect to housing, facilities, and services

(a) Planning, acquisition, construction, etc.

With respect to any housing or community facilities or services which the Secretary of Housing and Urban Development is authorized to provide, or any property which he is authorized to acquire, under this Act, the Secretary of Housing and Urban Development is authorized by contract or otherwise (without regard to section 6101 of title 41, section 322 of the Act of June 30, 1932 (47 Stat. 412), as amended,[1] chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, and prior to the approval of the Attorney General) to make plans, surveys, and investigations; to acquire (by purchase, donation, condemnation or otherwise), construct, erect, extend, remodel, operate, rent, lease, exchange, repair, deal with, insure, maintain, convey, sell for cash or credit, demolish, or otherwise dispose of any property, land, improvement, or interest therein; to provide approaches, utilities, and transportation facilities; to procure necessary materials, supplies, articles, equipment, and machinery; to make advance payments for leased property; to pursue to final disposition by way of compromise or otherwise, claims both for and against the United States (exclusive of claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials, and claims involving administrative expenses) which are not in litigation and which have not been referred to the Department of Justice; and to convey without cost to States and political subdivisions and instrumentalities thereof property for streets and other public thoroughfares and easements for public purposes: *Provided,* That any instrument executed by the Secretary of Housing and Urban Development and purporting to convey any right, title or interest in any property acquired pursuant to this subchapter or subchapter X of this chapter shall be conclusive evidence of compliance with the provisions thereof insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned. Notwithstanding any provisions of this Act, housing or community facilities constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State and local laws, ordinances, rules, or regulations relating to health and sanitation, and, to the maximum extent practicable, taking into consideration the availability of materials and the requirements of national defense, any housing or community facilities, except housing or community facilities of a temporary character, constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State or local laws, ordinances, rules, or regulations relating to building codes.

(b) Condemnation

Before condemnation proceedings are instituted pursuant to this subchapter or subchapter X an effort shall be made to acquire the property involved by negotiation unless, because of reasonable doubt as to the identity of the owner or owners, because of the large number of persons with whom it

would be necessary to negotiate, or for other reasons, the effort to acquire by negotiation would involve, in the judgment of the Secretary of Housing and Urban Development, such delay in acquiring the property as to be contrary to the interest of national defense. In any condemnation proceeding instituted pursuant to this subchapter or subchapter X, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 3114(a) to (d) of title 40, providing for such declarations. Unless title is in dispute, the court, upon application, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding.

(c) Return to original owner in certain cases

If any real property acquired under this subchapter or subchapter X is retained after June 30, 1954, without having been used for the purposes of this Act, the Secretary of Housing and Urban Development shall, if the original owner desires the property and pays the fair value thereof, return such property to the owner. In the event the Secretary of Housing and Urban Development and the original owner do not agree as to the fair value of the property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the Secretary of Housing and Urban Development, one by the original owner, and the third by the first two appraisers; the expenses of such determination shall be paid in equal shares by the Government and the original owner.

(Sept. 1, 1951, ch. 378, title III, §305, 65 Stat. 305; June 30, 1953, ch. 170, §17, 67 Stat. 125; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 97–214, §10(b)(1), July 12, 1982, 96 Stat. 175.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables.

Section 322 of the Act of June 30, 1932, referred to in subsec. (a), is section 322 of act June 30, 1932, ch. 314, 47 Stat. 412, which was classified to section 278a of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 100–678, §7, Nov. 17, 1988, 102 Stat. 4052.

Subchapter X, referred to in subsecs. (a), (b), and (c), was in the original, title IV, meaning title IV of act Sept. 1, 1951, ch. 378, 65 Stat. 310, which enacted sections 1593 to 1593d of this title and was repealed by act June 30, 1953, ch. 170, §19, 67 Stat. 126.

CODIFICATION

In subsec. (a), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" and "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b), "section 3114(a) to (d) of title 40" substituted for "the first section of the Act of February 26, 1931 (46 Stat. 1421)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–214 struck out reference to section 1136 of the Revised Statutes, which had been enacted as sections 4774 and 9774 of title 10 by act Aug. 10, 1956, ch. 1041, as amended by Pub. L. 93–166, §509(c), (e), Nov. 29, 1973, 87 Stat. 677, 678.

1953—Subsec. (c). Act June 30, 1953, substituted "June 30, 1954" for "June 30, 1953".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–214 effective Oct. 1, 1982, and applicable to military construction projects, and

to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

[1] *See References in Text note below.*

§1592e. Interagency transfers of property; application of rules and regulations

Any Federal agency may, upon request of the Secretary of Housing and Urban Development, transfer to his jurisdiction without reimbursement any lands, improved or unimproved, or other property real or personal, considered by the Secretary of Housing and Urban Development to be needed or useful for housing or community facilities, or both, to be provided under this subchapter, and the Secretary of Housing and Urban Development is authorized to accept any such transfers. The Secretary of Housing and Urban Development may also utilize any other real or personal property under his jurisdiction for the purpose of this subchapter without adjustment of the appropriations or funds involved. Any property so transferred or utilized, and any funds in connection therewith, shall be subject only to the authorizations and limitations of this subchapter. The Secretary of Housing and Urban Development may, in his discretion, upon request of the Secretary of Defense or his designee, transfer to the jurisdiction of the Department of Defense without reimbursement any land, improvements, housing, or community facilities constructed or acquired under the provisions of this subchapter and considered by the Department of Defense to be required for the purposes of the said Department. Upon the transfer of any such property to the jurisdiction of the Department of Defense, the laws, rules, and regulations relating to property of the Department of Defense shall be applicable to the property so transferred, and the provisions of this subchapter and the rules and regulations issued thereunder shall no longer apply.

(Sept. 1, 1951, ch. 378, title III, §306, 65 Stat. 306; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592f. Preservation of local civil and criminal jurisdiction, and civil rights; jurisdiction of State courts

Notwithstanding any other provisions of law, the acquisition by the United States of any real property pursuant to this subchapter or subchapter X of this chapter shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property, or impair the civil or other rights under the State or local law of the inhabitants of such property. Any proceedings by the United States for the recovery of possession of any property or project acquired, developed, or constructed under this subchapter or subchapter X of this chapter may be brought in the courts of the States having jurisdiction of such causes.

(Sept. 1, 1951, ch. 378, title III, §307, 65 Stat. 307.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter X of this chapter, referred to in text, was in the original "title IV of this Act", meaning title IV of act Sept. 1, 1951, ch. 378, 65 Stat. 310, which enacted sections 1593 to 1593d of this title and was repealed by act June 30, 1953, ch. 170, §19, 67 Stat. 126.

§1592g. Payment of annual sums to local authorities in lieu of taxes

The Secretary of Housing and Urban Development shall pay from rentals annual sums in lieu of taxes and special assessments to any State and/or political subdivision thereof, with respect to any real property, including improvements thereon, acquired and held by the Secretary under this subchapter for residential purposes (or for commercial purposes incidental thereto), whether or not such property is or has been held in the exclusive jurisdiction of the United States. The amount so paid for any year upon such property shall approximate the taxes and special assessments which would be paid to the State and/or subdivision, as the case may be, upon such property if it were not exempt from taxation and special assessments, with such allowance as may be considered by the Secretary to be appropriate for expenditures by the Federal Government for the provision or maintenance of streets, utilities, or other public services to serve such property.

(Sept. 1, 1951, ch. 378, title III, §308, 65 Stat. 307; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592h. Conditions and requirements as to contracts; utilization of existing facilities; disposition of facilities constructed by United States

In carrying out this subchapter—

(a) notwithstanding any other provisions of this subchapter, so far as is consistent with emergency needs, contracts shall be subject to section 6101 of title 41;

(b) the cost-plus-a-percentage-of-cost system of contracting shall not be used, but contracts may be made on a cost-plus-a-fixed-fee basis: *Provided*, That the fixed fee shall not exceed 6 per centum of the estimated cost;

(c) wherever practicable, existing private and public community facilities shall be utilized or such facilities shall be extended, enlarged, or equipped in lieu of constructing new facilities; and

(d) all right, title, and interest of the United States in and to any community facilities constructed by the United States pursuant to the authority contained in this subchapter shall (if such agency is willing to accept such facility and operate the same for the purpose for which it was constructed) be disposed of to the appropriate State, city, or other local agency having responsibility for such type of facility in the area not later than one year after June 30, 1953, and subject to the conditions and requirements hereafter prescribed by the Congress.

(Sept. 1, 1951, ch. 378, title III, §309, 65 Stat. 307.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§1592i. Laborers and mechanics

(a) Wages; overtime

Notwithstanding any other provision of law, the wages of every laborer and mechanic employed on any construction, maintenance, repair, or demolition work authorized by this subchapter shall be computed on a basic day rate of eight hours per day and work in excess of eight hours per day shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

(b) Applicability of other laws

The provisions of sections 3141–3144, 3146, and 3147 of title 40; of section 874 of title 18; and of section 3145 of title 40, shall apply in accordance with their terms to work pursuant to this subchapter.

(c) Stipulations in loan contracts as to wages; certification

Any contract for loan or grant, or both, pursuant to this subchapter shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the construction of the project at the site thereof; and the Secretary of Housing and Urban Development shall require certification as to compliance with the provisions of this subsection prior to making any payment under such contract.

(d) Reports by contractors and subcontractors to Secretary of Labor

Any contractor engaged in the development of any project financed in whole or in part with funds made available pursuant to this subchapter shall report monthly to the Secretary of Labor, and shall cause all subcontractors to report in like manner, within five days after the close of each month and on forms to be furnished by the United States Department of Labor, as to the number of persons on their respective payrolls on the particular project, the aggregate amount of such payrolls, the total man-hours worked, and itemized expenditures for materials. Any such contractor shall furnish to the Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable.

(e) Prescription of standards, regulations, and procedures by Secretary of Labor

The Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by the Secretary of Housing and Urban Development in carrying out the provisions of this subchapter (and cause to be made by the Department of Labor such investigations) with respect to compliance with and enforcement of the labor standards provisions of this section, as the Secretary deems desirable.

(Sept. 1, 1951, ch. 378, title III, §310, 65 Stat. 307; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

CODIFICATION

In subsec. (b), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act (49 Stat. 1011), as amended" and "section 3145 of title 40" substituted for "title 40, United States Code, section 276c", and, in subsec. (c), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592j. Disposition of moneys derived from rentals, operation, and disposition of property

Moneys derived from rentals, operation, or disposition of property acquired or constructed under the provisions of this subchapter shall be available for expenses of operation, maintenance, improvement, and disposition of any such property, including the establishment of necessary reserves therefor and administrative expenses in connection therewith: *Provided*, That such moneys derived from rentals, operation, or disposition may be deposited in a common fund account or accounts in the Treasury: *And provided further*, That the moneys in such common fund account or accounts shall not exceed $5,000,000 at any time, and all moneys in excess of such amount shall be covered into miscellaneous receipts.

(Sept. 1, 1951, ch. 378, title III, §311, 65 Stat. 308.)

§1592k. Determination of fair rentals and classes of occupants by Secretary

The Secretary of Housing and Urban Development shall fix fair rentals based on the value thereof as determined by the Secretary which shall be charged for housing accommodations operated under this subchapter and may prescribe the class or classes of persons who may occupy such accommodations, preferences, or priorities in the rental thereof, and the terms, conditions, and period of such occupancy.

(Sept. 1, 1951, ch. 378, title III, §312, 65 Stat. 308; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

§1592*l*. Authorization of appropriations

There are authorized to be appropriated—

(a) such sums, not exceeding $100,000,000, as may be necessary for carrying out the provisions and purposes of this subchapter relating to community facilities and services in critical defense housing areas; and

(b) such sums, not exceeding $100,000,000, as may be necessary for carrying out the provisions and purposes of this subchapter relating to housing in critical defense housing areas.

(Sept. 1, 1951, ch. 378, title III, §313, 65 Stat. 308; July 14, 1952, ch. 723, §4, 66 Stat. 602.)

EDITORIAL NOTES

AMENDMENTS

1952—Act July 14, 1952, increased appropriation authorization in subsec. (a) from $60,000,000 to $100,000,000 and in subsec. (b) from $50,000,000 to $100,000,000.

§1592m. Transfer of functions and funds in certain cases

Subject to all of the limitations and restrictions of this Act, including, specifically, the requirements of subsection (c) of section 1591b of this title and of subsections (c) and (d) of section 1592h of this title, where any other officer, department, or agency is performing, or, in the

determination of the President, has facilities adapted to the performance of, functions, powers and duties similar, or directly related, to any of the functions, powers and duties which the Secretary of Housing and Urban Development is authorized by this subchapter to perform with respect to the construction, maintenance or operation of community facilities for recreation, and daycare centers, or the provision of community services, the President may transfer to such other officer, department, or agency any of the functions, powers, and duties authorized by this subchapter to be performed with respect thereto if he finds that such transfer will assist the furtherance of national defense activities, and upon any such transfer, funds in such amount as the Director of the Office of Management and Budget shall determine, but in no event in excess of the balance of any moneys appropriated to the Secretary of Housing and Urban Development pursuant to the authorization therefor contained in this subchapter for the performance of the transferred functions, powers, and duties, may also be transferred by the President to such other officer, department, or agency: *Provided*, That the President, by Executive Order or otherwise, may prescribe or direct the manner in which any functions, powers, and duties, which the Secretary of Housing and Urban Development is authorized by this subchapter to perform with respect to assistance for the construction, or the construction of, any community facilities, shall be administered in coordination with other officers, departments, or agencies having functions or activities related thereto.

(Sept. 1, 1951, ch. 378, title III, §314, 65 Stat. 308; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment set out as a note under section 1501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of United States by section 101 of Reorg. Plan. No. 2, of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2, of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

EX. ORD. NO. 10296. PERFORMANCE OF DEFENSE HOUSING FUNCTIONS

Ex. Ord. No. 10296, Oct. 2, 1951, 16 F.R. 10103, as amended by Ex. Ord. No. 10461, June 17, 1953, 18 F.R. 3513; Ex. Ord. No. 10593, Jan. 27, 1955, 20 F.R. 599; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, provided:

1. [Revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239.]

2. [Revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239.]

3. The Housing and Home Finance Administrator is hereby designated and empowered to perform, without the approval, ratification, or other action of the President, the function vested in the President by section 102(b) of the Act [section 1591a(b) of this title], relative to the suspension and relaxation of residential credit restrictions under the Defense Production Act of 1950, as amended [50 App. §§2061 to 2166].

4. Except, as provided in paragraph 5 hereof, the functions authorized by Title III of the Act [sections 1592 to 1592o of this title] to be performed with respect to or in furtherance of the provision, maintenance, or

operation of community facilities for, and with respect to or in furtherance of the provision of community services for, recreation and child day-care centers are hereby transferred to the Federal Security Administrator and shall be performed by him or by such officers and units of the Federal Security Agency as he may determine.

5. There are hereby excluded from the transfers effected by paragraph 4 hereof (a) functions with respect to site selection and land acquisition for, and the construction (including the letting of construction contracts, the preparation and approval of plans and specifications, and the supervision of construction work and of expenditures therefor) of, projects approved by the Federal Security Administrator, whether such construction is performed on behalf of, or is aided by, the Federal Government, (b) the servicing of loans for the construction of projects so approved, and (c) the functions under the second and third provisos of section 304 of the Act [section 1592c of this title] and those under sections 103(a) and 103(b) of the Act [sections 1591b(a) and (b) of this title]: *Provided*, that (1), the Federal Security Administrator or his delegate shall determine the general layout, size, and special design features appropriate to the particular type of facility, and (2) that final plans and specifications shall conform to such determinations.

6. In the performance of functions with respect to roads and highways under the Act, the Housing and Home Finance Administrator shall from time to time consult with the Secretary of Commerce or his representative as to the relationship of road and highway projects under the said Act to road and highway programs under the jurisdiction of the said Secretary.

7. In the performance of functions under Title III of the Act [sections 1592 to 1592o of this title] in Territories there shall be consultation with the Secretary of the Interior or his representative as to the relationship of proposed facilities and services in Territories to Territorial programs of the Department of the Interior.

8. The Housing and Home Finance Administrator, in connection with the performance of the pertinent functions vested in him by Title III of the Act [sections 1592 to 1592o of this title], shall obtain the approval of the Surgeon General of the Public Health Service or his representative with respect to the public health aspects of sources of water supply developed, utilized, or aided by the said Administrator, and shall consult with the Surgeon General or his representative with respect to the public health aspects of water distribution systems and sewerage systems constructed or aided by the Administrator.

9. Subject to the consent of the Housing and Home Finance Administrator, the Surgeon General of the Public Health Service shall utilize the facilities and services of the Housing and Home Finance Agency for the performance of the following aspects of the functions conferred upon him by section 316 of the Act [section 1592o of this title]: (a) the construction by the Federal Government of projects approved by the Surgeon General (including the letting of construction contracts, the preparation or review of plans and specifications, and the supervision of construction work and expenditures therefor), (b) land acquisition for projects to be so constructed, and (c) the obtaining of information required for the purpose of, and the furnishing of recommendations with respect to, (i) the findings provided for in sections 103(a) and 103(b) of the Act [sections 1591b(a) and (b) of this title], and (ii) the actions provided for in the second and third provisos of section 304 of the Act [section 1592c of this title]. The Surgeon General shall pay the Housing and Home Finance Agency for such utilization, either in advance or otherwise, out of funds available to him for the performance of such functions.

10. Subject to the consent of the Federal Security Administrator, the Housing and Home Finance Administrator shall utilize the facilities and services of the Federal Security Agency in connection with the providing of library facilities under Title III of the Act [sections 1592 to 1592o of this title] in such manner that the division of work with respect to library facilities as between the Housing and Home Finance Administrator and the Federal Security Administrator will be the same as that with respect to recreation and child day-care center facilities as indicated in paragraphs 4 and 5 of this order. The Housing and Home Finance Administrator shall pay the Federal Security Administrator for such utilization, either in advance or otherwise, out of funds available to the Housing and Home Finance Administrator for the performance of the functions involved.

11. Paragraphs 9 and 10 shall not be construed as a limitation upon the Surgeon General or the Housing and Home Finance Administrator, as the case may be, with respect to utilization or delegation other than that referred to in such paragraphs and not inconsistent with the provisions of such paragraphs, respectively, or as divesting either the Surgeon General or the Administrator of any function conferred upon him by the Act.

12. As used in this order the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise".

§1592n. Definitions

As used in this subchapter, the following terms shall have the meanings respectively ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "State" shall mean the several States, the District of Columbia, and Territories, and possessions of the United States.

(b) "Federal agency" shall mean any executive department or officer (including the President), independent establishment, commission, board, bureau, division, or office in the executive branch of the United States Government, or other agency of the United States, including corporations in which the United States owns all or a majority of the stock, directly or indirectly.

(c) "Community facility" shall mean waterworks, sewers, sewage, garbage and refuse disposal facilities, police and fire protection facilities, public sanitary facilities, works for treatment and purification of water, libraries, hospitals and other places for the care of the sick, recreational facilities, streets and roads, and day-care centers.

(d) "Community service" shall mean the maintenance and operation of facilities for health, refuse disposal, sewage treatment, recreation, water purification, and day-care centers, and the provision of fire-protection.

(e) "National defense" shall mean (1) the operations and activities of the armed forces, the Atomic Energy Commission, or any other Government department or agency directly or indirectly and substantially concerned with the national defense, (2) other operations and activities directly or indirectly and substantially concerned with the operations and activities of the armed forces and the Atomic Energy Commission, (3) activities in connection with the Mutual Defense Assistance Act of 1949, as amended, or (4) the provision of community facilities or services necessary to the health, safety, or public welfare of the inhabitants of a town or community which has been relocated as a result of the acquisition (through eminent domain or purchase in lieu thereof) of its former site by or on behalf of the Atomic Energy Commission for national-defense activities.

(f) "Nonprofit agency" shall mean any agency no part of the net earnings of which inures to the benefit of any private stockholder or individual.

(g) "Project" shall mean housing or community facilities acquired, developed, or constructed with financial assistance pursuant to this subchapter.

(h) "Veteran" shall mean a person, or the family of a person, who has served in the active military or naval service of the United States at any time (i) on or after September 16, 1940, and prior to July 26, 1947, (ii) on or after April 6, 1917, and prior to November 11, 1918, or (iii) on or after June 27, 1950, and prior to such date thereafter as shall be determined by the President, and who shall have been discharged or released therefrom under conditions other than dishonorable or who shall be still serving therein. The term shall also include the family of a person who served in the active military or naval service of the United States within any such period and who shall have died of causes determined by the Secretary of Veterans Affairs to have been service-connected.

(Sept. 1, 1951, ch. 378, title III, §315, 65 Stat. 309; June 30, 1953, ch. 170, §18, 67 Stat. 126; Pub. L. 102–54, §13(q)(7)(B), June 13, 1991, 105 Stat. 281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Mutual Defense Assistance Act of 1949, referred to in subsec. (e), is act Oct. 6, 1949, ch. 626, 63 Stat. 714, which was classified generally to chapter 20 (§1571 et seq.) of Title 22, Foreign Relations and Intercourse, prior to its repeal by act Aug. 26, 1954, ch. 937, title V, §542(a)(5), (9) to (11), 68 Stat. 861. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1991—Subsec. (h). Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

1953—Subsec. (e)(4). Act June 30, 1953, added cl. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, Transfer of Functions notes set out under those sections.

§1592*o*. Powers of Surgeon General of Public Health Service

Notwithstanding any other provision of this subchapter, all functions, powers, and duties under this subchapter and section 1591b of this title with respect to health, refuse disposal, sewage treatment, and water purification shall be exercised by and vested in the Surgeon General of the Public Health Service: *Provided*, That the Surgeon General shall have power to delegate to any other Federal agency functions, powers, and duties with respect to construction.

(Sept. 1, 1951, ch. 378, title III, §316, 65 Stat. 310.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of 1966 Reorg. Plan No. 3 eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of 1966 Reorg. Plan. No. 3, set out as a note under section 202 of this title. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

SUBCHAPTER X—DEVELOPMENT SITES FOR ISOLATED DEFENSE INSTALLATIONS

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXPIRATION DATE

For expiration of authority of Housing and Home Administrator to act under this subchapter, see section 1591c of this title.

§§1593 to 1593d. Repealed. June 30, 1953, ch. 170, §19, 67 Stat. 126

Section 1593, acts Sept. 1, 1951, ch. 378, title IV, §401, 65 Stat. 310; July 14, 1952, ch. 723, §10(d), 66 Stat. 604, related to acquisition of land for housing and community facilities.

Section 1593a, act Sept. 1, 1951, ch. 378, title IV, §402, 65 Stat. 310, related to acquisition of land for defense installations.

Section 1593b, act Sept. 1, 1951, ch. 378, title IV, §403, 65 Stat. 311, related to payment of annual sums to local authorities in lieu of taxes.

Section 1593c, act Sept. 1, 1951, ch. 378, title IV, §404, 65 Stat. 311, related to use of Treasury moneys.

Section 1593d, act Sept. 1, 1951, ch. 378, title IV, §405, 65 Stat. 311, related to acquisition of land for privately financed defense housing.

§1593e. Housing of persons displaced by acquisition of property for defense installations or industries

Upon a finding by the Secretary of Housing and Urban Development that the acquisition of any real property for a defense installation or industry has resulted, or will result, in the displacement of persons from their homes on such property, he may (notwithstanding any other provision of this or any other law) issue regulations pursuant to which such persons may be permitted to occupy or purchase housing for which credit restrictions established pursuant to the Defense Production Act of 1950 [50 U.S.C. 4501 et seq.] have been relaxed or housing which has been provided or assisted under the provisions of this Act (including amendments to other Acts provided herein), subject to any conditions or requirements that he determines necessary for purposes of national defense.

(Sept. 1, 1951, ch. 378, title VI, §611, 65 Stat. 316; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in text, is act Sept. 8, 1950, ch. 932, 64 Stat. 798, which is classified to chapter 55 (§4501 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

This Act and herein, referred to in text, mean act Sept. 1, 1951, ch. 378, 65 Stat. 293, known as the Defense Housing and Community Facilities and Services Act of 1951. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

SUBCHAPTER XI—HOUSING FOR MILITARY PERSONNEL

§1594. Contracts for construction

(a) Contract provisions; competitive bids

The Secretary of Defense or his designee is authorized to enter into contracts with any eligible bidder to provide for the construction of urgently needed housing on lands owned or leased by the United States and situated on or near a military reservation or installation for the purpose of providing suitable living accommodations for military personnel of the armed services assigned to duty at the military installation at or in the area where the housing is situated. Any such contract shall provide that each housing unit in the project shall be placed under the control of the Secretary of Defense, or his designee, as soon as the unit is available for occupancy as determined by the Secretary of Housing and Urban Development. Any such contract shall also provide that, except for stock held by the Secretary of Housing and Urban Development, the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the Secretary of Defense, or his designee, when the housing has been completed as determined by the Secretary of Housing and Urban Development. Any such contract shall contain such terms and conditions as the Secretary of Defense may determine to be necessary to protect the interests of the United States. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with a surety or sureties satisfactory to the Secretary of Defense, or his designee, and the furnishing of such bonds

shall be deemed a sufficient compliance with the provisions of section 3131 of title 40, and no additional bonds shall be required under such section. Before the Secretary of Defense shall enter into any contract as authorized by this section for the construction of housing, he shall invite the submission of competitive bids after advertising in the manner prescribed in chapters 221 and 241 of title 10.

(b) "Eligible bidder" defined

For the purposes of this subchapter, the term "eligible bidder" means a person, partnership, firm, or corporation determined by the Secretary of Defense after consultation with the Secretary of Housing and Urban Development (1) to be qualified by experience and financial responsibility to construct housing of the type described in subsection (a) of this section, and (2) to have submitted the lowest acceptable bid.

(c) Acquisition of capital stock of property covered by mortgage

Notwithstanding any other provision of law, the Secretary of Defense or his designee is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage insured under title VIII of the National Housing Act as amended by the Housing Amendments of 1955 [12 U.S.C. 1748 et seq.], and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments required by the Secretary of Housing and Urban Development of such mortgagors; to make payments thereon; and to guarantee and indemnify the Armed Services Housing Mortgage Insurance Fund against loss in cases where so required. All housing facilities placed under the control of the Secretary of Defense pursuant to the provisions of this subchapter shall be deemed to be housing facilities under the jurisdiction of the military department to which they are assigned.

(d) Opinion as to title to property; guarantee; title search and title insurance

On request by the Secretary of Defense, the Attorney General shall furnish to the Secretary of Defense, or his designee, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the Attorney General is that the title to any such property is good and sufficient, the Secretary of Defense is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, under a mortgage on such property which is insured under title VIII of the National Housing Act [12 U.S.C. 1748 et seq.], against any losses that may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured under such title VIII shall be used for title search and title insurance costs: *Provided*, That if the Secretary of Defense, or his designee, determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the Secretary of Defense may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any payments by the Secretary of Defense hereunder shall be made from the revolving fund established under section 1594a(g) [1] of this title. Any determination by the Secretary of Defense under the foregoing proviso shall be set forth in writing, together with the reasons therefor. The Committees on Armed Services of the Senate and House of Representatives shall be promptly notified of each such determination, and of the amount of any payment made by the Secretary of Defense for title search and title insurance costs.

(Aug. 11, 1955, ch. 783, title IV, §403, 69 Stat. 651; Aug. 7, 1956, ch. 1029, title V, §§506(b)–(d), 507, 70 Stat. 1110; Pub. L. 86–149, title IV, §415, Aug. 10, 1959, 73 Stat. 323; Pub. L. 90–19, §12(d), (h)(1)–(3), May 25, 1967, 81 Stat. 23, 24; Pub. L. 117–81, div. A, title XVII, §1702(j)(2), Dec. 27, 2021, 135 Stat. 2159.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (c) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246.

Title VIII of the National Housing Act is classified generally to subchapter VIII (§1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 1594a(g) of this title, referred to in subsec. (d), was repealed by Pub. L. 87–554, title V, §501(d), July 27, 1962, 76 Stat. 237.

CODIFICATION

In subsec. (a), "section 3131 of title 40" substituted for "section 1 of the Act of August 24, 1935 (49 Stat. 793)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–81 substituted "chapters 221 and 241 of title 10" for "section 2305 of title 10".

1967—Subsecs. (a) to (c). Pub. L. 90–19, §12(d), substituted "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing.

Subsec. (a). Pub. L. 90–19, §12(h)(1), substituted "Secretary of Defense" for "Secretary" in fourth and sixth sentences.

Subsec. (b). Pub. L. 90–19, §12(h)(2), substituted "Secretary of Defense" for "Secretary".

Subsec. (d). Pub. L. 90–19, §12(h)(3), substituted "Secretary of Defense" for "Secretary" in last three sentences.

1959—Subsec. (d). Pub. L. 86–149 added subsec. (d).

1956—Subsec. (a). Act Aug. 7, 1956, §§506(b), (c), (d), 507, substituted "eligible bidder" for "eligible builder" in first sentence; substituted "the mortgagor" for "the builder" in two places in third sentence; inserted provision before last sentence, relating to furnishing by contractor of a performance bond and a payment bond with surety satisfactory to Secretary; and struck out from last sentence "with any builder" after "Before the Secretary shall enter into any contract".

Subsec. (b). Act Aug. 7, 1956, §506(b), substituted "eligible bidder" for "eligible builder".

[1] *See References in Text note below.*

§1594a. Acquisition of military housing financed under Armed Services Housing Mortgage Insurance Fund and rental housing at military bases

(a) Purchase price

Whenever the Secretary of Defense or his designee deems it necessary for the purpose of this subchapter, he may acquire, by purchase, donation, condemnation, or other means of transfer, any land or (with the approval of the Secretary of Housing and Urban Development) (1) any housing financed with mortgages insured under title VIII of the National Housing Act [12 U.S.C. 1748 et seq.] as in effect prior to August 11, 1955, or (2) any housing situated adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 207 of the National Housing Act [12 U.S.C. 1713], or (3) any housing situated on or adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) considered by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 608 of the National Housing Act [12 U.S.C. 1743], including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing. The purchase price of any such housing shall not exceed the Secretary of Housing and Urban Development's estimate of the replacement cost of such housing and related property (not including the value of any improvements installed or constructed with appropriated funds) as of the date of final endorsement for mortgage insurance reduced by an appropriate allowance representing the estimated cost of repairs and

replacements necessary to restore the property to sound physical condition, as determined by the Secretary of Defense or his designee upon the advice of the Secretary of Housing and Urban Development: *Provided*, That in any case where the Secretary of Defense or his designee acquires a project held by the Secretary of Housing and Urban Development, the price paid shall not exceed the face value of the debentures (plus accrued interest thereon) which the Secretary of Housing and Urban Development issued in acquiring such project.

(b) Housing at or near a military installation

Notwithstanding any provision of subsection (a) to the contrary, the Secretary of Defense or his designee shall, in the manner provided in subsection (a), acquire by purchase, donation, or other means of transfer or, if the parties cannot agree upon terms for acquisition by such means, by condemnation, any housing described in clause (1) or (2) of subsection (a) of this section which is located at or near a military installation where the construction of housing under the Armed Services Housing Mortgage Insurance Program has been approved by the Secretary.

(c) Condemnation; procedures; deposit; payment; interest

(1) Condemnation proceedings instituted pursuant to this section shall be conducted in accordance with the provisions of section 3113 of title 40, or any other applicable Federal statute. Before any such condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation. In any such condemnation proceedings, and in the interests of expedition, the issue of just compensation may be determined by a commission of three qualified, disinterested persons to be appointed by the court. Any commission appointed hereunder shall give full consideration to all elements of value in accordance with existing law, and shall have the powers of a master provided in subdivision (c) of rule 53 of the Federal Rules of Civil Procedure and proceedings before it shall be governed by the provisions of paragraphs (1) and (2) of subdivision (d) of such rule. Its action and report shall be determined by a majority and its findings and report shall have the effect, and be dealt with by the court in accordance with the practice prescribed in paragraph (2) of subdivision (e) of such rule. Trial of all issues, other than just compensation, shall be by the court.

(2) In any condemnation proceedings instituted to acquire any such housing, or interest therein, the court shall not order the party in possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 3114(a) to (d) of title 40. The amount of such deposit for the purpose of this section shall not in any case be less than an amount equal to the actual cost of the housing (not including the value of any improvements installed or constructed with appropriated funds) as certified by the sponsor or owner of the project to the Secretary of Housing and Urban Development pursuant to any statute or any regulations issued by the Secretary of Housing and Urban Development, reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, but any such deposit shall not include any excess mortgage proceeds or "windfalls," kickbacks and rebates received in connection with the construction of said housing as determined by the Department of Defense, or any other Federal agency. The amount of such deposit in any case where the sponsor or owner has not certified the cost of the project to the Secretary of Housing and Urban Development at August 10, 1959, shall be determined by the Secretary of Defense, or his designee, in accordance with sections 3114 to 3116 and 3118 of title 40, with a view toward accurately estimating the equity of the sponsor or owner: *Provided*, That in the event there is withdrawn from the registry of the court by the owner or sponsor a sum of money in excess of the final award of just compensation, this excess shall be repaid to the United States plus a sum equal to 4 per centum per annum on such excess from the time such sum is deposited in the registry of the court: *Provided further*, That any court in which money is deposited as provided in this section shall require the furnishing of security by the owner to protect the United States from any loss by reason of a final award of just compensation of less than the amount deposited: *And provided further*, That the deposit required to be made by this section shall be without prejudice to any party in the determination of just compensation. Unless title is in dispute, the court, upon application and subject to the foregoing provisions of this subsection, shall promptly pay to the owner at least 75 per

centum of the amount so deposited, but such payment shall be made without prejudice to any party to the proceeding. In the event that condemnation proceedings are instituted in accordance with procedures under sections 3114 to 3116 and 3118 of title 40, the court shall order that the amount deposited shall be paid in a lump sum or over a period not exceeding five years in accordance with stipulations executed by the parties in the proceedings. In connection with condemnation proceedings which do not utilize the procedures under such sections, the Secretary of Defense or his designee, after final judgment of the court, may pay or agree to pay in a lump sum or, in accordance with stipulations executed by the parties to the proceedings, over a period not exceeding five years the difference between the outstanding principal obligation, plus accrued interest, and the price for the property fixed by the court. Unless such payment is made in a lump sum, the unpaid balance thereof shall bear interest at the rate of 4 per centum per annum.

(d) Occupancy; use, or improvement of property before approval of title

Property acquired under this section may be occupied, used, and improved for the purposes of this section prior to the approval of title by the Attorney General as required by sections 3111 and 3112 of title 40.

(e) Release of accrual requirements for replacement, taxes, and hazard insurance reserves

The Secretary of Defense or his designee may, in the case of any housing acquired or to be acquired under this section, make arrangements with the mortgage whereby such mortgage will agree to release and waive all requirements of accruals for reserves for replacement, taxes, and hazard insurance provided for under the corporate charter and indenture agreement with respect to such housing, upon the execution of a written agreement by the Secretary or his designee that the purposes for which such reserves and other funds were accrued will be carried out.

(f) Use as public quarters or lease of housing

Any housing acquired under this section may be (1) assigned as public quarters to military personnel and their dependents; or (2) leased to military and civilian personnel for occupancy by them and their dependents, upon such terms and conditions as will in the judgment of the Secretary of Defense or his designee be in the best interest of the United States, without loss to military personnel of their basic allowance for quarters or appropriate allotments.

(Aug. 11, 1955, ch. 783, title IV, §404, 69 Stat. 652; Aug. 3, 1956, ch. 939, title IV, §420, 70 Stat. 1019; Aug. 7, 1956, ch. 1029, title V, §512, 70 Stat. 1111; Pub. L. 85–104, title V, §504, July 12, 1957, 71 Stat. 303; Pub. L. 85–685, title V, §513(d), Aug. 20, 1958, 72 Stat. 663; Pub. L. 86–149, title IV, §418, Aug. 10, 1959, 73 Stat. 323; Pub. L. 86–372, title VII, §§702(a), (b), 703, Sept. 23, 1959, 73 Stat. 683; Pub. L. 87–554, title V, §501(d), July 27, 1962, 76 Stat. 237; Pub. L. 88–560, title X, §1003, Sept. 2, 1964, 78 Stat. 806; Pub. L. 90–19, §12(e), (h)(4)–(6), May 25, 1967, 81 Stat. 23, 24.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title VIII of the National Housing Act is classified generally to subchapter VIII (§1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

CODIFICATION

In subsec. (c)(1), "section 3113 of title 40" substituted for "the Act of August 1, 1888 (25 Stat. 357; 40 U.S.C. 257), as amended", in subsec. (c)(2), "section 3114(a) to (d) of title 40" substituted for "the first section of the Act of February 26, 1931 (46 Stat. 1421)", "sections 3114 to 3116 and 3118 of title 40" substituted for "the Act of February 26, 1931 (46 Stat. 1421)" and for "such Act of February 26, 1931", and, in subsec. (d), "sections 3111 and 3112 of title 40" substituted for "section 355 of the Revised Statutes, as amended", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–19, §12(e)(1)–(3), (h)(4), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing in first sentence, "Secretary of Housing and Urban Development's" for "Federal Housing Commissioner's", "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing in second sentence, and "Secretary of Defense" for "Secretary" in proviso, respectively.

Subsec. (c)(2). Pub. L. 90–19, §12(e)(1), (h)(5), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing and "Secretary of Defense" for "Secretary" in penultimate sentence, respectively.

Subsec. (e). Pub. L. 90–19, §12(h)(6), substituted "Secretary of Defense" for "Secretary".

1964—Subsec. (a). Pub. L. 88–560 authorized acquisition of housing on or adjacent to a military installation completed prior to July 1, 1952, considered necessary to meet existing military family need, considered military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 608 of the National Housing Act, including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing.

1962—Subsec. (f). Pub. L. 87–554 struck out provision for deposit in the revolving fund of amounts equal to the quarters allowances or appropriate allotments of military personnel to whom housing is assigned as public quarters and rental charges for leasing of housing to military and civilian personnel.

Subsec. (g). Pub. L. 87–554 repealed subsec. (g) creating the revolving fund, enumerating uses of the fund and requiring the deposit in the fund of specified quarters allowances or allotments, rental charges and savings realized in operation of housing.

Subsec. (h). Pub. L. 87–554 repealed subsec. (h) requiring the establishment of the revolving fund on the books of the Treasury Department, limiting appropriation authorization for revolving fund capital to $50,000,000 and permitting the transfer of certain funds to provide adequate capital for the fund.

1959—Subsec. (a). Pub. L. 86–372, §702(a), authorized acquisition of any housing situated adjacent to a military installation which was completed prior to July 1, 1952, certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 207 of the National Housing Act.

Subsec. (b). Pub. L. 86–372, §702(b), substituted "any housing described in clause (1) or (2) of subsection (a) of this section" for "any housing constructed under the mortgage insurance provisions of sections 1748 to 1748h of title 12 (as in effect prior to Aug. 11, 1955)".

Subsec. (c)(2). Pub. L. 86–372, §703, required the amount of the deposit in any case where the sponsor or owner has not certified the cost of the project to be determined with a view toward accurately estimating the equity of the sponsor or owner.

Pub. L. 86–149 required the amount of the deposit to be not less than an amount equal to the actual cost of the housing as certified reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, provided for determination of amount of deposit in cases where cost has not been certified, and required payment of 4 percent interest where money has been withdrawn in excess of final award of just compensation.

1958—Subsec. (c). Pub. L. 85–685 inserted provisions authorizing issue of just compensation to be determined by a commission of three qualified, disinterested persons to be appointed by the court, prescribing its powers, relating to its action and report, and requiring trial of all issues, other than just compensation, to be by the court.

1957—Subsec. (a). Pub. L. 85–104 substituted "representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition" for "for physical depreciation".

1956—Act Aug. 7, 1956, designated existing provisions as subsecs. (a), (c), and (d), and added subsecs. (b) and (e) to (h).

Act Aug. 3, 1956, limited purchase price of housing to Commissioner's estimate of replacement cost of such housing and related property as of date of final endorsement for mortgage insurance reduced by an appropriate allowance for depreciation, and limited price of any project held by Commissioner to face value of debentures, plus accrued interest, which the Commissioner issued in acquiring the project.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Pub. L. 87–554, title V, §501(d), July 27, 1962, 76 Stat. 237, cited as a credit to this section, was repealed

by Pub. L. 97–214, §7(5), July 12, 1982, 96 Stat. 173.

§§1594a–1, 1594a–2. Repealed. Pub. L. 97–214, §7(5), July 12, 1982, 96 Stat. 173

Section 1594a–1, Pub. L. 87–554, title V, §501(a)–(c), July 27, 1962, 76 Stat. 236; Pub. L. 90–110, title VI, §606, Oct. 21, 1967, 81 Stat. 304; Pub. L. 91–142, title V, §511, Dec. 5, 1969, 83 Stat. 312; Pub. L. 96–418, title V, §511, Oct. 10, 1980, 94 Stat. 1767, related to Department of Defense family housing management account. See section 2831 of Title 10, Armed Forces.

Section 1594a–2, Pub. L. 87–554, title V, §507, July 27, 1962, 76 Stat. 240, related to prior legislative approval for appropriations for family housing. See section 2821(a) of Title 10.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

§1594b. Maintenance and operation of housing; use of quarters; payment of principal, interest, and other obligations

The Secretary of Defense or his designee is authorized to maintain and operate any housing acquired under this title and assign quarters therein to military and civilian personnel and their dependents. Appropriations for quarters allowances or appropriate allotments, and rental charges to civilian personnel, may be utilized by the military department concerned for the payment of principal, interest, and other obligations, except those of maintenance and operation, of the mortgagor corporation with respect to such housing projects. Such payments shall not exceed an average of $90 a month per housing unit and total payments for all housing so acquired shall not exceed $21,000,000 per month: *Provided*, That, in case of the United States Coast Guard, total payments for all housing so acquired shall not exceed $90,000 per month.

(Aug. 11, 1955, ch. 783, title IV, §405, 69 Stat. 652; Aug. 7, 1956, ch. 1029, title V, §508, 70 Stat. 1110.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1956—Act Aug. 7, 1956, substituted "$21,000,000" for "$9,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§1594c. Services of architects and engineers; use of appropriations; acquisition of sites

Whenever the Secretary of Defense or his designee determines that it is desirable in order to effectuate the purposes of this title, the Secretary is authorized, without regard to the civil service and classification laws, to procure, by negotiation or otherwise, the services of architects and engineers, or organizations thereof, under such arrangements as he deems desirable, but at an expense not in excess of that permissible under the schedule of fees allowed from time to time by the Secretary of Housing and Urban Development in connection with projects assisted under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]. Such services may include the development of plans, drawings and specifications for family housing under this title and other services in connection therewith: *Provided*, That such plans, drawings, and specifications may include the use of any project to be constructed under this subchapter of alternate materials or alternate types of construction, including prefabrication, that provide substantially equal value and conform to standards established by the Secretary of Housing and Urban Development: *Provided further*, That such plans, drawings, and specifications, when developed pursuant to arrangements made under this section after August 7, 1956, shall follow the principle of modular measure, in order that the housing may be built by conventional construction, on-site fabrication, factory precutting, factory fabrication, or any combination of these construction methods: *Provided further*, That the Secretary of Defense may designate certain sites or parts thereof for family housing to be furnished from prefabricated houses or housing components. Such arrangements may include provision for advance or progress payments, for payment by third parties, for payment by the Government of any such compensation as it not paid for by third parties, and shall include provision for reimbursement by third parties to the Government of any compensation or other expenses paid by the Government pursuant to this section, and may include other provisions for compensation. Any public works appropriations now or hereafter available to the Departments of the Army, Navy, or Air Force or the Coast Guard may be obligated by the respective departments or the Coast Guard for these purposes. Reimbursements to the Government on account of payments made pursuant to this section shall be made to appropriations against which such payments were charged. The Secretary of Defense is further authorized to advance or pay to the Department of Housing and Urban Development its "Appraisal and Eligibility Statement" fees in connection with such family housing. The Secretary of Defense is further authorized to enter into arrangements by contract or otherwise for eventual acquisition by the Government, without cost to the Government of all right, title, and interest in sites on which housing is constructed pursuant to this title and improvements thereon.

(Aug. 11, 1955, ch. 783, title IV, §406, 69 Stat. 653; Aug. 7, 1956, ch. 1029, title V, §509, 70 Stat. 1110; Pub. L. 90–19, §12(f), (h)(7), (8), May 25, 1967, 81 Stat. 24.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12. For complete classification of this Act to the Code, see Tables.

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Public Housing Administration" and "Federal Housing Administration" in first sentence and first proviso and for "Federal Housing Administration" in penultimate sentence and "Secretary of Defense" for "Secretary" in third proviso and last two sentences, respectively.

1956—Act Aug. 7, 1956, inserted second proviso requiring plans, drawings, and specifications to follow the principle of modular measure, so the housing may be built by conventional construction, on-site fabrication, factory precutting, factory fabrication, or any combination of these construction methods.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§1594d. Appropriations; use of quarters allowances

(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 1594, 1594a, 1594b, and 1594c of this title.

(b) Any funds heretofore or hereafter authorized to be expended by any of the military departments or the Coast Guard for the payment of allowances for quarters for military personnel may be used for the purposes specified in subsection (a) above.

(Aug. 11, 1955, ch. 783, title IV, §407, 69 Stat. 653.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§1594e. Definitions

(a) Wherever the terms "Secretary of Defense" or "Secretary of the Army, Navy, or Air Force" appear in this title or in title VIII of the National Housing Act, as amended by the Housing Amendments of 1955 [12 U.S.C. 1748 et seq.], they shall be deemed to mean the Secretary of Transportation in the case of the application of the provisions of this subchapter or of title VIII of the National Housing Act, as amended by the Housing Amendments of 1955, for the benefit of the United States Coast Guard.

(b) Wherever the term "armed services" appears in this subchapter it shall be deemed to include the United States Coast Guard.

(Aug. 11, 1955, ch. 783, title IV, §409, 69 Stat. 654; Pub. L. 89–670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938; Pub. L. 90–19, §12(g), May 25, 1967, 81 Stat. 24.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (a), means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12. For complete classification of this Act to the Code, see Tables.

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title VIII of the National Housing Act is classified generally to subchapter VIII (§1748 et seq.) of chapter 13, Title 12,

Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–19 struck out "or Secretary" after "Secretary of Defense".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation, and all functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in former section 3 (now 103) of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

§1594f. Net floor area limitations

In the construction of housing under the authority of this title and title VIII of the National Housing Act, as amended [12 U.S.C. 1748 et seq.], the maximum limitations on net floor area for each unit shall be the same as the net floor area limitations prescribed by law (at the time plans and specifications for such construction are begun) for public quarters built with appropriated funds under military construction authority.

(Aug. 11, 1955, ch. 783, title IV, §410, as added Aug. 7, 1956, ch. 1029, title V, §510, 70 Stat. 1110; amended Pub. L. 85–104, title V, §503, July 12, 1957, 71 Stat. 303.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12.

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246. Title VIII of the National Housing Act is classified generally to subchapter VIII (§1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1957—Pub. L. 85–104 substituted "limitations prescribed by law (at the time plans and specifications for such construction are begun) for public quarters built with appropriated funds under military construction authority" for "permanent limitations prescribed in the second, third, and fourth provisos of section 3 of the act of June 12, 1948 (62 Stat. 375), or section 3 of the act of June 16, 1948 (62 Stat. 459), other than the first, second, and third provisos thereof".

§1594g. Repealed. Pub. L. 85–241, title IV, §406(b), Aug. 30, 1957, 71 Stat. 556

Section, act Aug. 3, 1956, ch. 939, title IV, §419, 70 Stat. 1018, related to conditions precedent to entering into contracts for construction or acquisition of family housing units by or for the use of military or civilian personnel of any of the military services.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 85–241, title IV, §406(b), Aug. 30, 1957, 71 Stat. 556, provided that the repeal of this section is effective July 1, 1958.

§§1594h to 1594i. Repealed. Pub. L. 97–214, §7(3), (5), (9), (17), July 12, 1982, 96 Stat. 173, 174

Section 1594h, Pub. L. 85–241, title I, §103, Aug. 30, 1957, 71 Stat. 534, related to purchase of family housing for assignment as public quarters, and space and cost limitations.

Section 1594h–1, Pub. L. 87–554, title V, §503, July 27, 1962, 76 Stat. 239, related to improvement of family housing units, public quarters designation, and cost limitations.

Section 1594h–2, Pub. L. 90–110, title VI, §610(a), Oct. 21, 1967, 81 Stat. 305; Pub. L. 93–166, title V, §506(a), Nov. 29, 1973, 87 Stat. 675; Pub. L. 95–356, title V, §502(b), Sept. 8, 1978, 92 Stat. 578; Pub. L. 96–418, title V, §502(b), Oct. 10, 1980, 94 Stat. 1764, related to improvement of single family housing units and cost limitations of such improvements. See section 2825(b) of Title 10, Armed Forces.

Section 1594h–3, Pub. L. 96–418, title V, §505, Oct. 10, 1980, 94 Stat. 1765, related to settlement of contractor claims on military family housing.

Section 1594i, Pub. L. 85–241, title IV, §406(a) Aug. 30, 1957, 71 Stat. 556; Pub. L. 85–685, title V, §512, Aug. 20, 1958, 72 Stat. 662; Pub. L. 86–149, title IV, §408, Aug. 10, 1959, 73 Stat. 321; Pub. L. 86–500, title V, §507(b), June 8, 1960, 74 Stat. 185; Pub. L. 87–70, title VI, §611(b), June 30, 1961, 75 Stat. 180; Pub. L. 88–174, title V, §510, Nov. 7, 1963, 77 Stat. 327, related to authorization of number of family housing units. See section 2822 of Title 10.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

§1594j. Repealed. Pub. L. 92–545, title V, §508(c), Oct. 25, 1972, 86 Stat. 1150

Section, Pub. L. 85–241, title IV, §407, Aug. 30, 1957, 71 Stat. 556; Pub. L. 85–685, title V, §516, Aug. 20, 1958, 72 Stat. 664; Pub. L. 86–372, title VII, §702(c), Sept. 23, 1959, 73 Stat. 683; Pub. L. 86–500, title V, §508, June 8, 1960, 74 Stat. 186; Pub. L. 87–57, title VI, §610, June 27, 1961, 75 Stat. 111; Pub. L. 88–174, title V, §506, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89–568, title V, §502, Sept. 12, 1966; 80 Stat. 753; Pub. L. 90–110, title VI, §608, Oct. 21, 1967, 81 Stat. 305, provided for occupancy on a rental basis of inadequate quarters without loss of basic allowance for quarters.

§§1594j–1, 1594k. Repealed. Pub. L. 97–214, §7(6), (13), July 12, 1982, 96 Stat. 173, 174

Section 1594j–1, Pub. L. 92–545, title V, §508(a), (b), Oct. 25, 1972, 86 Stat. 1149, related to inadequate quarters.

Section 1594k, Pub. L. 88–174, title V, §507, Nov. 7, 1963, 77 Stat. 326; Pub. L. 89–188, title V, §505, Sept. 16, 1965, 79 Stat. 814; Pub. L. 90–110, title VI, §605, Oct. 21, 1967, 81 Stat. 304; Pub. L. 90–408, title VI, §607, July 21, 1968, 82 Stat. 388; Pub. L. 91–142, title V, §508, Dec. 5, 1969, 83 Stat. 312; Pub. L. 91–511, title V, §507, Oct. 26, 1970, 84 Stat. 1220; Pub. L. 92–145, title V, §507, Oct. 27, 1971, 85 Stat. 407; Pub. L. 92–545, title V, §507, Oct. 25, 1972, 86 Stat. 1149; Pub. L. 93–166, title V, §508, Nov. 29, 1973, 87 Stat. 676, related to guarantee of rental return to builders or other sponsors in foreign countries, and limitation on amount, period, and unit limitation of such guarantee.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97–214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

SAVINGS PROVISION

Pub. L. 97–214, §9(b), July 12, 1982, 96 Stat. 174, provided that the Secretary of Defense could continue in effect any agreement guaranteeing rental returns to builders or other sponsors of family housing in foreign countries under section 1594k of this title before Oct. 1, 1982, and may exercise any option of the United States in any such agreement that has not been exercised before such date.

CHAPTER 10—FEDERAL SECURITY AGENCY

§§1601, 1602. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1601, act May 9, 1941, ch. 97, 55 Stat. 184; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to adoption of a seal by Secretary of Department of Health, Education, and Welfare, and was transferred to section 3505 of this title.

Section 1602, act July 12, 1943, ch. 221, title II, §201, 57 Stat. 513; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to delegation of authority of Secretary of Health, Education, and Welfare with respect to his authority to transfer personnel and household goods from one station to another, and was transferred to section 3507 of this title.

§1603. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts July 13, 1943, ch. 221, title II, §1, 57 Stat. 513; June 28, 1944, ch. 302, title II, §1, 58 Stat. 566; July 3, 1945, ch. 263, title II, 59 Stat. 376; July 26, 1946, ch. 672, title II, §201, 60 Stat. 697; July 8, 1947, ch. 210, title II, §201, 61 Stat. 276, which authorized the Secretary of the Treasury to transfer to constituent organizations of the Federal Security Agency requested amounts from appropriations for traveling expenses and printing and binding, Federal Security Agency, and to retransfer to such appropriations, was not repeated in subsequent appropriation acts.

CHAPTER 11—COMPENSATION FOR DISABILITY OR DEATH TO PERSONS EMPLOYED AT MILITARY, AIR, AND NAVAL BASES OUTSIDE UNITED STATES

Sec.

1651. Compensation authorized.
1652. Computation of benefits; application to aliens and nonnationals.
1653. Compensation districts; judicial proceedings.
1654. Persons excluded from benefits.

1655. Requirement for Department of Defense to adopt an acquisition strategy for Defense Base Act insurance.

§1651. Compensation authorized

(a) Places of employment

Except as herein modified, the provisions of the Longshore and Harbor Workers' Compensation Act, approved March 4, 1927 (44 Stat. 1424), as amended [33 U.S.C. 901 et seq.], shall apply in respect to the injury or death of any employee engaged in any employment—

(1) at any military, air, or naval base acquired after January 1, 1940, by the United States from any foreign government; or

(2) upon any lands occupied or used by the United States for military or naval purposes in any Territory or possession outside the continental United States (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone); or

(3) upon any public work in any Territory or possession outside the continental United States (including the United States Naval Operating Base, Guantanamo Bay, Cuba; and the Canal Zone), if such employee is engaged in employment at such place under the contract of a contractor (or any subcontractor or subordinate subcontractor with respect to the contract of such contractor) with the United States; but nothing in this paragraph shall be construed to apply to any employee of such a contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(4) under a contract entered into with the United States or any executive department, independent establishment, or agency thereof (including any corporate instrumentality of the United States), or any subcontract, or subordinate contract with respect to such contract, where such contract is to be performed outside the continental United States and at places not within the areas described in subparagraphs (1)–(3) of this subdivision, for the purpose of engaging in public work, and every such contract shall contain provisions requiring that the contractor (and subcontractor or subordinate contractor with respect to such contract) (1) shall, before commencing performance of such contract, provide for securing to or on behalf of employees engaged in such public work under such contract the payment of compensation and other benefits under the provisions of this chapter, and (2) shall maintain in full force and effect during the term of such contract, subcontract, or subordinate contract, or while employees are engaged in work performed thereunder, the said security for the payment of such compensation and benefits, but nothing in this paragraph shall be construed to apply to any employee of such contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(5) under a contract approved and financed by the United States or any executive department, independent establishment, or agency thereof (including any corporate instrumentality of the United States), or any subcontract or subordinate contract with respect to such contract, where such contract is to be performed outside the continental United States, under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States, determines a contract financed under a successor provision of any successor Act should be covered by this section), and not otherwise within the coverage of this section, and every such contract shall contain provisions requiring that the contractor (and subcontractor or subordinate contractor with respect to such contract) (A) shall, before commencing performance of such contract, provide for securing to or on behalf of employees engaged in work under such contract the payment of compensation and other benefits under the provisions of this chapter, and (B) shall maintain in full force and effect during the term of such contract, subcontract, or subordinate contract, or while employees are engaged in work performed thereunder, the said security for the payment of such compensation and benefits, but nothing in this paragraph shall be construed to apply to any employee of such contractor or subcontractor who is engaged exclusively in furnishing materials or supplies under his contract;

(6) outside the continental United States by an American employer providing welfare or similar

services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense,

irrespective of the place where the injury or death occurs, and shall include any injury or death occurring to any such employee during transportation to or from his place of employment, where the employer or the United States provides the transportation or the cost thereof.

(b) Definitions

As used in this section—

(1) the term "public work" means any fixed improvement or any project, whether or not fixed, involving construction, alteration, removal or repair for the public use of the United States or its allies, including but not limited to projects or operations under service contracts and projects in connection with the national defense or with war activities, dredging, harbor improvements, dams, roadways, and housing, as well as preparatory and ancillary work in connection therewith at the site or on the project;

(2) the term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(3) the term "war activities" includes activities directly relating to military operations;

(4) the term "continental United States" means the States and the District of Columbia.

(c) Liability as exclusive

The liability of an employer, contractor (or any subcontractor or subordinate subcontractor with respect to the contract of such contractor) under this chapter shall be exclusive and in place of all other liability of such employer, contractor, subcontractor, or subordinate contractor to his employees (and their dependents) coming within the purview of this chapter, under the workmen's compensation law of any State, Territory, or other jurisdiction, irrespective of the place where the contract of hire of any such employee may have been made or entered into.

(d) "Contractor" defined

As used in this section, the term "contractor" means any individual, partnership, corporation, or association, and includes any trustee, receiver, assignee, successor, or personal representative thereof, and the rights, obligations, liability, and duties of the employer under such Longshore and Harbor Workers' Compensation Act [33 U.S.C. 901 et seq.] shall be applicable to such contractor.

(e) Contracts within section; waiver of application of section

The liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in public work under subparagraphs (3) and (4), subdivision (a) of this section, and the conditions set forth therein, shall become applicable to contracts and subcontracts heretofore entered into but not completed at August 16, 1941, and the liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in performance of contracts, subcontracts, or subordinate contracts specified in subparagraph (5), subdivision (a) of this section, and the conditions set forth therein, shall hereafter be applicable to the remaining terms of such contracts, subcontracts, and subordinate contracts entered into prior to but not completed on the date of enactment of any successor Act to the Mutual Security Act of 1954, as amended, and contracting officers of the United States are authorized to make such modifications and amendments of existing contracts as may be necessary to bring such contracts into conformity with the provisions of this chapter. No right shall arise in any employee or his dependent under subparagraphs (3) and (4) of subdivision (a) of this section, prior to two months after the approval of this chapter. Upon the recommendation of the head of any department or other agency of the United States, the Secretary of Labor, in the exercise of his discretion, may waive the application of this section with respect to any contract, subcontract, contract, or subordinate contract, work location under such contracts, or classification of employees. Upon recommendation of any employer referred to in paragraph (6) of subsection (a) of this section,

the Secretary of Labor may waive the application of this section to any employee or class of employees of such employer, or to any place of employment of such an employee or class of employees.

(f) Liability to prisoners of war and protected persons

The liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in public work under paragraphs (1), (2), (3), and (4) of subsection (a) of this section or in any work under paragraph (5) of subsection (a) of this section does not apply with respect to any person who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.

(Aug. 16, 1941, ch. 357, §1, 55 Stat. 622; Dec. 2, 1942, ch. 668, title III, §301, 56 Stat. 1035; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352; June 30, 1953, ch. 176, §4, 67 Stat. 135; Pub. L. 85–477, ch. V, §502(a), June 30, 1958, 72 Stat. 272; Pub. L. 85–608, title II, §201, Aug. 8, 1958, 72 Stat. 537; Pub. L. 86–70, §40, June 25, 1959, 73 Stat. 150; Pub. L. 86–108, ch. VII, §701(a), July 24, 1959, 73 Stat. 257; Pub. L. 87–195, pt. IV, §701, Sept. 4, 1961, 75 Stat. 463; Pub. L. 98–426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Longshore and Harbor Workers' Compensation Act, referred to in subsecs. (a) and (d), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

For definition of Canal Zone, referred to in subsec. (a)(2), (3), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

The Mutual Security Act of 1954, referred to in subsecs. (a)(5) and (e), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2–11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101–103, ch. II, §§201–205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201 to 205(a)–(i), (k)–(n), ch. III, §301, ch. IV, §401(a)–(k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, chs. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of Title 22, and which was repealed by acts July 18, 1956, ch. 627, §8(m), 70 Stat. 559; Aug. 14, 1957, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), 71 Stat. 356; July 24, 1959, Pub. L. 86–108, ch. II, §205(j), ch. IV, §401(1), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §§203(d), 204(k), 74 Stat. 138; Sept. 4, 1961, Pub. L. 87–195, pt. III, §642(a)(2), 75 Stat. 460; June 30, 1976, Pub. L. 94–329, title II, §212(b)(1), 90 Stat. 745; Apr. 4, 1996, Pub. L. 104–127, title II, §228, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of Title 22 and Tables.

Title II of Chapter II of the Mutual Security Act of 1954, referred to in subsec. (a)(5), which was classified generally to sections 1870 to 1876 of Title 22, was repealed by Pub. L. 87–195, Pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460.

CODIFICATION

Reference to Philippine Islands in paragraphs (2) and (3) of subsec. (a) of this section was omitted as obsolete in view of Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352, recognizing the independence of the Philippines and withdrawing and surrendering all rights of possession, supervision, jurisdiction, control, or sovereignty now existing and exercised by the United States in and over the territory and people of the Philippines. See note set out under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1984—Subsecs. (a), (d). Pub. L. 98–426 substituted "Longshore and Harbor Workers' Compensation Act" for "Longshoremen's and Harbor Workers' Compensation Act".

1961—Subsec. (a)(5). Pub. L. 87–195, §701(1), extended coverage in those cases where the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States, determines a contract financed under a successor provision of any successor act to the Mutual Security Act of

1954 should be covered by this section.

Subsec. (e). Pub. L. 87–195, §701(2), substituted "but not completed on the date of enactment of any successor act to the Mutual Security Act of 1954, as amended" for "June 30, 1958, but not completed on July 24, 1959".

1959—Subsec. (a)(2), (3). Pub. L. 86–70, §40(a), struck out "Alaska;" before "the United States Naval Operating Base".

Subsec. (a)(6). Pub. L. 86–70, §40(b), struck out "or in Alaska or the Canal Zone" after "continental United States".

Subsec. (b)(4). Pub. L. 86–70, §40(c), added par. (4).

Subsec. (e). Pub. L. 86–108 provided that the liability under this chapter of a contractor, subcontractor, or subordinate contractor engaged in performance of contracts, subcontracts, or subordinate contracts specified in subsec. (a)(5) of this section, and the conditions set forth therein, shall be applicable to the remaining terms of such contracts, subcontracts, and subordinate contracts entered into prior to June 30, 1958, but not completed on July 24, 1959.

1958—Subsec. (a)(5). Pub. L. 85–477, §502(a)(1), added par. (5).

Subsec. (a)(6). Pub. L. 85–608, §201(a), added par. (6).

Subsec. (b). Pub. L. 85–608, §201(b), inserted "whether or not fixed," after "any project" and substituted "projects or operations under service contracts and projects in connection with the national defense or with war activities" for "projects in connection with the war effort" in definition of "public work", and inserted definitions of "allies" and "war activities".

Subsec. (e). Pub. L. 85–608, §201(c), substituted "may waive the application of this section with respect to any contract" for "may waive the application of the provisions of subparagraphs (3), (4), or (5) of subdivision (a) of this section, with respect to any contract", and inserted provisions authorizing the Secretary to waive the application of this section to any employee or class of employees of an employer referred to in paragraph (6) of subsection (a) of this section upon recommendation of the employer.

Pub. L. 85–477, §502(a)(2), substituted "provisions of subparagraphs (3), (4), or (5)" for "provisions of subparagraphs (3) or (4)".

Subsec. (f). Pub. L. 85–608, §201(d), substituted provisions making liability of a contractor, subcontractor, or subordinate contractor inapplicable with respect to persons who are prisoners of war or protected persons and who are detained or utilized by the United States for provisions which made liability inapplicable with respect to employees not citizens of the United States who incurred an injury or death resulting in death subsequent to June 30, 1953.

Pub. L. 85–477, §502(a)(3), inserted "or any work under subparagraph (5) of subsection (a) of this section" before "shall not apply".

1953—Subsec. (f). Act June 30, 1953, added subsec. (f).

1942—Act Dec. 2, 1942, amended section generally. Prior to amendment section read as follows: "Except as herein modified, the provisions of sections 901–921, 922–950 of title 33, as amended, and as the same may be amended hereafter, shall apply in respect to the injury or death of any employee engaged in any employment at any military, air, or naval base acquired after January 1, 1940, by the United States from any foreign government or any lands occupied or used by the United States for military or naval purposes in any Territory or possession outside the continental United States, including Alaska, Guantanamo, and the Philippine Islands, but excluding the Canal Zone, irrespective of the place where the injury or death occurs."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86–70, §47(g), June 25, 1959, 73 Stat. 154, provided that: "The amendments in sections 40 and 42 [amending this section and sections 1701, 1704, and 1711 of this title] shall take effect when enacted [June 25, 1959]: *Provided, however*, That with respect to injuries or deaths occurring on or after January 3, 1959, and prior to the effective date of these amendments, claims filed by employees engaged in the State of Alaska in any of the employments covered by the Defense Base Act [this chapter] (and their dependents) may be adjudicated under the Workmen's Compensation Act of Alaska instead of the Defense Base Act."

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85–608, title IV, §402, Aug. 8, 1958, 72 Stat. 539, provided that: "The effective date of this Act [amending this section, sections 1701, 1702, 1704, 1711, and 1716 of this title, and sections 751 and 790 of former Title 5, Executive Departments and Government Officers and Employees, repealing section 801 of former Title 5, and enacting provisions set out as notes under this section and section 1701 of this title] is June 30, 1958. Persons are entitled to the benefits of this Act notwithstanding the fact that an injury, disability, or death occurred after June 30, 1958, and before the date of enactment of this Act [Aug. 8, 1958]."

SHORT TITLE

Section 5 of act Aug. 16, 1941, as added by Pub. L. 85–608, title II, §202, Aug. 8, 1958, 72 Stat. 538, provided that: "This Act [enacting this chapter] may be cited as the 'Defense Base Act'."

REPEALS

Pub. L. 87–195, pt. IV, §701, Sept. 4, 1961, 75 Stat. 463, cited as a credit to this section, was repealed by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 701 affected this section.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(74)], July 22, 1949.

§1652. Computation of benefits; application to aliens and nonnationals

(a) The minimum limit on weekly compensation for disability, established by section 906(b) of title 33, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 909(e) of title 33, shall not apply in computing compensation and death benefits under this chapter.

(b) Compensation for permanent total or permanent partial disability under section 908(c)(21) of title 33, or for death under this chapter to aliens and nonnationals of the United States not residents of the United States or Canada shall be in the same amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury, and except that the Secretary of Labor may, at his option or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens or nonnationals of the United States by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(Aug. 16, 1941, ch. 357, §2, 55 Stat. 623; 1946 Reorg. Plan No. 2, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Pub. L. 98–426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

EDITORIAL NOTES

AMENDMENTS

1984—Subsecs. (a), (b). Pub. L. 98–426 substituted references to sections of the Longshore and Harbor Workers' Compensation Act for sections of the Longshoremen's and Harbor Workers' Compensation Act, which references have been translated to sections of title 33, thus requiring no change in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a

note under section 901 of Title 33, Navigation and Navigable Waters.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Secretary of Labor" and "Secretary" substituted for "Federal Security Administrator" and "Administrator", respectively, in subsec. (b), pursuant to Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which transferred functions of Federal Security Administrator to Secretary of Labor.

Previously, "Federal Security Administrator" and "Administrator" substituted for "United States Employees' Compensation Commission" and "Commission" pursuant to Reorg. Plan No. 2 of 1946, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which abolished United States Employees' Compensation Commission and transferred its functions to Federal Security Administrator.

§1653. Compensation districts; judicial proceedings

(a) The Secretary of Labor is authorized to extend compensation districts established under the Longshore and Harbor Workers' Compensation Act, approved March 4, 1927 (44 Stat. 1424) [33 U.S.C. 901 et seq.], or to establish new compensation districts, to include any area to which this chapter applies; and to assign to each such district one or more deputy commissioners, as the Secretary may deem necessary.

(b) Judicial proceedings provided under sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act [33 U.S.C. 918, 921] in respect to a compensation order made pursuant to this chapter shall be instituted in the United States district court of the judicial district wherein is located the office of the deputy commissioner whose compensation order is involved if his office is located in a judicial district, and if not so located, such judicial proceedings shall be instituted in the judicial district nearest the base at which the injury or death occurs.

(Aug. 16, 1941, ch. 357, §3, 55 Stat. 623; 1946 Reorg. Plan No. 2, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Pub. L. 98–426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Longshore and Harbor Workers' Compensation Act, referred to in text, is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

AMENDMENTS

1984—Subsecs. (a), (b). Pub. L. 98–426 substituted "Longshore and Harbor Workers' Compensation Act" for "Longshoremen's and Harbor Workers' Compensation Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Secretary of Labor" and "Secretary" substituted for "Federal Security Administrator" and "Administrator", respectively, in subsec. (a), pursuant to Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which transferred functions of Federal Security Administrator to Secretary of Labor.

Previously, "Federal Security Administrator" and "Administrator" substituted for "United States Employees'

Compensation Commission" and "Commission" pursuant to Reorg. Plan No. 2 of 1946, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which abolished United States Employees' Compensation Commission and transferred its functions to Federal Security Administrator.

§1654. Persons excluded from benefits

This chapter shall not apply in respect to the injury or death of (1) an employee subject to the provisions of subchapter I of chapter 81 of title 5; (2) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, or profession of the employer; and (3) a master or member of a crew of any vessel.

(Aug. 16, 1941, ch. 357, §4, 55 Stat. 623.)

EDITORIAL NOTES

CODIFICATION

"Subchapter I of chapter 81 of title 5" substituted for reference to act Sept. 7, 1916 (39 Stat. 742), known as the Federal Employees' Compensation Act, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§1655. Requirement for Department of Defense to adopt an acquisition strategy for Defense Base Act insurance

(a) In general

The Secretary of Defense shall adopt an acquisition strategy for insurance required by the Defense Base Act (42 U.S.C. 1651 et seq.) which minimizes the cost of such insurance to the Department of Defense and to defense contractors subject to such Act.

(b) Criteria

The Secretary shall ensure that the acquisition strategy adopted pursuant to subsection (a) addresses the following criteria:

(1) Minimize overhead costs associated with obtaining such insurance, such as direct or indirect costs for contract management and contract administration.

(2) Minimize costs for coverage of such insurance consistent with realistic assumptions regarding the likelihood of incurred claims by contractors of the Department.

(3) Provide for a correlation of premiums paid in relation to claims incurred that is modeled on best practices in government and industry for similar kinds of insurance.

(4) Provide for a low level of risk to the Department.

(5) Provide for a competitive marketplace for insurance required by the Defense Base Act [42 U.S.C. 1651 et seq.] to the maximum extent practicable.

(c) Options

In adopting the acquisition strategy pursuant to subsection (a), the Secretary shall consider such options (including entering into a single Defense Base Act insurance contract) as the Secretary deems to best satisfy the criteria identified under subsection (b).

(d) Report

(1) Not later than 270 days after October 14, 2008, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report on the acquisition strategy adopted pursuant to subsection (a).

(2) The report shall include a discussion of each of the options considered pursuant to subsection (c) and the extent to which each option addresses the criteria identified under subsection (b), and

shall include a plan to implement within 18 months after October 14, 2008, the acquisition strategy adopted by the Secretary.

(e) Review of acquisition strategy

As considered appropriate by the Secretary, but not less often than once every 3 years, the Secretary shall review and, as necessary, update the acquisition strategy adopted pursuant to subsection (a) to ensure that it best addresses the criteria identified under subsection (b).

(Pub. L. 110–417, [div. A], title VIII, §843, Oct. 14, 2008, 122 Stat. 4540.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Defense Base Act, referred to in section catchline and subsecs. (a) to (c), is act Aug. 16, 1941, ch. 357, 55 Stat. 622, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of this title and Tables.

CODIFICATION

Section was enacted as part of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, and not as part of the Defense Base Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

CHAPTER 12—COMPENSATION FOR INJURY, DEATH, OR DETENTION OF EMPLOYEES OF CONTRACTORS WITH UNITED STATES OUTSIDE UNITED STATES

SUBCHAPTER I—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR

Sec.
1701. Compensation for injury or death resulting from war-risk hazard.
1702. Application of Longshore and Harbor Workers' Compensation Act.
1703. "Contractor with the United States" defined.
1704. Reimbursement.
1705. Receipt of workmen's compensation benefits.
1706. Administration.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

1711. Definitions.
1712. Disqualification from benefits.
1713. Fraud; penalties.
1714. Legal services.
1715. Finality of Secretary's decisions.
1716. Presumption of death or detention.
1717. Assignment of benefits; execution, levy, etc., against benefits.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Act June 30, 1953, ch. 176, §6, 67 Stat. 135, repealed section 1(a)(13) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 332, which, as amended by Joint Res. Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, provided for the continuation of this chapter until July 1, 1953.

Joint Res. July 3, 1952, ch. 570, §6, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

SUBCHAPTER I—COMPENSATION, REIMBURSEMENT, ETC., BY SECRETARY OF LABOR

§1701. Compensation for injury or death resulting from war-risk hazard

(a) Persons covered

In case of injury or death resulting from injury—

(1) to any person employed by a contractor with the United States, if such person in an employee specified in chapter 11 of this title, and no compensation is payable with respect to such injury or death under such chapter; or

(2) to any person engaged by the United States under a contract for his personal services outside the continental United States; or

(3) to any person employed outside the continental United States as a civilian employee paid from nonappropriated funds administered by the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Store Ashore, Navy exchanges, Marine Corps exchanges, officers' and noncommissioned officers' open messes, enlisted men's clubs, service clubs, special service activities, or any other instrumentality of the United States under the jurisdiction of the Department of Defense and conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents; or

(4) to any person who is an employee specified in section 1651(a)(5) of this title, if no compensation is payable with respect to such injury or death under chapter 11 of this title or to any person engaged under a contract for his personal services outside the United States approved and financed by the United States under the Mutual Security Act of 1954, as amended (other than title II of chapter II thereof unless the Secretary of Labor, upon the recommendation of the head of any department or other agency of the United States Government, determines a contract financed under a successor provision of any successor Act should be covered by this section): *Provided*, That in cases where the United States is not a formal party to contracts approved and financed under the Mutual Security Act of 1954, as amended, the Secretary, upon the recommendation of the head of any department or agency of the United States, may, in the exercise of his discretion, waive the application of the provisions of this subparagraph with respect to any such contracts, subcontracts, or subordinate contracts, work location under such contracts, subcontracts, or subordinate contracts, or classification of employees; or

(5) to any person employed or otherwise engaged for personal services outside the continental United States by an American employer providing welfare or similar services for the benefit of the Armed Forces pursuant to appropriate authorization by the Secretary of Defense,

and such injury proximately results from a war-risk hazard, whether or not such person then actually was engaged in the course of his employment, the provisions of subchapter I of chapter 81 of title 5, as amended, and as modified by this chapter, shall apply with respect thereto in the same manner and to the same extent as if the person so employed were a civil employee of the United States and were injured while in the performance of his duty, and any compensation found to be due

shall be paid from the compensation fund established pursuant to section 8147 of title 5. This subsection shall not be construed to include any person who would otherwise come within the purview of subchapter I of chapter 81 of title 5.

(b) Missing persons considered as totally disabled

(1) Any person specified in subsection (a) who—

(A) is found to be missing from his place of employment, whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person, or

(B) is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, or

(C) is not returned to his home or to the place where he was employed by reason of the failure of the United States or its contractor to furnish transportation,

until such time as he is returned to his home, to the place of his employment, or is able to be returned to the jurisdiction of the United States, shall, under such regulations as the Secretary may prescribe, be regarded solely for the purposes of this subsection as totally disabled, and the same benefits as are provided for such disability under this subchapter shall be credited to his account and be payable to him for the period of such absence or until his death is in fact established or can be legally presumed to have occurred: *Provided*, That if such person has dependents residing in the United States or its Territories or possessions (including the United States Naval Operating Base, Guantanamo Bay, Cuba, and the Canal Zone), the Secretary during the period of such absence may disburse a part of such compensation, accruing for such total disability, to such dependents, which shall be equal to the monthly benefits otherwise payable for death under this subchapter, and the balance of such compensation for total disability shall accrue and be payable to such person upon his return from such absence. Any payment made pursuant to this subsection shall not in any case be included in computing the maximum aggregate or total compensation payable for disability or death, as provided in section 1702(a) of this title: *Provided further*, That no such payment to such person or his dependent, on account of such absence, shall be made during any period such person or dependent, respectively, has received, or may be entitled to receive, any other payment from the United States, either directly or indirectly, because of such absence, unless such person or dependent refunds or renounces such other benefit or payment for the period claimed.

Benefits found to be due under this subsection shall be paid from the compensation fund established pursuant to section 8147 of title 5: *Provided*, That the determination of dependents, dependency, and amounts of payments to dependents shall be made in the manner specified in subchapter I of chapter 81 of title 5: *Provided further*, That claim for such detention benefits shall be filed in accordance with and subject to the limitation provisions of subchapter I of chapter 81 of title 5, as modified by section 1706(c) of this title: *And provided further*, That except in cases of fraud or willful misrepresentation, the Secretary may waive recovery of money erroneously paid under this subdivision whenever he finds that such recovery would be impracticable or would cause hardship to the beneficiary affected: *And provided further*, That where such a person is found to be missing from his place of employment whether or not such person then actually was engaged in the course of his employment, under circumstances supporting an inference that his absence is due to the belligerent action of a hostile force or person or is known to have been taken by a hostile force or person as a prisoner, hostage, or otherwise, the amount of benefits to be credited to the account of such person under this subsection, and for the purposes of this subsection only, shall be 100 per centum of the average weekly wages of such person, except that in computing such benefits such average weekly wages (a) shall not exceed the average weekly wages paid to civilian employees of the United States in the same or most similar occupation in the area nearest to the place of employment where such person was last employed, and (b) shall not exceed the average weekly wages of such absent person at the time such absence began; and 70 per centum of such average weekly wage so determined shall be disbursed to the dependent or dependents of such person, irrespective of the limitations of section 909 of title 33, but should there be more than one such dependent, the distribution of such 70 per centum shall be proportionate to the percentages allowed for dependents by section 909 of title 33,

and if such manner of disbursement in any case would result in injustice or excessive allowance for a dependent, the Secretary may, in his discretion, modify such percentage or apportionment to meet the requirements of the case; and in such cases benefits for detention shall accrue from January 1, 1942, unless the beginning of absence occurred upon a later date in which event benefits shall accrue from such later date, and for the period of such absence shall be 100 per centum of the average weekly wages, determined as herein provided: *And provided further*, That compensation for disability under this subchapter (except under allowance for scheduled losses of members or functions of the body, within the purview of section 1702(a) of this title) shall not be paid in any case in respect to any period of time during which benefits for detention may accrue under this subchapter in the same case, and should a person entitled to benefits for detention also be entitled to workmen's compensation or similar benefits under any other law, agreement, or plan (except allowances for scheduled losses of members or functions of the body), where such other benefits are paid or to be paid directly or indirectly by the United States, the amount thereof accruing as to the period of absence shall be taken into account and the benefits credited to the account of the detained person reduced accordingly: *And provided further*, That where through mistake of fact, absence of proof of death, or error through lack of adequate information or otherwise, payments as for detention have in any case been erroneously made or credited, any resulting overpayment of detention benefits (the recovery of which is not waived as otherwise provided for in this section) shall be recouped by the Secretary in such manner as he shall determine from any unpaid accruals to the account of the detained person, and if such accruals are insufficient for such purpose, then from any allowance of compensation for injury or death in the same case (whether under this subchapter or under any other law, agreement, or plan, if the United States pays, or is obligated to pay, such benefits, directly or indirectly), but only to the extent of the amount of such compensation benefits payable for the particular period of such overpayment, and in cases of erroneous payments of compensation for injury or death, made through mistake of fact, whether under this subchapter or under any other law, agreement, or plan (if the United States is obligated to pay such compensation, directly or indirectly), the Secretary is authorized to recoup from any unpaid benefits for detention, the amount of any overpayment thus arising; and any amounts recovered under this section shall be covered into such compensation fund, and for the foregoing purposes the Secretary shall have a right of lien, intervention, and recovery in any claim or proceeding for compensation.

(2) Upon application by such person, or someone on his behalf, the Secretary may, under such regulations as he may prescribe, furnish transportation or the cost thereof (including reimbursement) to any such person from the point where his release from custody by a hostile force or person is effected, to his some, the place of his employment, or other place within the jurisdiction of the United States; but no transportation, or the cost thereof, shall be furnished under this paragraph where such person is furnished such transportation, or the cost thereof, under any agreement with his employer or under any other provision of law.

(3) In the case of death of any such person, if his death occurred away from his home, the body of such person shall, in the discretion of the Secretary, and if so desired by his next of kin, near relative, or legal representative, be embalmed and transported in a hermetically sealed casket or other appropriate container to the home of such person or to such other place as may be designated by such next of kin, near relative, or legal representative. No expense shall be incurred under this paragraph by the Secretary in any case where death takes place after repatriation, unless such death proximately results from a war-risk hazard.

(4) Such benefits for detention, transportation expenses of repatriated persons, and expenses of embalming, providing sealed or other appropriate container, and transportation of the body, and attendants (if required), as approved by the Secretary, shall be paid out of the compensation fund established under section 8147 of title 5.

(c) Persons not citizens or residents of United States

Compensation for permanent total or permanent partial disability or for death payable under this section to persons who are not citizens of the United States and who are not residents of the United States or Canada, shall be in the same amount as provided for residents; except that dependents in any foreign country shall be limited to surviving wife or husband and child or children, or if there be

no surviving wife or husband or child or children, to surviving father or mother whom such person has supported, either wholly or in part, for the period of one year immediately prior to the date of the injury; and except that the Secretary, at his option, may commute all future installments of compensation to be paid to such persons by paying to them one-half of the commuted amount of such future installments of compensation as determined by the Secretary.

(d) Persons excepted from coverage

The provisions of this section shall not apply in the case of any person (1) whose residence is at or in the vicinity of the place of his employment, and (2) who is not living there solely by virtue of the exigencies of his employment, unless his injury or death resulting from injury occurs or his detention begins while in the course of his employment, or (3) who is a prisoner of war or a protected person under the Geneva Conventions of 1949 and who is detained or utilized by the United States.

(Dec. 2, 1942, ch. 668, title I, §101, 56 Stat. 1028; Dec. 23, 1943, ch. 380, title I, 57 Stat. 626; Aug. 7, 1946, ch. 805, §1, 60 Stat. 899; June 30, 1953, ch. 176, §§2, 3, 67 Stat. 135; Pub. L. 85–477, ch. V, §502(g), June 30, 1958, 72 Stat. 273; Pub. L. 85–608, title I, §§101, 104, title IV, §401, Aug. 8, 1958, 72 Stat. 536, 537, 539; Pub. L. 86–70, §42(a), June 25, 1959, 73 Stat. 151; Pub. L. 87–195, pt. IV, §702, Sept. 4, 1961, 75 Stat. 463; Pub. L. 98–426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Mutual Security Act of 1954, referred to in subsec. (a)(4), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2–11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101–103, ch. II, §§201–205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201–205(a)–(i), (k)–(n), ch. III, §301, ch. IV, §401(a)–(k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, chs. I–V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of Title 22, Foreign Relations and Intercourse, and which was repealed by acts July 18, 1956, ch. 627, §8(m), 70 Stat. 559; Aug. 14, 1957, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), 71 Stat. 356; July 24, 1959, Pub. L. 86–108, ch. II, §205(j), ch. IV, §401(1), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §§203(d), 204(k), 74 Stat. 138; Sept. 4, 1961, Pub. L. 87–195, pt. III, §642(a)(2), 75 Stat. 460; June 30, 1976, Pub. L. 94–329, title II, §212(b)(1), 90 Stat. 745; Apr. 4, 1996, Pub. L. 104–127, title II, §228, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of Title 22 and Tables.

Title II of chapter II of the Mutual Security Act of 1954, referred to in subsec. (a)(4), which was classified generally to sections 1870 to 1876 of Title 22, was repealed by Pub. L. 87–195, Pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460.

For definition of Canal Zone, referred to in subsec. (b), see section 3602(b) of Title 22.

CODIFICATION

In subsecs. (a) and (b), "subchapter I of chapter 81 of title 5" and "section 8147 of title 5" substituted for references to act September 7, 1916, as amended, and section 35 of that Act, respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, the act of September 7, 1916, known as the Federal Employees' Compensation Act, was classified to chapter 15 of Title 5.

Reference to Philippine Islands in subsec. (b)(1) omitted as obsolete in view of Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7871, 60 Stat. 1352, recognizing independence of Philippines and withdrawing and surrendering all rights of possession, supervision, jurisdiction, control, or sovereignty now existing and exercised by United States in and over territory and people of Philippines. See note set out under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98–426 substituted references to sections of the Longshore and Harbor Workers' Compensation Act for sections of the Longshoremen's and Harbor Workers' Compensation Act, which references have been translated to sections of title 33, thus requiring no change in text.

1961—Subsec. (a)(4). Pub. L. 87–195 extended coverage in those cases where the Secretary of Labor, upon the recommendation of the head of any department or other agency of the U.S. Government, determines a

contract financed under a successor provision of any successor act to the Mutual Security Act of 1954 should be covered by this section.

1959—Subsec. (a). Pub. L. 86–70 struck out "or in Alaska or the Canal Zone" after "continental United States" in pars. (2), (3) and (5).

1958—Subsec. (a)(2). Pub. L. 85–608, §101(a), substituted "outside the continental United States or in Alaska or the Canal Zone" for "outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands".

Subsec. (a)(3). Pub. L. 85–608, §101(b), substituted provisions relating to injuries to civilian employees outside the continental United States or in Alaska or the Canal Zone paid from nonappropriated funds and who are employed in connection with activities conducted for the mental, physical, and morale improvement of personnel of the Department of Defense and their dependents for provisions which related to injuries to persons employed as civilian employees of post exchanges or ship-service stores outside the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands.

Subsec. (a)(4). Pub. L. 85–477 added par. (4).

Subsec. (a)(5). Pub. L. 85–608, §101(c), added par. (5).

Subsec. (b). Pub. L. 85–608, §104, substituted "a hostile force or person" for "an enemy" in four places and for "the enemy".

Subsec. (c). Pub. L. 85–608, §401, reenacted subsec. (c) and also repealed section 2 of act June 30, 1953, which had previously repealed subsec. (c).

Subsec. (d). Pub. L. 85–608, §101(d), substituted provisions making section inapplicable to persons who are prisoners of war or protected persons and who are detained or utilized by the United States for provisions which made section inapplicable to persons who are not citizens of the United States and who suffered an injury, disability, death, or detention by the enemy subsequent to June 30, 1953.

1953—Subsec. (c). Act June 30, 1953, §2, repealed subsec. (c) which provided for amount of compensation payable to noncitizens and nonresidents for permanent total or permanent partial disability or death, limited eligible dependents and permitted Secretary to commute future installments of compensation.

Subsec. (d). Act June 30, 1953, §3, added cl. (3).

1946—Act Aug. 7, 1946, made benefits payable for detention uniform from date of capture rather than at a reduced rate for 2 years as was the case formerly, prevented dual payments without impairing compensation rights for disability which continues after repatriation, and provided for adjustments of overpayments made under a mistake of facts.

1943—Subsec. (b)(1). Act Dec. 23, 1943, inserted fourth proviso in second paragraph.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–70 effective June 25, 1959, see section 47(g) of Pub. L. 86–70, set out as a note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note under section 1651 of this title.

EFFECTIVE DATE OF 1943 AMENDMENT

Act Dec. 23, 1943, ch. 380, title I, 57 Stat. 627, provided in part that: "The amendment in paragraph (a) [amending this section] shall become effective the first day of the month next following the approval of this Act [Dec. 23, 1943]."

EFFECTIVE DATE

Act Dec. 2, 1942, ch. 668, title I, §107, 56 Stat. 1033, provided that: "This title [enacting this subchapter] shall take effect as of December 7, 1941."

RETROACTIVE EFFECT OF 1946 AMENDMENT; REVIEW OF CASES

Act Aug. 7, 1946, ch. 805, §2, 60 Stat. 899, provided for application of section 1 of act Aug. 7, 1946,

amending this section, in all cases coming within the purview of subsec. (b) of this section, retrospectively to Jan. 1, 1942; and for review by the United States Employees' Compensation Commission of any case affected by such provisions, to make the adjustment of benefits which they require, and to make payments where the detained person has died since adjudication, to his legal representative.

SHORT TITLE

Section 208 of act Dec. 2, 1942, as added by Pub. L. 85–608, §105, provided that: "Titles I and II of this Act [enacting subchapters I and II of this chapter] may be cited as the 'War Hazards Compensation Act'."

REPEALS

Pub. L. 87–195, pt. IV, §702, Sept. 4, 1961, 75 Stat. 463, cited as a credit to this section, was repealed by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except in so far as section 702 affected this section.

Act June 30, 1953, ch. 176, §6, 67 Stat. 135, repealed act July 3, 1952, ch. 570, §1(a)(13), 66 Stat. 331, which defined terms "enemy", "allies", "national war effort", and "war effort".

INCREASE IN COMPENSATION FOR INJURIES AND DEATH FROM INJURIES SUSTAINED BEFORE JULY 1, 1946

Pub. L. 87–380, Oct. 4, 1961, 75 Stat. 809, increased the monthly disability and death compensation payable pursuant to subsec. (a) of this section with respect to injuries or deaths resulting from injury sustained prior to July 1, 1946, by 15 per centum, effective only with respect to disability and death compensation payable for periods commencing on and after Oct. 4, 1961.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Labor, see note set out under section 1711 of this title.

§1702. Application of Longshore and Harbor Workers' Compensation Act

(a) In the administration of the provisions of subchapter I of chapter 81 of title 5 with respect to cases coming within the purview of section 1701 of this title, the scale of compensation benefits and the provisions for determining the amount of compensation and the payment thereof as provided in sections 908 and 909 of title 33, so far as the provisions of said sections can be applied under the terms and conditions set forth therein shall be payable in lieu of the benefits, except medical benefits, provided under subchapter I of chapter 81 of title 5: *Provided*, That the total compensation payable under this subchapter for injury or death shall in no event exceed the limitations upon compensation as fixed in section 914(m) [1] of title 33 as such section may from time to time be amended except that the total compensation shall not be less than that provided for in the original enactment of this chapter.

(b) For the purpose of computing compensation with respect to cases coming within the purview of section 1701 of this title, the provisions of sections 906 and 910 of title 33 shall be applicable: *Provided*, That the minimum limit on weekly compensation for disability, established by section 906(b) of title 33, and the minimum limit on the average weekly wages on which death benefits are to be computed, established by section 909(e) of title 33, shall not apply in computing compensation under this subchapter.

(Dec. 2, 1942, ch. 668, title I, §102, 56 Stat. 1031; July 3, 1948, ch. 826, §4(c), 62 Stat. 1242; Pub. L. 85–608, title I, §102, Aug. 8, 1958, 72 Stat. 536; Pub. L. 98–426, §27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Longshore and Harbor Workers' Compensation Act, referred to in section catchline, is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation

and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

Subsection (m) of section 914 of title 33, referred to in subsec. (a), was repealed by Pub. L. 92–576, §5(e), Oct. 27, 1972, 86 Stat. 1254.

CODIFICATION

"Subchapter I of chapter 81 of title 5" substituted for references to Act of September 7, 1916, as amended, known as the Federal Employees' Compensation Act, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1984—Pub. L. 98–426 substituted "Longshore and Harbor Workers' Compensation Act" for "Longshoremen's and Harbor Workers' Compensation Act" wherever appearing.

1958—Subsec. (a). Pub. L. 85–608 struck out proviso that required any amendment to the Longshoremen's and Harbor Workers' Compensation Act which increased the amount of benefits payable for injury or death to be applied in the administration of this section as if the amendment had been in effect at the time of the particular injury or death.

1948—Subsec. (a). Act July 3, 1948, inserted all text in proviso beginning "as fixed in section 914(m) of title 33".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note under section 1651 of this title.

BENEFITS ADJUDICATED PRIOR TO AUGUST 8, 1958

Pub. L. 85–608, title I, §102, Aug. 8, 1958, 72 Stat. 536, provided that the amendment made by that section shall not affect benefits adjudicated thereunder prior to Aug. 8, 1958.

[1] *See References in Text note below.*

§1703. "Contractor with the United States" defined

As used in this subchapter, the term "contractor with the United States" includes any subcontractor or subordinate subcontractor with respect to the contract of such contractor.

(Dec. 2, 1942, ch. 668, title I, §103, 56 Stat. 1031.)

§1704. Reimbursement

(a) Payments reimbursable; filing claim for reimbursement; regulations for payment of direct benefits

Where any employer or his insurance carrier or compensation fund pays or is required to pay benefits—

(1) to any person or fund on account of injury or death of any person coming within the purview of this subchapter or chapter 11 of this title, if such injury or death arose from a war-risk hazard, which are payable under any workmen's compensation law of the United States or of any State, Territory, or possession of the United States, or other jurisdiction; or

(2) to any person by reason of any agreement outstanding on December 2, 1942 made in accordance with a contract between the United States and any contractor therewith to pay benefits

with respect to the death of any employee of such contractor occurring under circumstances not entitling such person to benefits under any workmen's compensation law or to pay benefits with respect to the failure of the United States or its contractor to furnish transportation upon the completion of the employment of any employee of such contractor to his home or to the place where he was employed; or

(3) to any person by reason of an agreement approved or authorized by the United States under which a contractor with the United States has agreed to pay workmen's compensation benefits or benefits in the nature of workmen's compensation benefits to an injured employee or his dependents on account of detention by a hostile force or person or on account of injury or death arising from a war-risk hazard;

such employer, carrier, or fund shall be entitled to be reimbursed for all benefits so paid or payable, including funeral and burial expenses, medical, hospital, or other similar costs for treatment and care; and reasonable and necessary claims expense in connection therewith. Claim for such reimbursement shall be filed with the Secretary under regulations promulgated by him, and such claims, or such part thereof as may be allowed by the Secretary, shall be paid from the compensation fund established under section 8147 of title 5. The Secretary may, under such regulations as he shall prescribe, pay such benefits, as they accrue and in lieu of reimbursement, directly to any person entitled thereto, and the insolvency of such employer, insurance carrier, or compensation fund shall not affect the right of the beneficiaries of such benefits to receive the compensation directly from the said compensation fund established under section 8147 of title 5. The Secretary may also, under such regulations as he shall prescribe, use any private facilities, or such Government facilities as may be available, for the treatment or care of any person entitled thereto.

(b) Charging of premiums as prohibiting reimbursement

No reimbursement shall be made under this subchapter in any case in which the Secretary finds that the benefits paid or payable were on account of injury, detention, or death which arose from a war-risk hazard for which a premium (which included an additional charge or loading for such hazard) was charged.

(c) Injury or death occurring within any State

The provisions of this section shall not apply with respect to benefits on account of any injury or death occurring within any State.

(Dec. 2, 1942, ch. 668, title I, §104, 56 Stat. 1031; Pub. L. 85–608, title I, §104, Aug. 8, 1958, 72 Stat. 537; Pub. L. 86–70, §42(b), June 25, 1959, 73 Stat. 151.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "section 8147 of title 5" substituted for "section 35 of such Act of September 7, 1916, as amended", on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1959—Subsec. (c). Pub. L. 86–70 added subsec. (c).

1958–Subsec. (a)(3). Pub. L. 85–608 substituted "a hostile force or person" for "the enemy".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–70 effective June 25, 1959, see section 47(g) of Pub. L. 86–70, set out as a note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note

under section 1651 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Labor, see note set out under section 1711 of this title.

§1705. Receipt of workmen's compensation benefits

(a) Receipt of benefits under other provisions

No benefits shall be paid or furnished under the provisions of this subchapter for injury or death to any person who recovers or receives workmen's compensation benefits for the same injury or death under any other law of the United States, or under the law of any State, Territory, possession, foreign country, or other jurisdiction, or benefits in the nature of workmen's compensation benefits payable under an agreement approved or authorized by the United States pursuant to which a contractor with the United States has undertaken to provide such benefits.

(b) Lien and right of recovery against compensation payable under other provisions

The Secretary shall have a lien and a right of recovery, to the extent of any payments made under this subchapter on account of injury or death, against any compensation payable under any other workmen's compensation law on account of the same injury or death; and any amounts recovered under this subsection shall be covered into the fund established under section 8147 of title 5.

(c) Receipt of wages as credit against payment under this subchapter; intervention by Secretary in proceeding to recover wages, etc.

Where any person specified in section 1701(a) of this title, or the dependent, beneficiary, or allottee of such person, receives or claims wages, payments in lieu of wages, insurance benefits for disability or loss of life (other than workmen's compensation benefits), and the cost of such wages, payments, or benefits is provided in whole or in part by the United States, the amount of such wages, payments, or benefits shall be credited, in such manner as the Secretary shall determine, against any payments to which any such person is entitled under this subchapter.

Where any person specified in section 1701(a) of this title, or any dependent, beneficiary, or allottee of such person, or the legal representative or estate of any such entities, after having obtained benefits under this subchapter, seeks through any proceeding, claim, or otherwise, brought or maintained against the employer, the United States, or other person, to recover wages, payments in lieu of wages, or any sum claimed as for services rendered, or for failure to furnish transportation, or for liquidated or unliquidated damages under the employment contract, or any other benefit, and the right in respect thereto is alleged to have accrued during or as to any period of time in respect of which payments under this subchapter in such case have been made, and in like cases where a recovery is made or allowed, the Secretary shall have the right of intervention and a lien and right of recovery to the extent of any payments paid and payable under this subchapter in such case, provided the cost of such wages, payments in lieu of wages, or other such right, may be directly or indirectly paid by the United States; and any amounts recovered under this subsection shall be covered into the fund established under section 8147 of title 5.

(d) Entitlement to benefits by national of a foreign government under foreign laws

Where a national of a foreign government is entitled to benefits on account of injury or death resulting from a war-risk hazard, under the laws of his native country or any other foreign country, the benefits of this subchapter shall not apply.

(e) Receipt of benefits for prior accident or disease

If at the time a person sustains an injury coming within the purview of this subchapter said person is receiving workmen's compensation benefits on account of a prior accident or disease, said person shall not be entitled to any benefits under this subchapter during the period covered by such

workmen's compensation benefits unless the injury from a war-risk hazard increases his disability, and then only to the extent such disability has been so increased.

(Dec. 2, 1942, ch. 668, title I, §105, 56 Stat. 1032; Dec. 23, 1943, ch. 380, title I, 57 Stat. 627.)

EDITORIAL NOTES

CODIFICATION

In subsecs. (b) and (c), "section 8147 of title 5" was substituted for "section 35 of such Act of September 7, 1916, as amended," on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1943—Subsec. (c). Act Dec. 23, 1943, added second par.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1943 AMENDMENT

Act Dec. 23, 1943, provided that: "The amendment in paragraph (a) [amending this section] shall become effective as of the effective date of title I of such Act of December 2, 1942 [sections 1701 to 1706 of this title]."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Labor, see note set out under section 1711 of this title.

§1706. Administration

(a) Rules and regulations

The provisions of this subchapter shall be administered by the Secretary of Labor, and the Secretary is authorized to make rules and regulations for the administration thereof and to contract with insurance carriers for the use of the service facilities of such carriers for the purpose of facilitating administration.

(b) Agreements and working arrangements with other agencies, etc.

In administering the provisions of this subchapter the Secretary may enter into agreements or cooperative working arrangements with other agencies of the United States or of any State (including the District of Columbia, Hawaii, Alaska, Puerto Rico, and the Virgin Islands) or political subdivision thereof, and with other public agencies and private persons, agencies, or institutions, within and outside the United States, to utilize their services and facilities and to compensate them for such use. The Secretary may delegate to any officer or employee, or to any agency, of the United States or of any State, or of any political subdivision thereof, or Territory or possession of the United States, such of his powers and duties as he finds necessary for carrying out the purposes of this subchapter.

(c) Waiver of notice of injury and filing of claims

The Secretary, in his discretion, may waive the limitation provisions of subchapter I of chapter 81 of title 5 with respect to notice of injury and filing of claims under this subchapter, whenever the Secretary shall find that, because of circumstances beyond the control of an injured person or his beneficiary, compliance with such provisions could not have been accomplished within the time therein specified.

(Dec. 2, 1942, ch. 668, title I, §106, 56 Stat. 1033.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c), "subchapter I of chapter I of title 5" substituted for reference to Act of September 7, 1916, as amended, known as the Federal Employees' Compensation Act, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Secretary of Labor" and "Secretary" substituted for "Federal Security Administrator" and "Administrator", respectively, in text, pursuant to Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271, which transferred functions of Federal Security Administrator to Secretary of Labor.

Previously, "Federal Security Administrator" and "Administrator" substituted for "United States Employees' Compensation Commission" and "Commission" pursuant to Reorg. Plan No. 2 of 1946, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which abolished United States Employees' Compensation Commission and transferred its functions to Federal Security Administrator.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§1711. Definitions

When used in this chapter—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "war-risk hazard" means any hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving; from—

(1) the discharge of any missile (including liquids and gas) or the use of any weapon, explosive, or other noxious thing by a hostile force or person or in combating an attack or an imagined attack by a hostile force or person; or

(2) action of a hostile force or person, including rebellion or insurrection against the United States or any of its Allies; or

(3) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person as defined herein (except with respect to employees of a manufacturer, processor, or transporter of munitions during the manufacture, processing, or transporting thereof, or while stored on the premises of the manufacturer, processor, or transporter); or

(4) the collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(5) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

(c) The term "hostile force or person" means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States

or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this chapter is serving.

(d) The term "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance.

(e) The term "war activities" includes activities directly relating to military operations.

(f) the [1] term "continental United States" means the States and the District of Columbia.

(Dec. 2, 1942, ch. 668, title II, §201, 56 Stat. 1033; 1946 Reorg. Plan No. 2, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1950 Reorg. Plan No. 19, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; June 30, 1953, ch. 176 §1, 67 Stat. 134; June 30, 1954, ch. 431, §1, 68 Stat. 336; June 30, 1955, ch. 257, §1, 69 Stat. 241; July 9, 1956, ch. 537, §1, 70 Stat. 519; Pub. L. 85–70, June 29, 1957, 71 Stat. 242; Pub. L. 85–608, title I, §§103, 104, Aug. 8, 1958, 72 Stat. 537; Pub. L. 86–70, §42(c), June 25, 1959, 73 Stat. 151.)

EDITORIAL NOTES

CODIFICATION

In the original of act Dec. 2, 1942, ch. 668, title II, §201, 56 Stat. 1033, the opening clause read "When used in this Act (except when used in title III)—". Title III of such Act amended section 1651 of this title which is not in this chapter. Therefore, because of the use of the restrictive term "this chapter", in this section, the words in parenthesis "except when used in title III" were omitted as unnecessary. This chapter comprises the remainder of such Act.

AMENDMENTS

1959—Subsec. (f). Pub. L. 86–70 added subsec. (f).

1958—Subsec. (b). Pub. L. 85–608, §103(a), struck out provisions which defined "war-risk hazard" to mean hazards arising after Dec. 6, 1941, and prior to July 1, 1958, and inserted provisions redefining term to include hazards arising during a war or an armed conflict in which the United States is engaged, and hazards arising during a war or armed conflict between military forces of any origin, occurring within any country in which a person covered by this chapter is serving.

Subsec. (b)(1). Pub. L. 85–608, §104, substituted "a hostile force or person" for "an enemy" in two places.

Subsec. (b)(2). Pub. L. 85–608, §104, substituted "a hostile force or person" for "the enemy".

Subsec. (b)(3). Pub. L. 85–608, §103(b), substituted "a war or armed conflict with a hostile force or person as defined herein" for "the national war effort", and excepted employees of transporters of munitions during the transportation thereof or while the munitions are stored on the premises of the transporter.

Subsec. (c). Pub. L. 85–608, §103(c), substituted provisions defining "hostile force or person" for provisions which defined "enemy" to mean any nation, government, or force engaged in armed conflict with the Armed Forces of the United States or of any of its allies.

Subsec. (d). Pub. L. 85–608, §103(d), substituted provisions redefining "allies" to mean any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance for provisions which defined the term as meaning any nation, government, or force participating with the United States in any armed conflict.

Subsec. (e). Pub. L. 85–608, §103(e), substituted definition of "war activities" for provisions defining "national war effort" and "war effort".

Subsec. (f). Pub. L. 85–608, §103(f), repealed subsec. (f) which defined "war activities", now covered by subsec. (e) of this section.

1957—Subsec. (b). Pub. L. 85–70 substituted "July 1, 1958" for "July 1, 1957".

1956—Subsec. (b). Act July 9, 1956, substituted "July 1, 1957" for "July 1, 1956".

1955—Subsec. (b). Act June 30, 1955, substituted "July 1, 1956" for "July 1, 1955".

1954—Subsec. (b). Act June 30, 1954, substituted "July 1, 1955" for "July 1, 1954".

1953—Subsec. (b). Act June 30, 1953, §1(a), substituted "July 1, 1954" for "the end of the present war".

Subsecs. (c) to (f). Act June 30, 1953, §1(b), added subsecs. (c) to (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–70 effective June 25, 1959, see section 47(g) of Pub. L. 86–70, set out as a note under section 1651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note under section 1651 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

" 'Secretary' means the Secretary of Labor" substituted for " 'Administrator' means the Federal Security Administrator" in subsec. (a), pursuant to Reorg. Plan No. 19 of 1950, §1, eff. May 24, 1950, 15 F.R. 2178, 64 Stat. 1271, which transferred functions of Federal Security Administrator to Secretary of Labor.

Previously, " 'Administrator' means the Federal Security Administrator" substituted for " 'Commission' means the United States Employees' Compensation Commission" pursuant to Reorg. Plan No. 2 of 1946, §3, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which abolished United States Employees' Compensation Commission and transferred its functions to Federal Security Administrator.

[1] *So in original. Probably should be capitalized.*

§1712. Disqualification from benefits

No person convicted in a court of competent jurisdiction of any subversive act against the United States or any of its Allies, committed after the declaration by the President on May 27, 1941, of the national emergency, shall be entitled to compensation or other benefits under subchapter I, nor shall any compensation be payable with respect to his death or detention under said subchapter, and upon indictment or the filing of an information charging the commission of any such subversive act, all such compensation or other benefits shall be suspended and remain suspended until acquittal or withdrawal of such charge, but upon conviction thereof or upon death occurring prior to a final disposition thereof, all such payments and all benefits under said subchapter shall be forfeited and terminated. If the charge is withdrawn, or there is an acquittal, all such compensation withheld shall be paid to the person or persons entitled thereto.

(Dec. 2, 1942, ch. 668, title II, §202, 56 Stat. 1034.)

EXECUTIVE DOCUMENTS

NATIONAL EMERGENCY DECLARED ON MAY 27, 1941

The national emergency declared by the President on May 27, 1941, by Proc. No. 2487, 6 F.R. 2617, 55 Stat. 1647, was terminated April 28, 1952 by Proc. No. 2974, Apr. 30, 1952, 17 F.R. 3813, 66 Stat. c31, set out as a note preceding section 1 of Title 50, War and National Defense.

§1713. Fraud; penalties

Whoever, for the purpose of causing an increase in any payment authorized to be made under this chapter, or for the purpose of causing any payment to be made where no payment is authorized hereunder, shall knowingly make or cause to be made, or aid or abet in the making of any false statement or representation of a material fact in any application for any payment under subchapter I, or knowingly make or cause to be made, or aid or abet in the making of any false statement, representation, affidavit, or document in connection with such an application, or claim, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Dec. 2, 1942, ch. 668, title II, §203, 56 Stat. 1034.)

§1714. Legal services

No claim for legal services or for any other services rendered in respect of a claim or award for compensation under subchapter I to or on account of any person shall be valid unless approved by the Secretary; and any claim so approved shall, in the manner and to the extent fixed by the said Secretary, be paid out of the compensation payable to the claimant; and any person who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is so approved, or who solicits employment for another person or for himself in respect of any claim or award for compensation under subchapter I shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be fined not more than $1,000 or imprisoned not more than one year, or both.

(Dec. 2, 1942, ch. 668, title II, §204, 56 Stat. 1034.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Labor, see note set out under section 1711 of this title.

§1715. Finality of Secretary's decisions

The action of the Secretary in allowing or denying any payment under subchapter I shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

(Dec. 2, 1942, ch. 668, title II, §205, 56 Stat. 1034.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Labor, see note set out under section 1711 of this title.

§1716. Presumption of death or detention

A determination that an individual is dead or a determination that he has been detained by a hostile force or person may be made on the basis of evidence that he has disappeared under circumstances such as to make such death or detention appear probable.

(Dec. 2, 1942, ch. 668, title II, §206, 56 Stat. 1034; Pub. L. 85–608, title I, §104, Aug. 8, 1958, 72 Stat. 537.)

EDITORIAL NOTES

AMENDMENTS

1958—Pub. L. 85–608 substituted "a hostile force or person" for "the enemy".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–608 effective June 30, 1958, see section 402 of Pub. L. 85–608, set out as a note under section 1651 of this title.

§1717. Assignment of benefits; execution, levy, etc., against benefits

The right of any person to any benefit under subchapter I shall not be transferable or assignable at law or in equity except to the United States, and none of the moneys paid or payable (except money paid hereunder as reimbursement for funeral expenses or as reimbursement with respect to payments of workmen's compensation or in the nature of workmen's compensation benefits), or rights existing under said subchapter, shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

(Dec. 2, 1942, ch. 668, title II, §207, 56 Stat. 1035.)

CHAPTER 13—SCHOOL LUNCH PROGRAMS

Sec.

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§1751. Congressional declaration of policy

It is declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

(June 4, 1946, ch. 281, §2, 60 Stat. 230; Pub. L. 101–147, title III, §312(1), Nov. 10, 1989, 103 Stat. 916.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101–147 substituted "school lunch" for "school-lunch".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–296, title IV, §445, Dec. 13, 2010, 124 Stat. 3266, provided that: "Except as otherwise specifically provided in this Act [see Short Title of 2010 Amendment note below] or any of the amendments made by this Act, this Act and the amendments made by this Act take effect on October 1, 2010."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, §2, Nov. 10, 1989, 103 Stat. 878, provided that: "Except as otherwise provided in this Act, the amendments made by this Act [see Short Title of 1989 Amendment note below] shall take effect on the date of the enactment of this Act [Nov. 10, 1989]."

SHORT TITLE OF 2026 AMENDMENT

Pub. L. 119–69, §1, Jan. 14, 2026, 139 Stat. 1997, provided that: "This Act [amending sections 1758, 1762a, 1769b, and 1776 of this title] may be cited as the 'Whole Milk for Healthy Kids Act of 2025'."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–158, §1, June 25, 2022, 136 Stat. 1309, provided that: "This Act [amending section 2254c of Title 7, Agriculture, enacting provisions set out as notes under sections 1753, 1760, and 1766 of this title, and amending provisions set out as a note under section 1760 of this title] may be cited as the 'Keep Kids Fed Act of 2022'."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–127, div. B, title I, §2101, Mar. 18, 2020, 134 Stat. 184, provided that: "This title [enacting provisions set out as a note under section 1760 of this title] may be cited as the 'Maintaining Essential Access to Lunch for Students Act' or the 'MEALS Act'."

Pub. L. 116–127, div. B, title II, §2201, Mar. 18, 2020, 134 Stat. 185, provided that: "This title [enacting provisions set out as notes under sections 1760 and 1786 of this title] may be cited as the 'COVID–19 Child Nutrition Response Act'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–296, §1(a), Dec. 13, 2010, 124 Stat. 3183, provided that: "This Act [enacting sections 1758b, 1769d, 1769e, 1769j, and 1793 of this title and sections 2036a and 3179 of Title 7, Agriculture, amending sections 1396a, 1753, 1755, 1758, 1759a, 1760, 1761, 1762a, 1766, 1769, 1769b–1, 1769c, 1769g, 1769i, 1776, 1779, and 1786 of this title, sections 2013 and 2020 of Title 7, and section 1232g of Title 20, Education, repealing section 1769h of this title, enacting provisions set out as notes under this section and sections 1396a, 1758, and 1766 of this title and section 3179 of Title 7, and repealing provisions set out as a note under this section] may be cited as the 'Healthy, Hunger-Free Kids Act of 2010'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–265, §1(a), June 30, 2004, 118 Stat. 729, provided that: "This Act [enacting sections 1754 and

1769i of this title, amending sections 1396a, 1758, 1759a, 1760, 1761, 1762a, 1766, 1769, 1769b–1, 1769c, 1769g, 1773, 1776, 1786, and 1788 of this title and section 2020 of Title 7, Agriculture, enacting provisions set out as notes under this section and sections 1754, 1758, 1766, 1769c, 1773, and 1786 of this title, and amending provisions set out as a note under section 612c of Title 7] may be cited as the 'Child Nutrition and WIC Reauthorization Act of 2004'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–336, §1(a), Oct. 31, 1998, 112 Stat. 3143, provided that: "This Act [amending sections 1755, 1758, 1759a to 1761, 1762a, 1765 to 1766a, 1769, 1769b–1, 1769c, 1769f to 1769h, 1773, 1776, 1784, 1786, and 1788 of this title, repealing section 1766b of this title, enacting provisions set out as notes under sections 1755, 1761, and 1786 of this title, and amending provisions set out as notes under section 1769 of this title and section 612c of Title 7, Agriculture] may be cited as the 'William F. Goodling Child Nutrition Reauthorization Act of 1998'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–149, §1, May 29, 1996, 110 Stat. 1379, provided that: "This Act [amending section 1758 of this title] may be cited as the 'Healthy Meals for Children Act'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–448, §1(a), Nov. 2, 1994, 108 Stat. 4699, provided that: "This Act [enacting sections 1766b and 1769f to 1769h of this title, amending sections 280c–6, 1396a, 1755, 1756, 1758, 1759a, 1760, 1761, 1762a, 1766, 1769, 1769a, 1769b–1, 1769c, 1773, 1776, 1779, 1786, and 1788 of this title, section 2018 of Title 7, Agriculture, section 1484a of Title 20, Education, and section 3803 of Title 31, Money and Finance, enacting provisions set out as notes under this section and sections 1755, 1758, 1760, 1761, 1762a, 1769f, and 1786 of this title, amending provisions set out as notes under section 1786 of this title and section 612c of Title 7, and repealing provisions set out as a note under section 1786 of this title] may be cited as the 'Healthy Meals for Healthy Americans Act of 1994'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–342, §1, Aug. 14, 1992, 106 Stat. 911, provided that: "This Act [enacting section 1790 of this title, amending sections 1766, 1769, and 1786 of this title, enacting provisions set out as a note under section 1769 of this title, and amending provisions set out as a note under section 612c of Title 7, Agriculture] may be cited as the 'Child Nutrition Amendments of 1992'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–147, §1(a), Nov. 10, 1989, 103 Stat. 877, provided that: "This Act [enacting sections 1766a, 1769b–1, 1769c, 1769d, and 1769e of this title, amending this section and sections 1753, 1755–1758, 1759a, 1760, 1761, 1762a, 1765, 1766, 1769–1769b, 1772, 1773, 1776, 1779, 1783, 1784, 1786, and 1788 of this title, repealing sections 1762 and 1763 of this title, enacting provisions set out as notes under this section and sections 1755, 1758, 1761, 1762a, 1766, 1766a, 1769, 1769c, 1773, 1776, and 1786 of this title, and amending provisions set out as a note under section 1766 of this title] may be cited as the 'Child Nutrition and WIC Reauthorization Act of 1989'."

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–661, §4001(a), Nov. 14, 1986, 100 Stat. 4070, provided that: "This division [div. D (§§4001–4503) of Pub. L. 99–661, amending sections 1752, 1755, 1758, 1760, 1761, 1762a, 1766, 1769 to 1769b, 1772, 1773, 1776, 1784, 1786, 1788, and 1789 of this title, repealing sections 1767, 1768, and 1769c of this title, and enacting provisions set out as notes under sections 1758, 1760, 1766, 1772, 1773, and 1786 of this title and section 1431e of Title 7, Agriculture] may be cited as the 'Child Nutrition Amendments of 1986'."

Pub. L. 99–500, title III, §301(a), Oct. 18, 1986, 100 Stat. 1783–359, and Pub. L. 99–591, title III, §301(a), Oct. 30, 1986, 100 Stat. 3341–362, provided that: "This title [amending sections 1752, 1755, 1758, 1760, 1761, 1762a, 1766, 1769 to 1769b, 1772, 1773, 1776, 1784, 1786, 1788, and 1789 of this title and section 1929a of Title 7, Agriculture, repealing sections 1767, 1768, and 1769c of this title, and enacting provisions set out as notes under sections 1758, 1760, 1766, 1772, 1773, and 1786 of this title and sections 1431e and 1929a of Title 7] may be cited as the 'School Lunch and Child Nutrition Amendments of 1986'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–627, §1, Nov. 10, 1978, 92 Stat. 3603, provided: "That this Act [enacting section 1769c of this

title, amending sections 1755, 1757, 1758, 1759a to 1761, 1762a, 1766, 1769, 1772 to 1774, 1776, 1784, and 1786 of this title, and enacting provisions set out as notes under sections 1755, 1773 and 1786 of this title] may be cited as the 'Child Nutrition Amendments of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–166, §1, Nov. 10, 1977, 91 Stat. 1325, provided: "That this Act [enacting sections 1769, 1769a, and 1788 of this title, amending sections 1754 to 1758, 1759a, 1760, 1761, 1762a, 1763, 1766, 1772 to 1774, 1776, 1779, 1784, and 1786 of this title, and enacting provisions set out as notes under sections 1755 and 1772 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Amendments of 1977'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–105, §1, Oct. 7, 1975, 89 Stat. 511, provided: "That this Act [enacting sections 1765, 1766, 1767, 1768, and 1787 of this title, amending sections 1752, 1755, 1756, 1758, 1759, 1759a, 1760, 1761, 1762a, 1772, 1773, 1774, 1784, and 1786 of this title, repealing section 1764 of this title, and enacting provisions set out as notes under sections 1758, 1760, 1761, and 1786 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–326, §1, June 30, 1974, 88 Stat. 286, provided: "That this Act [enacting section 1762a of this title and amending sections 1752, 1755, 1758, 1763, 1774, and 1786 of this title] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1974'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–150, §1, Nov. 7, 1973, 87 Stat. 560, provided: "That this Act [amending sections 1753, 1755, 1757, 1758, 1759, 1759a, 1763, 1772, 1773, and 1786 of this title, and enacting provisions set out as notes under this section and section 240 of Title 20, Education] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1973'."

SHORT TITLE

Act June 4, 1946, ch. 281, §1, 60 Stat. 230, as amended by Pub. L. 106–78, title VII, §752(a), Oct. 22, 1999, 113 Stat. 1169, provided: "That this Act [enacting this chapter] may be cited as the 'Richard B. Russell National School Lunch Act'."

EMERGENCY COSTS FOR CHILD NUTRITION PROGRAMS DURING COVID–19 PANDEMIC

Pub. L. 116–260, div. N, title VII, §722, Dec. 27, 2020, 134 Stat. 2097, provided that:

"(a) USE OF CERTAIN APPROPRIATIONS TO COVER EMERGENCY OPERATIONAL COSTS UNDER SCHOOL MEAL PROGRAMS.—

"(1) IN GENERAL.—

"(A) REQUIRED ALLOTMENTS.—Notwithstanding any other provision of law, the Secretary shall allocate to each State that participates in the reimbursement program under paragraph (3) such amounts as may be necessary to carry out reimbursements under such paragraph for each reimbursement month, including, subject to paragraph (5)(B), administrative expenses necessary to make such reimbursements.

"(B) GUIDANCE WITH RESPECT TO PROGRAM.—Not later than 30 days after the date of the enactment of this section [Dec. 27, 2020], the Secretary shall issue guidance with respect to the reimbursement program under paragraph (3).

"(2) REIMBURSEMENT PROGRAM APPLICATION.—To participate in the reimbursement program under paragraph (3), not later than 30 days after the date described in paragraph (1)(B), a State shall submit an application to the Secretary that includes a plan to calculate and disburse reimbursements under the reimbursement program under paragraph (3).

"(3) REIMBURSEMENT PROGRAM.—Subject to paragraphs (4) and (5)(D), using the amounts allocated under paragraph (1)(A), a State participating in the reimbursement program under this paragraph shall make reimbursements for emergency operational costs for each reimbursement month as follows:

"(A) For each new school food authority in the State for the reimbursement month, an amount equal to 55 percent of the amount equal to—

"(i) the average monthly amount such new school food authority was reimbursed under the reimbursement sections for meals and supplements served by such new school food authority during the alternate period; minus

"(ii) the amount such new school food authority was reimbursed under the reimbursement

sections for meals and supplements served by such new school food authority during such reimbursement month.

"(B) For each school food authority not described in subparagraph (A) in the State for the reimbursement month, an amount equal to 55 percent of—

"(i) the amount such school food authority was reimbursed under the reimbursement sections for meals and supplements served by such school food authority for the month beginning one year before such reimbursement month; minus

"(ii) the amount such school food authority was reimbursed under the reimbursement sections for meals and supplements served by such school food authority during such reimbursement month.

"(4) SPECIAL RULES RELATING TO REIMBURSEMENT CALCULATION.—

"(A) EFFECT OF NEGATIVE NUMBER.—If a subtraction performed under subparagraph (A) or (B) of paragraph (3) results in a negative number, the reimbursement amount calculated under such subparagraph shall equal zero.

"(B) SPECIAL TREATMENT OF MARCH, 2020.—In the case of a reimbursement under subparagraph (A) or (B) of paragraph (3) for the reimbursement month of March, 2020, the reimbursement amount shall be equal to the amount determined under such a subparagraph for such month, divided by 2.

"(5) TREATMENT OF FUNDS.—

"(A) AVAILABILITY.—Funds allocated to a State under paragraph (1)(A) shall remain available until September 30, 2021.

"(B) ADMINISTRATIVE EXPENSES.—A State may reserve not more than 1 percent of the funds allocated under paragraph (1)(A) for administrative expenses to carry out this subsection.

"(C) UNEXPENDED BALANCE.—On March 31, 2022, any amounts allocated to a State under paragraph (1)(A) or reimbursed to a school food authority or new school food authority under paragraph (3) that are unexpended by such State, school food authority, or new school food authority shall revert to the Secretary.

"(D) LIMITATION ON USE OF FUNDS.—Funds allocated to a State under paragraph (1)(A) may only be made available to a school food authority or new school food authority that—

"(i) submits a claim to such State for meals, supplements, or administrative costs with respect to a month occurring during the period beginning September 1, 2020 and ending December 31, 2020; or

"(ii) provides an assurance to such State that the school food authority or new school food authority will submit a claim to such State for meals, supplements, or administrative costs with respect to a month occurring during the first full semester (or equivalent term) after the conclusion of the public health emergency, as determined by such State.

"(6) REPORTS.—Each State that carries out a reimbursement program under paragraph (3) shall, not later than March 31, 2022, submit a report to the Secretary that includes a summary of the use of such funds by the State and each school food authority and new school food authority in such State.

"(b) USE OF CERTAIN APPROPRIATIONS TO COVER CHILD AND ADULT CARE FOOD PROGRAM CHILD CARE OPERATIONAL EMERGENCY COSTS DURING COVID–19 PANDEMIC.—

"(1) IN GENERAL.—

"(A) REQUIRED ALLOTMENTS.—Notwithstanding any other provision of law, the Secretary shall allocate to each State that participates in the reimbursement program under paragraph (3) such amounts as may be necessary to carry out reimbursements under such paragraph for each reimbursement month, including, subject to paragraph (5)(C), administrative expenses necessary to make such reimbursements.

"(B) GUIDANCE WITH RESPECT TO PROGRAM.—Not later than 30 days after the date of the enactment of this section [Dec. 27, 2020], the Secretary shall issue guidance with respect to the reimbursement program under paragraph (3).

"(2) REIMBURSEMENT PROGRAM APPLICATION.—To participate in the reimbursement program under paragraph (3), not later than 30 days after the date described in paragraph (1)(B), a State shall submit an application to the Secretary that includes a plan to calculate and disburse reimbursements under the reimbursement program under paragraph (3).

"(3) REIMBURSEMENT AMOUNT.—Subject to paragraphs (4) and (5)(E), using the amounts allocated under paragraph (1)(A), a State participating in the reimbursement program under this paragraph shall make reimbursements for child care operational emergency costs for each reimbursement month as follows:

"(A) For each new covered institution in the State for the reimbursement month, an amount equal to 55 percent of—

"(i) the average monthly amount such new covered institution was reimbursed under subsection (c) and subsection (f) of section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) for meals and supplements served by such new covered institution during the alternate period; minus

"(ii) the amount such new covered institution was reimbursed under such section for meals and supplements served by such new covered institution during such reimbursement month.

"(B) For each covered institution not described in subparagraph (A) in the State for the reimbursement month, an amount equal to 55 percent of—

"(i) the amount such covered institution was reimbursed under subsection (c) and subsection (f) of section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) for meals and supplements served by such covered institution during the month beginning one year before such reimbursement month; minus

"(ii) the amount such covered institution was reimbursed under such section for meals and supplements served by such covered institution during such reimbursement month.

"(C) For each new sponsoring organization of a family or group day care home in the State for the reimbursement month, an amount equal to 55 percent of—

"(i) the average monthly amount such new sponsoring organization of a family or group day care home was reimbursed under section 17(f)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(B)) for administrative funds for the alternate period; minus

"(ii) the amount such new sponsoring organization of a family or group day care home was reimbursed under such section for administrative funds for the reimbursement month.

"(D) For each sponsoring organization of a family or group day care home not described in subparagraph (C) in the State for the reimbursement month, an amount equal to 55 percent of—

"(i) the amount such sponsoring organization of a family or group day care home was reimbursed under section 17(f)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(B)) for administrative funds for the month beginning one year before such reimbursement month; minus

"(ii) the amount such sponsoring organization of a family or group day care home was reimbursed under such section for administrative funds for such reimbursement month.

"(4) SPECIAL RULES RELATING TO REIMBURSEMENT CALCULATION.—

"(A) EFFECT OF NEGATIVE NUMBER.—If a subtraction performed under subparagraph (A), (B), (C), or (D) of paragraph (3) results in a negative number, the reimbursement amount calculated under such subparagraph shall equal zero.

"(B) SPECIAL TREATMENT OF MARCH, 2020.—In the case of a reimbursement under subparagraph (A), (B), (C), or (D) of paragraph (3) for the reimbursement month of March, 2020, the reimbursement amount shall be equal to the amount determined under such a subparagraph for such month, divided by 2.

"(5) TREATMENT OF FUNDS.—

"(A) AVAILABILITY.—Funds allocated to a State under paragraph (1)(A) shall remain available until September 30, 2021.

"(B) UNAFFILIATED CENTER.—In the case of a covered institution or a new covered institution that is an unaffiliated center that is sponsored by a sponsoring organization and receives funds for a reimbursement month under subparagraph (A) or (B) of paragraph (3), such unaffiliated center shall provide to such sponsoring organization an amount of such funds as agreed to by the sponsoring organization and the unaffiliated center, except such amount may not be greater be [sic] than 15 percent of such funds.

"(C) ADMINISTRATIVE EXPENSES.—A State may reserve not more than 1 percent of the funds allocated under paragraph (1)(A) for administrative expenses to carry out this subsection.

"(D) UNEXPENDED BALANCE.—On March 31, 2022, any amounts allocated to a State under paragraph (1)(A) or reimbursed to a new covered institution, covered institution, new sponsoring organization of a family or group day care home, or sponsoring organization of a family or group day care home that are unexpended by such State, new covered institution, covered institution, new sponsoring organization of a family or group day care home, or sponsoring organization of a family or group day care home, shall revert to the Secretary.

"(E) LIMITATION ON USE OF FUNDS.—Funds allocated to a State under paragraph (1)(A) may only be made available to a new covered institution, covered institution, new sponsoring

organization of a family or group day care home, or sponsoring organization of a family or group day care home that—

"(i) submits a claim to such State for meals, supplements, or administrative costs with respect to a month occurring during the period beginning September 1, 2020 and ending December 31, 2020; or

"(ii) provides an assurance to such State that the new covered institution, covered institution, new sponsoring organization of a family or group day care home, or sponsoring organization of a family or group day care home will submit a claim to such State for meals, supplements, or administrative costs with respect to a month occurring within 90 days after the conclusion of the public health emergency.

"(6) REPORTS.—Each State that carries out a reimbursement program under paragraph (3) shall, not later than March 31, 2022, submit a report to the Secretary that includes a summary of the use of such funds by the State and each new covered institution, covered institution, new sponsoring organization of a family or group day care home, or sponsoring organization of a family or group day care home.

"(c) FUNDING.—There are appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, such sums as are necessary to carry out this section.

"(d) DEFINITIONS.—In this section:

"(1) ALTERNATE PERIOD.—The term 'alternate period' means the period beginning January 1, 2020 and ending February 29, 2020.

"(2) EMERGENCY OPERATIONAL COSTS.—The term 'emergency operational costs' means the costs incurred by a school food authority or new school food authority—

"(A) during a public health emergency;

"(B) that are related to the ongoing operation, modified operation, or temporary suspension of operation (including administrative costs) of such school food authority or new school food authority; and

"(C) except as provided under subsection (a), that are not reimbursed under a Federal grant.

"(3) CHILD CARE OPERATIONAL EMERGENCY COSTS.—The term 'child care operational emergency costs' means the costs under the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) incurred by a new covered institution, covered institution, new sponsoring organization of a family or group day care home, or sponsoring organization of a family or group day care home—

"(A) during a public health emergency;

"(B) that are related to the ongoing operation, modified operation, or temporary suspension of operation (including administrative costs) of such new covered institution, covered institution, new sponsoring organization of a family or group day care home, sponsoring organization of a family or group day care home, or sponsoring organization of an unaffiliated center; and

"(C) except as provided under subsection (b), that are not reimbursed under a Federal grant.

"(4) COVERED INSTITUTION.—The term 'covered institution' means—

"(A) an institution (as defined in section 17(a)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2))); and

"(B) a family or group day care home.

"(5) NEW COVERED INSTITUTION.—The term 'new covered institution' means a covered institution for which no reimbursements were made for meals and supplements under section 17(c) or (f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766[(c), (f)]) with respect to the previous reimbursement period.

"(6) NEW SCHOOL FOOD AUTHORITY.—The term 'new school food authority' means a school food authority for which no reimbursements were made under the reimbursement sections with respect to the previous reimbursement period.

"(7) NEW SPONSORING ORGANIZATION OF A FAMILY OR GROUP DAY CARE.—The term 'new sponsoring organization of a family or group day care' means a sponsoring organization of a family or group day care home for which no reimbursements for administrative funds were made under section 17(f)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(B)) for the previous reimbursement period.

"(8) PREVIOUS REIMBURSEMENT PERIOD.—The term 'previous reimbursement period' means the period beginning March 1, 2019 and ending June 30, 2019.

"(9) PUBLIC HEALTH EMERGENCY.—The term 'public health emergency' means a public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) resulting from the COVID–19 pandemic or any renewal of such declaration pursuant to such section 319.

"(10) REIMBURSEMENT MONTH.—The term 'reimbursement month' means March 2020, April 2020, May 2020, and June 2020.

"(11) REIMBURSEMENT SECTIONS.—The term 'reimbursement sections' means—

"(A) section 4(b), section 11(a)(2), section 13, and section 17A(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753(b); 42 U.S.C. 1759a(a)(2); 42 U.S.C. 1761; 42 U.S.C. 1766a(c)); and

"(B) section 4 of the Child Nutrition Act (42 U.S.C. 1773).

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(13) STATE.— The term 'State' has the meaning given such term in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8))."

INDIRECT COSTS

Pub. L. 111–296, title III, §307, Dec. 13, 2010, 124 Stat. 3245, provided that:

"(a) GUIDANCE ON INDIRECT COSTS RULES.—Not later than 180 days after the date of enactment of this Act [Dec. 13, 2010], the Secretary [of Agriculture] shall issue guidance to school food authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) covering program rules pertaining to indirect costs, including allowable indirect costs that may be charged to the nonprofit school food service account.

"(b) INDIRECT COST STUDY.—The Secretary shall—

"(1) conduct a study to assess the extent to which school food authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) pay indirect costs, including assessments of—

"(A) the allocation of indirect costs to, and the methodologies used to establish indirect cost rates for, school food authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

"(B) the impact of indirect costs charged to the nonprofit school food service account;

"(C) the types and amounts of indirect costs charged and recovered by school districts;

"(D) whether the indirect costs charged or recovered are consistent with requirements for the allocation of indirect costs and school food service operations; and

"(E) the types and amounts of indirect costs that could be charged or recovered under requirements for the allocation of indirect costs and school food service operations but are not charged or recovered; and

"(2) after completing the study required under paragraph (1), issue additional guidance relating to the types of costs that are reasonable and necessary to provide meals under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(c) REGULATIONS.—After conducting the study under subsection (b)(1) and identifying costs under subsection (b)(2), the Secretary may promulgate regulations to address—

"(1) any identified deficiencies in the allocation of indirect costs; and

"(2) the authority of school food authorities to reimburse only those costs identified by the Secretary as reasonable and necessary under subsection (b)(2).

"(d) REPORT.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study under subsection (b).

"(e) FUNDING.—

"(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $2,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation."

LOCAL WELLNESS POLICY

Pub. L. 108–265, title II, §204, June 30, 2004, 118 Stat. 780, as amended by Pub. L. 109–97, title VII, §776, Nov. 10, 2005, 119 Stat. 2161, which related to establishment of local school wellness policies for schools under local educational agencies, was repealed by Pub. L. 111–296, title II, §204(b), Dec. 13, 2010, 124 Stat. 3218.

COORDINATION OF SCHOOL LUNCH, SCHOOL BREAKFAST, AND SUMMER FOOD SERVICE PROGRAMS

Pub. L. 104–193, title VII, §741, Aug. 22, 1996, 110 Stat. 2307, as amended by Pub. L. 106–78, title VII, §752(b)(6), Oct. 22, 1999, 113 Stat. 1169, provided that:

"(a) COORDINATION.—

"(1) IN GENERAL.—The Secretary of Agriculture shall develop proposed changes to the regulations under the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the summer food service program under section 13 of that Act (42 U.S.C. 1761), and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), for the purpose of simplifying and coordinating those programs into a comprehensive meal program.

"(2) CONSULTATION.—In developing proposed changes to the regulations under paragraph (1), the Secretary of Agriculture shall consult with local, State, and regional administrators of the programs described in such paragraph.

"(b) REPORT.—Not later than November 1, 1997, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities [now Committee on Education and the Workforce] of the House of Representatives a report containing the proposed changes developed under subsection (a)."

SUPPLEMENTAL NUTRITION PROGRAMS; CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 103–448, §2, Nov. 2, 1994, 108 Stat. 4700, as amended by Pub. L. 106–78, title VII, §752(b)(15), Oct. 22, 1999, 113 Stat. 1170, provided that: "Congress finds that—

"(1) undernutrition can permanently retard physical growth, brain development, and cognitive functioning of children;

"(2) the longer a child's nutritional, emotional, and educational needs go unmet, the greater the likelihood of cognitive impairment;

"(3) low-income children who attend school hungry score significantly lower on standardized tests than non-hungry low-income children; and

"(4) supplemental nutrition programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake."

STUDY OF ADULTERATION OF JUICE PRODUCTS SOLD TO SCHOOL MEAL PROGRAMS

Pub. L. 103–448, title I, §125, Nov. 2, 1994, 108 Stat. 4734, directed Comptroller General of the United States, not later than 1 year after Nov. 2, 1994, to conduct study and to submit a report to Congress on costs and problems associated with sale of adulterated fruit juice and juice products to the school lunch program under this chapter and school breakfast program under section 1773 of this title.

CONSOLIDATION OF SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE MEAL PROGRAM

Pub. L. 103–448, title III, §301, Nov. 2, 1994, 108 Stat. 4749, as amended by Pub. L. 106–78, title VII, §752(b)(15), Oct. 22, 1999, 113 Stat. 1170, provided that:

"(a) IN GENERAL.—Notwithstanding any provision of [the] Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as otherwise provided in this section, the Secretary of Agriculture shall, not later than 18 months after the date of enactment of this Act [Nov. 2, 1994], develop and implement regulations to consolidate the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) into a comprehensive meal program.

"(b) REQUIREMENTS.—In establishing the comprehensive meal program under subsection (a), the Secretary shall meet the following requirements:

"(1) The Secretary shall ensure that the program continues to serve children who are eligible for free and reduced price meals. The meals shall meet the nutritional requirements of section 9(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)(1)) and section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

"(2) The Secretary shall continue to make breakfast assistance payments in accordance with section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and food assistance payments in accordance with the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

"(3) The Secretary may not consolidate any aspect of the school lunch program or the school breakfast program with respect to any matter described in any of subparagraphs (A) through (N) of section 12(l)(4) of

the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(4)).

"(c) PLAN AND RECOMMENDATIONS.—

"(1) PLAN FOR CONSOLIDATION AND SIMPLIFICATION.—Not later than 180 days prior to implementing the regulations described in subsection (a), the Secretary shall prepare and submit to the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan for the consolidation and simplification of the school lunch program and the school breakfast program.

"(2) RECOMMENDATIONS WITH RESPECT TO CHANGE IN PAYMENT AMOUNTS.—If the Secretary proposes to change the amount of the breakfast assistance payment or the food assistance payment under the comprehensive meal program, the Secretary shall not include the change in the consolidation and shall prepare and submit to the Committee on Education and Labor [now Committee on Education and the Workforce], and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate recommendations for legislation to effect the change."

STUDY AND REPORT RELATING TO USE OF PRIVATE FOOD ESTABLISHMENTS AND CATERERS UNDER SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM

Pub. L. 103–448, title III, §302, Nov. 2, 1994, 108 Stat. 4750, directed Comptroller General of the United States, in conjunction with the Director of the Office of Technology Assessment, to conduct a study and submit a report to Congress, not later than Sept. 1, 1996, on the use of private food establishments and caterers by schools that participate in the school lunch program under this chapter or the school breakfast program under section 1773 of this title.

SCHOOL LUNCH STUDIES

Pub. L. 101–624, title XVII, §1779, Nov. 28, 1990, 104 Stat. 3816, directed Secretary of Agriculture to determine the quantity of bonus commodities lost, by State, since the 1987–88 school year, the amount that school food service authorities charged students for non-free or reduced price meals, and the trends in school participation and student participation, by State and for the United States, and directed Secretary also to determine the cost to produce school lunches and breakfasts, including indirect and local administrative costs, the reasons why schools choose not to participate in the National school lunch program, the State costs incurred to administer the school programs, and the reasons why children eligible for free or reduced price meals do not apply for benefits or participate, with Secretary to submit to Congress a final report on results of the studies not later than Oct. 1, 1993.

COMPREHENSIVE STUDY OF BENEFITS OF PROGRAMS; REPORT TO CONGRESS

Pub. L. 93–150, §10, Nov. 7, 1973, 87 Stat. 564, directed Secretary of Agriculture to carry out a comprehensive study to determine if the benefits of the National School Lunch Act and the Child Nutrition Act are accruing to the maximum extent possible to all of the nation's school children, and to determine if regional cost differentials exist in Alaska and other States so as to require additional reimbursement, such report with recommendations to be submitted to Congress no later than June 30, 1974.

§1752. Authorization of appropriations; "Secretary" defined

For each fiscal year, there is authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this chapter, other than sections 1761 and 1766 of this title. Appropriations to carry out the provisions of this chapter and of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this chapter and the Child Nutrition Act of 1966 shall remain available for the purposes of the Act for which appropriated until expended.

(June 4, 1946, ch. 281, §3, 60 Stat. 230; Pub. L. 87–823, §1, Oct. 15, 1962, 76 Stat. 944; Pub. L. 90–302, §1, May 8, 1968, 82 Stat. 117; Pub. L. 91–248, §1(a), May 14, 1970, 84 Stat. 208; Pub. L. 93–326, §7, June 30, 1974, 88 Stat. 287; Pub. L. 94–105, §24, Oct. 7, 1975, 89 Stat. 529; Pub. L. 99–500, title III, §371(a)(2), Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III,

§371(a)(2), Oct. 30, 1986, 100 Stat. 3341–371; Pub. L. 99–661, div. D, title V, §4501(a)(2), Nov. 14, 1986, 100 Stat. 4080.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1986—Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, which identically directed amendment of section by substituting "sections 1761 and 1766" for "sections 1761, 1766, and 1768" were executed making the substitution for "sections 1761, 1766 and 1768" as the probable intent of Congress.

1975—Pub. L. 94–105 substituted "sections 1761, 1766 and 1768" for "section 1761".

1974—Pub. L. 93–326 substituted "other than section 1761 of this title" for "other than sections 1759a and 1761 of this title".

1970—Pub. L. 91–248 provided that appropriations for child food service programs may be made a year in advance of the beginning of the fiscal year in which the funds become available and that funds appropriated for such programs remain available until expended.

1968—Pub. L. 90–302 inserted section 1761 to enumeration of sections excepted from application of this section.

1962—Pub. L. 87–823 struck out ", beginning with the fiscal year ending June 30, 1947," after "fiscal year" and inserted ", other than section 1759a of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPROPRIATIONS AS FUNCTIONS OF HEALTH AND HUMAN SERVICES

Pub. L. 90–302, §1, May 8, 1968, 82 Stat. 117, as amended by Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, provided in part that: "Appropriations shall be considered Health and Human Services functions for budget purposes rather than functions of Agriculture."

§1753. Apportionments to States

(a) The sums appropriated for any fiscal year pursuant to the authorizations contained in section 1752 of this title shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this chapter.

(b)(1) The Secretary shall make food assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in a total amount equal to the product obtained by multiplying—

(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title) served during such fiscal year in schools in such State which participate in the school lunch program under this chapter under agreements with such State educational agency; by

(B) the national average lunch payment prescribed in paragraph (2) of this subsection.

(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 1759a(a) of this title) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price, the national average lunch payment shall be 2 cents more.

(3) ADDITIONAL REIMBURSEMENT.—

(A) REGULATIONS.—

(i) PROPOSED REGULATIONS.—Notwithstanding section 1758(f) of this title, not later than 18 months after December 13, 2010, the Secretary shall promulgate proposed regulations to update the meal patterns and nutrition standards for the school lunch program authorized under this chapter and the school breakfast program established by section 1773 of this title based on recommendations made by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.

(ii) INTERIM OR FINAL REGULATIONS.—

(I) IN GENERAL.—Not later than 18 months after promulgation of the proposed regulations under clause (i), the Secretary shall promulgate interim or final regulations.

(II) DATE OF REQUIRED COMPLIANCE.—The Secretary shall establish in the interim or final regulations a date by which all school food authorities participating in the school lunch program authorized under this Act and the school breakfast program established by section 1773 of this title are required to comply with the meal pattern and nutrition standards established in the interim or final regulations.

(iii) REPORT TO CONGRESS.—Not later than 90 days after December 13, 2010, and each 90 days thereafter until the Secretary has promulgated interim or final regulations under clause (ii), the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a quarterly report on progress made toward promulgation of the regulations described in this subparagraph.

(B) PERFORMANCE-BASED REIMBURSEMENT RATE INCREASE.—Beginning on the later of the date of promulgation of the implementing regulations described in subparagraph (A)(ii), December 13, 2010, or October 1, 2012, the Secretary shall provide additional reimbursement for each lunch served in school food authorities determined to be eligible under subparagraph (D).

(C) ADDITIONAL REIMBURSEMENT.—

(i) IN GENERAL.—Each lunch served in school food authorities determined to be eligible under subparagraph (D) shall receive an additional 6 cents, adjusted in accordance with section 1759a(a)(3) of this title, to the national lunch average payment for each lunch served.

(ii) DISBURSEMENT.—The State agency shall disburse funds made available under this paragraph to school food authorities eligible to receive additional reimbursement.

(D) ELIGIBLE SCHOOL FOOD AUTHORITY.—To be eligible to receive an additional reimbursement described in this paragraph, a school food authority shall be certified by the State to be in compliance with the interim or final regulations described in subparagraph (A)(ii).

(E) FAILURE TO COMPLY.—Beginning on the later of the date described in subparagraph (A)(ii)(II), December 13, 2010, or October 1, 2012, school food authorities found to be out of compliance with the meal patterns or nutrition standards established by the implementing regulations shall not receive the additional reimbursement for each lunch served described in this paragraph.

(F) ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall make funds available to States for State activities related to training, technical assistance, certification, and oversight activities of this paragraph.

(ii) PROVISION OF FUNDS.—The Secretary shall provide funds described in clause (i) to States administering a school lunch program in a manner proportional to the administrative expense allocation of each State during the preceding fiscal year.

(iii) FUNDING.—

(I) IN GENERAL.—In the later of the fiscal year in which the implementing regulations described in subparagraph (A)(ii) are promulgated or the fiscal year in which this paragraph

is enacted, and in the subsequent fiscal year, the Secretary shall use not more than $50,000,000 of funds made available under section 1752 of this title to make payments to States described in clause (i).

(II) RESERVATION.—In providing funds to States under clause (i), the Secretary may reserve not more than $3,000,000 per fiscal year to support Federal administrative activities to carry out this paragraph.

(June 4, 1946, ch. 281, §4, 60 Stat. 230; July 12, 1952, ch. 699, §1(a), 66 Stat. 591; Pub. L. 87–688, §3(a), Sept. 25, 1962, 76 Stat. 587; Pub. L. 87–823, §2, Oct. 15, 1962, 76 Stat. 944; Pub. L. 92–433, §4(c), Sept. 26, 1972, 86 Stat. 726; Pub. L. 93–150, §2(a), Nov. 7, 1973, 87 Stat. 560; Pub. L. 97–35, title VIII, §§801(a), 819(g), Aug. 13, 1981, 95 Stat. 521, 533; Pub. L. 101–147, title III, §§301, 312(2), Nov. 10, 1989, 103 Stat. 913, 916; Pub. L. 111–296, title II, §201, Dec. 13, 2010, 124 Stat. 3214.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111–296 added par. (3).

1989—Pub. L. 101–147, §301, inserted "Apportionments to States" as section catchline.

Subsec. (b)(2). Pub. L. 101–147, §312(2), substituted "reduced price" for "reduced-price".

1981—Subsec. (a). Pub. L. 97–35, §§801(a)(1), (2), 819(g), designated existing provisions as subsec. (a), struck out exclusion of sum specified in section 1754 of this title, and struck out provisions relating to food assistance payments.

Subsec. (b). Pub. L. 97–35, §801(a)(3), added subsec. (b).

1973—Pub. L. 93–150 increased national average food assistance payments from 8 to 10 cents per lunch.

1972—Pub. L. 92–433 substituted new formula for food assistance payments to State educational agencies by taking into account the number of lunches served during the year, the children in the schools in such State participating in the school lunch program, and the national average payment per lunch set up by the Secretary, with certain limitations, for apportionment formula limiting the apportionable funds to 75 per cent of the available funds for such year, and taking into account the participation rate for the State, the need rate for the State, and providing for a method of apportionment, special provisions for disposal of excess or unused funds and for fiscal years beginning July 1, 1962, July 1, 1963, July 1, 1964 and fixing the funds for American Samoa at $25,000 for each year for the five fiscal years beginning July 1, 1962.

1962—Pub. L. 87–823 amended section generally, and, among other changes, substituted as factors for apportionment of funds among the States "(1) the participation rate for the State, and (2) the assistance need rate for the State" for "(1) the number of school children in the State and (2) the need for assistance in the State as indicated by the relation of the per capita income of the United States to the per capita income in the State"; inserted, in provision for determination of amount of apportionment in clause designated "second", "(exclusive of American Samoa for periods ending before July 1, 1967)"; inserted provisions for use of transitional formulas in apportionment of funds for fiscal years beginning in 1962, 1963, and 1964 and apportioning to American Samoa $25,000 annually for five fiscal years in period beginning July 1, 1962 and ending June 30, 1967; and struck out apportionment formula for Puerto Rico, Guam, American Samoa, and the Virgin Islands, which limited apportionments to 3 per centum of the total fund to be apportioned but required the apportionment to each to be not less than an amount which would result in an allotment per child of school age equal to that for the State with the lowest per capita income, definition of school (incorporated in section 1760(d)(7) of this title), provision for use of latest per capita income figures certified by the Department of Commerce (incorporated in section 1760(d)(6)(ii) of this title), and definition of school children which provided that the number of school children should be the number between ages of five and seventeen.

Pub. L. 87–688 inserted "American Samoa," after "Guam," in two places and "the apportionment for American Samoa," after "the apportionment for Guam,".

1952—Act July 12, 1952, removed Alaska and Hawaii from 3 percent limitation imposed on Puerto Rico and Virgin Islands, made limitation applicable to Guam, and modified effects of 3 percent limitation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–35, title VIII, §820(a), Aug. 13, 1981, 95 Stat. 534, provided that: "The provisions of this title shall take effect as follows:

"(1) The amendments made by the following sections shall take effect on the first day of the month following the date of the enactment of this Act [Aug. 13, 1981] or on September 1, 1981, whichever is earlier:

"(A) section 801 [amending this section and sections 1759a and 1773 of this title];

"(B) that portion of the amendment made by section 810(c) [amending section 1766 of this title] pertaining to the reimbursement rate for supplements;

"(C) that portion of the amendment made by section 810(d)(1) [amending section 1766 of this title] pertaining to the limitation on the number of meals for which reimbursement may be made under the child care food program;

"(D) that portion of the amendment made by section 810(d)(3) [amending section 1766 of this title] which reduces the meal reimbursement factor by 10 percent; and

"(E) section 811 [amending section 1758 of this title].

"(2) The amendments made by sections 802 and 804 [amending sections 1755 and 1756 of this title] shall take effect on July 1, 1981.

"(3) The amendments made by sections 807 [amending section 1772 of this title], 808 [amending sections 1760 and 1784 of this title], and 810(a)(2) [amending section 1766 of this title] shall take effect on the first day of the second month following the date of the enactment of this Act [Aug. 13, 1981].

"(4) The amendments made by the following sections shall take effect October 1, 1981: sections 805 [repealing sections 1754 and 1774 of this title], 806 [amending section 1788 of this title], 809 [amending section 1761 of this title], 810(a)(1) [amending section 1766 of this title], 810(f) [amending section 1766 of this title], 810(g) [amending section 1766 of this title], 812 [amending section 1759a of this title], 814 [amending section 1776 of this title], 817 [enacting section 1774 of this title and amending sections 1759, 1761, 1766, 1773, and 1788 of this title], and 819 [amending this section and sections 1755, 1757, 1759a, 1760, 1762a, 1763, 1766, 1773, 1776, and 1780 of this title].

"(5) The amendments made by section 813 [amending sections 1759a, 1760, 1762a, and 1772 of this title] shall take effect 90 days after the date of the enactment of this Act [Aug. 13, 1981].

"(6) The amendments made by the following provisions shall take effect January 1, 1982: subsections (b), (c), (d), and (e) of section 810 [amending section 1766 of this title], except that—

"(A) the amendment made by section 810(c) pertaining to the reimbursement rate for supplements shall take effect as provided under paragraph (1) of this subsection;

"(B) the amendment made by section 810(d)(1) pertaining to the limitation on the number of meals for which reimbursement may be made shall take effect as provided under paragraph (1) of this subsection; and

"(C) the amendment made by section 810(d)(3) which reduces the meal reimbursement factor by 10 percent shall take effect as provided under paragraph (1) of this subsection.

"(7) The following provisions shall take effect on the date of the enactment of this Act [Aug. 13, 1981]:

"(A) the amendments made by subsections (a) and (b) [amending section 1758 of this title] of section 803 and the provisions of subsections (c) and (d) [amending provisions set out as notes under section 1758 of this title] of section 803;

"(B) the amendment made by section 815 [amending section 1786 of this title];

"(C) the amendment made by section 816 [amending section 1785 of this title]; and

"(D) the provisions of section 818."

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92–433, §4(c), Sept. 26, 1972, 86 Stat. 726, provided that the amendment made by that section is effective after the fiscal year ending June 30, 1973.

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87–688, §3(b), Sept. 25, 1962, 76 Stat. 587, provided that: "The amendments made by this section [amending this section and sections 1754 and 1760 of this title] shall be applicable only with respect to funds

appropriated after the date of enactment of this Act [Sept. 25, 1962]."

EFFECTIVE DATE OF 1952 AMENDMENT

Act July 12, 1952, ch. 699, §1(d), 66 Stat. 591, provided that: "The amendments made by this Act [amending this section and sections 1754 and 1760 of this title] shall be effective only with respect to funds appropriated after the date on which this Act is enacted [July 12, 1952]."

PROMULGATION OF REGULATIONS

Pub. L. 97–35, title VIII, §820(c), Aug. 13, 1981, 95 Stat. 535, provided that: "Not later than 60 days after the date of the enactment of this Act [Aug. 13, 1981], the Secretary of Agriculture shall promulgate regulations to implement the amendments made by this title [see Tables for classification]."

SUPPORT FOR CHILD NUTRITION PROGRAMS; TEMPORARY REIMBURSEMENTS

Pub. L. 117–158, §2(a), June 25, 2022, 136 Stat. 1309, provided that:

"(1) TEMPORARY LUNCH REIMBURSEMENT.—Each lunch served under the school lunch program authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) shall receive additional reimbursement in the amount of 40 cents.

"(2) TEMPORARY BREAKFAST REIMBURSEMENT.—Each breakfast served under the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall receive additional reimbursement in the amount of 15 cents.

"(3) LIMITATION.—The additional reimbursement amounts authorized under this subsection shall only be available for the school year beginning July 2022.

"(4) APPROPRIATIONS.—

"(A) IN GENERAL.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as are necessary to carry out this subsection.

"(B) DISBURSEMENT.—A State agency shall disburse funds made available under subparagraph (A) to school food authorities participating in the school meal programs described in paragraphs (1) and (2)."

REDUCTION IN GENERAL REIMBURSEMENT FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96–499, title II, §201(a), Dec. 5, 1980, 94 Stat. 2599, provided that the national average payment per lunch under this chapter shall be reduced by 2½ cents for certain school food authorities for fiscal year ending Sept. 30, 1981, and that the amount of reimbursements under section 1776 of this title for fiscal year ending Sept. 30, 1983, and the amount of State revenues appropriated or used for meeting the requirements under section 1756 of this title for the school year ending June 30, 1982, shall not be reduced because of a reduction in the amount of Federal funds expended, prior to repeal by Pub. L. 97–35, title VIII, §820(b)(1), Aug. 13, 1981, 95 Stat. 535, effective Sept. 1, 1981, or the first day of the first month following Aug. 1981, whichever is earlier.

USE OF FUNDS APPROPRIATED UNDER SECTION 612C OF TITLE 7 FOR IMPLEMENTING THIS SECTION AND REIMBURSEMENT OF SUCH FUNDS

Pub. L. 92–433, §4(a), Sept. 26, 1972, 86 Stat. 725, authorized Secretary of Agriculture to use so much of the funds appropriated by section 612(c) of title 7, as may be necessary, to carry out the purposes of this section and provide an average rate of reimbursement of not less than 8 cents per meal within each State during the fiscal year 1973 and provided for reimbursement of funds so used.

ADDITIONAL FUNDS FOR APPORTIONMENT TO STATES AND FOR SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT OF SEPARATE FUND FROM SUPPLEMENTAL APPROPRIATION

Pub. L. 92–153, §1, Nov. 5, 1971, 85 Stat. 419, provided: "That, notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as may be necessary, in addition to the funds now available therefor, to carry out the purposes of section 11 of the [Richard B. Russell] National School Lunch Act [section 1759a of this title] and provide a rate of reimbursement which will assure every needy child of free or reduced price lunches during the fiscal year ending June 30, 1972, and to carry out the purposes of section 4 of the [Richard B. Russell] National School Lunch Act [this section] and provide an average rate of reimbursement of 6 cents per meal within each State. In determining the amount of funds needed and the requirements of the various States therefor, the

Secretary shall consult with the National Advisory Council on Child Nutrition and interested parties. Funds expended under the foregoing provisions of this resolution shall be reimbursed out of any supplemental appropriation hereafter enacted [on and after Nov. 5, 1971] for the purpose of carrying out section 4 [this section] and section 11 of the [Richard B. Russell] National School Lunch Act [section 1759a of this title], and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], to be available for the purposes of said section 32 [section 612c of Title 7]."

APPORTIONMENT OF ADDITIONAL FUNDS TO STATES

Pub. L. 92–433, §4(b), Sept. 26, 1972, 86 Stat. 726, provided that: "Funds made available pursuant to this section shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced-price lunches and to meet the objective of this section with respect to providing a minimum rate of reimbursement under section 4 of the [Richard B. Russell] National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable."

Pub. L. 92–153, §2, Nov. 5, 1971, 85 Stat. 420, provided that: "Funds made available by this joint resolution [amending sections 1758 and 1759a of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced price lunches and to meet the objective of this joint resolution [amending sections 1758 and 1759a of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] with respect to providing a minimum rate of reimbursement under section 4 of the [Richard B. Russell] National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable."

§1754. Nutrition promotion

(a) In general

Subject to the availability of funds made available under subsection (g), the Secretary shall make payments to State agencies for each fiscal year, in accordance with this section, to promote nutrition in food service programs under this chapter and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(b) Total amount for each fiscal year

The total amount of funds available for a fiscal year for payments under this section shall equal not more than the product obtained by multiplying—

(1) ½ cent; by

(2) the number of lunches reimbursed through food service programs under this chapter during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs.

(c) Payments to States

(1) Allocation

Subject to paragraph (2), from the amount of funds available under subsection (g) for a fiscal year, the Secretary shall allocate to each State agency an amount equal to the greater of—

(A) a uniform base amount established by the Secretary; or

(B) an amount determined by the Secretary, based on the ratio that—

(i) the number of lunches reimbursed through food service programs under this chapter in schools, institutions, and service institutions in the State that participate in the food service programs; bears to

(ii) the number of lunches reimbursed through the food service programs in schools, institutions, and service institutions in all States that participate in the food service programs.

(2) Reductions

The Secretary shall reduce allocations to State agencies qualifying for an allocation under

paragraph (1)(B), in a manner determined by the Secretary, to the extent necessary to ensure that the total amount of funds allocated under paragraph (1) is not greater than the amount appropriated under subsection (g).

(d) Use of payments

(1) Use by State agencies

A State agency may reserve, to support dissemination and use of nutrition messages and material developed by the Secretary, up to—

(A) 5 percent of the payment received by the State for a fiscal year under subsection (c); or

(B) in the case of a small State (as determined by the Secretary), a higher percentage (as determined by the Secretary) of the payment.

(2) Disbursement to schools and institutions

Subject to paragraph (3), the State agency shall disburse any remaining amount of the payment to school food authorities and institutions participating in food service programs described in subsection (a) to disseminate and use nutrition messages and material developed by the Secretary.

(3) Summer food service program for children

In addition to any amounts reserved under paragraph (1), in the case of the summer food service program for children established under section 1761 of this title, the State agency may—

(A) retain a portion of the funds made available under subsection (c) (as determined by the Secretary); and

(B) use the funds, in connection with the program, to disseminate and use nutrition messages and material developed by the Secretary.

(e) Documentation

A State agency, school food authority, and institution receiving funds under this section shall maintain documentation of nutrition promotion activities conducted under this section.

(f) Reallocation

The Secretary may reallocate, to carry out this section, any amounts made available to carry out this section that are not obligated or expended, as determined by the Secretary.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

(June 4, 1946, ch. 281, §5, as added Pub. L. 108–265, title I, §101, June 30, 2004, 118 Stat. 730.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

PRIOR PROVISIONS

A prior section 1754, acts June 4, 1946, ch. 281, §5, 60 Stat. 231; July 12, 1952, ch. 699, §1(b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, §3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87–823, §3(a), 76 Stat. 945; Nov. 10, 1977, Pub. L. 95–166, §3, 91 Stat. 1332, related to amount, apportionment, etc., for food service equipment assistance, prior to repeal by Pub. L. 97–35, title VIII, §§805(a), 820(a)(4), Aug. 13, 1981, 95 Stat. 527, 534, effective Oct. 1, 1981.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 108–265, title V, §502, June 30, 2004, 118 Stat. 789, as amended by Pub. L. 108–447, div. A, title

VII, §788(f), Dec. 8, 2004, 118 Stat. 2851, provided that:

"(a) IN GENERAL.—Except as otherwise provided in this Act [see Short Title of 2004 Amendment note set out under section 1751 of this title], this Act and the amendments made by this Act take effect on the date of enactment of this Act [June 30, 2004].

"(b) SPECIAL EFFECTIVE DATES.—

"(1) JULY 1, 2004.—The amendments made by sections 106, 107, 126(c), and 201 [amending sections 1758, 1773, and 1776 of this title] take effect on July 1, 2004.

"(2) OCTOBER 1, 2004.—The amendments made by sections 119(c), 119(g), 202(a), 203(a), 203(b), 203(c)(1), 203(c)(5), 203(e)(8), 203(e)(10), 203(e)(13), 203(f), 203(h)(1), and 203(h)(2) [amending sections 1766, 1776, and 1786 of this title] take effect on October 1, 2004.

"(3) JANUARY 1, 2005.—The amendments made by sections 116(f)(1) and 116(f)(3) [amending section 1769 of this title] take effect on January 1, 2005.

"(4) JULY 1, 2005.—The amendments made by sections 102, 104 (other than section 104(a)(1)), 105, 111, and 126(b) [amending sections 1396a, 1758, 1759a, and 1769c of this title and section 2020 of Title 7, Agriculture] take effect on July 1, 2005.

"(5) OCTOBER 1, 2005.—The amendments made by sections 116(d) and 203(e)(9) [amending sections 1761 and 1786 of this title] take effect on October 1, 2005."

§1755. Direct expenditures for agricultural commodities and other foods

(a) Administrative expenses; nutritional education; pilot projects; cash-in-lieu of commodities study; refusal of commodities and receipt of other commodities available to the State in lieu of the refused commodities

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 thereof [42 U.S.C. 1772] less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for the Secretary's administrative expenses under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.];

(2) the amount apportioned by the Secretary pursuant to section 1753 of this title and the amount appropriated pursuant to sections 1759a and 1761 of this title and sections 4 and 7 of the Child Nutrition Act of 1966 [42 U.S.C. 1773 and 1776]; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 [42 U.S.C. 1772], which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 1769 of this title, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 1751 of this title, and section 2 of the Child Nutrition Act of 1966 [42 U.S.C. 1771],

shall be available to the Secretary during such year for direct expenditure by the Secretary for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] in accordance with the needs as determined by the local school and service institution authorities. Except as provided in the next 2 sentences, any school participating in food service programs under this chapter may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year. Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the

fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence. The provisions of law contained in the proviso of section 713c of title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this chapter and the Child Nutrition Act of 1966.

(b) Delivery of commodities

The Secretary shall deliver, to each State participating in the school lunch program under this chapter, commodities valued at the total level of assistance authorized under subsection (c) [1] for each school year for the school lunch program in the State, not later than September 30 of the following school year.

(c) Level of commodity assistance; computation of index; calculation of total assistance to each State; emphasis on high protein foods; per meal value of donated foods

(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

(2) To the maximum extent feasible, each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.

(d) Termination of commodity assistance based upon school breakfast program

Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773].

(e) Minimum percentage of commodity assistance

(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 1753 of this title, this section, and section 1759a of this title shall be in the form of—

(A) commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section; or

(B) during the period beginning October 1, 2003, and ending September 30, 2018, commodities provided by the Secretary under any provision of law.

(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 1762a(a) of this title to meet the requirement for the school year.

(f) Pilot project for procurement of unprocessed fruits and vegetables

(1) In general

The Secretary shall conduct a pilot project under which the Secretary shall facilitate the procurement of unprocessed fruits and vegetables in not more than 8 States receiving funds under this chapter.

(2) Purpose

The purpose of the pilot project required by this subsection is to provide selected States flexibility for the procurement of unprocessed fruits and vegetables by permitting each State—

(A) to utilize multiple suppliers and products established and qualified by the Secretary; and

(B) to allow geographic preference, if desired, in the procurement of the products under the pilot project.

(3) Selection and participation

(A) In general

The Secretary shall select States for participation in the pilot project in accordance with criteria established by the Secretary and terms and conditions established for participation.

(B) Requirement

The Secretary shall ensure that at least 1 project is located in a State in each of—

(i) the Pacific Northwest Region;

(ii) the Northeast Region;

(iii) the Western Region;

(iv) the Midwest Region; and

(v) the Southern Region.

(4) Priority

In selecting States for participation in the pilot project, the Secretary shall prioritize applications based on—

(A) the quantity and variety of growers of local fruits and vegetables in the States on a per capita basis;

(B) the demonstrated commitment of the States to farm-to-school efforts, as evidenced by prior efforts to increase and promote farm-to-school programs in the States; and

(C) whether the States contain a sufficient quantity of local educational agencies, various population sizes, and geographical locations.

(5) Recordkeeping and reporting requirements

(A) Recordkeeping requirement

States selected to participate in the pilot project, and participating school food authorities within those States, shall keep records of the fruits and vegetables received under the pilot project in such manner and form as requested by the Secretary.

(B) Reporting requirement

Each participating State shall submit to the Secretary a report on the success of the pilot project in the State, including information on—

(i) the quantity and cost of each type of fruit and vegetable received by the State under the pilot project; and

(ii) the benefit provided by those procurements in conducting school food service in the State, including meeting school meal requirements.

(June 4, 1946, ch. 281, §6, 60 Stat. 231; Pub. L. 87–823, §3(b), Oct. 15, 1962, 76 Stat. 945; Pub. L. 90–302, §2(a), May 8, 1968, 82 Stat. 117; Pub. L. 91–248, §3, May 14, 1970, 84 Stat. 209; Pub. L. 93–13, §2, Mar. 30, 1973, 87 Stat. 10; Pub. L. 93–150, §5, Nov. 7, 1973, 87 Stat. 562; Pub. L. 93–326, §3, June 30, 1974, 88 Stat. 286; Pub. L. 94–105, §§4, 11, Oct. 7, 1975, 89 Stat. 511, 515; Pub. L. 95–166, §§5, 7, 10(1), 19(a), Nov. 10, 1977, 91 Stat. 1334–1336, 1345; Pub. L. 95–627, §§5(b), 12(a), Nov. 10, 1978, 92 Stat. 3619, 3625; Pub. L. 96–499, title II, §202(b), Dec. 5, 1980, 94 Stat. 2600; Pub. L. 97–35, title VIII, §§802, 819(h), Aug. 13, 1981, 95 Stat. 524, 533; Pub. L. 99–500, title III, §§321, 371(c)(2), Oct. 18, 1986, 100 Stat. 1783–360, 1783–369, and Pub. L. 99–591, title III, §§321, 371(c)(2), Oct. 30, 1986, 100 Stat. 3341–364, 3341–372; Pub. L. 99–661, div. D, title II, §4201, title V, §4501(c)(2), Nov. 14, 1986, 100 Stat. 4071, 4080; Pub. L. 100–237, §3(j), Jan. 8, 1988, 101 Stat. 1738; Pub. L. 101–147, title I, §131(a), title III, §302, Nov. 10, 1989, 103 Stat. 906, 913; Pub. L. 103–448, title I, §§101–103, Nov. 2, 1994, 108 Stat. 4700, 4701; Pub. L. 105–336, title I, §101(a), Oct. 31, 1998, 112 Stat. 3144; Pub. L. 106–170, title IV, §411, Dec. 17, 1999, 113 Stat. 1917; Pub. L. 106–224, title II, §241(b), June 20, 2000, 114 Stat. 410; Pub. L. 107–171, title IV, §4301(a), May 13, 2002, 116 Stat. 330; Pub. L. 111–80, title VII, §749(a), Oct. 21, 2009, 123 Stat. 2131; Pub. L. 111–296, title IV, §401, Dec. 13, 2010, 124 Stat. 3259; Pub. L. 113–79, title IV, §4202, Feb. 7, 2014, 128 Stat. 821; Pub. L. 116–6, div. B, title VII, §775, Feb. 15, 2019, 133 Stat. 90.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

Subsection (c), referred to in subsec. (b), was repealed and subsec. (e) was redesignated (c) by Pub. L. 105–336, title I, §101(a), Oct. 31, 1998, 112 Stat. 3144.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2019—Subsec. (e)(1)(B). Pub. L. 116–6 substituted "September 30, 2018" for "September 30, 2020".

2014—Subsec. (f). Pub. L. 113–79 added subsec. (f).

2010—Subsec. (e)(1)(B). Pub. L. 111–296 substituted "2020" for "2010".

2009—Subsec. (e)(1)(B). Pub. L. 111–80 substituted "2010" for "2009".

2002—Subsec. (e)(1)(B). Pub. L. 107–171 substituted "2003" for "2001".

2000—Subsec. (e)(1)(B). Pub. L. 106–224 substituted "2001" for "2000".

1999—Subsec. (e)(1). Pub. L. 106–170 designated existing provisions as introductory provisions and subpar. (A) and added subpar. (B).

1998—Subsecs. (c) to (g). Pub. L. 105–336 redesignated subsecs. (e) to (g) as (c) to (e), respectively, and struck out former subsecs. (c) and (d) which read as follows:

"(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 612c of title 7 to make any payments to States authorized under such subsection. Any section 612c of title 7 funds utilized to make such payments shall be reimbursed out of any supplemental

appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 612c of title 7 to be available for the purpose of said section 612c of title 7.

"(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 1756 of this title."

1994—Subsec. (a). Pub. L. 103–448, §101, substituted in second sentence "Except as provided in the next 2 sentences, any school" for "Any school" and inserted after second sentence "Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence."

Subsec. (b). Pub. L. 103–448, §102, amended subsec. (b) generally. Prior to amendment, subsec. (b) related to cash donations in lieu of commodity donations during school year for school food service programs and withholding of funds for States administered by Secretary for disbursement to participating schools to be used to purchase commodities and other food for their food service programs.

Subsec. (g). Pub. L. 103–448, §103, added subsec. (g).

1989—Subsec. (a). Pub. L. 101–147, §302, substituted "the Secretary's" for "his" in par. (1), substituted "the Secretary" for "him" in par. (2), and, in concluding provisions, substituted "expenditure by the Secretary" for "expenditure by him" and made technical amendments to the references to section 713c of title 15 and section 612c of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (e)(1). Pub. L. 101–147, §131(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products). Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program."

Subsec. (e)(2). Pub. L. 101–147, §131(a)(2), substituted "To the maximum extent feasible, each State agency" for "Each State agency".

1988—Subsec. (e). Pub. L. 100–237 designated existing provisions as par. (1) and added par. (2).

1986—Subsecs. (a)(3), (b). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended section identically, in subsec. (a)(3), making technical amendment to reference to section 1769 of this title to reflect renumbering of corresponding section of original act and, in subsec. (b), substituting "June 1" for "May 15" and "July 1" for "June 15".

1981—Subsec. (a)(2). Pub. L. 97–35, §819(h), struck out references to section 1754 of this title, and section 5 of the Child Nutrition Act of 1966.

Subsec. (e). Pub. L. 97–35, §802, substituted provisions requiring value to be set at 11 cents, as adjusted on July 1, 1982, and each July 1, thereafter, for provisions requiring value to be set at not less than 10 cents, as adjusted on an annual basis each school year after June 30, 1975.

1980—Subsec. (f). Pub. L. 96–499 added subsec. (f).

1978—Subsec. (e). Pub. L. 95–627, §5(b), substituted provision relating to Price Index for Food Used in Schools and Institutions for provision relating to Consumer Price Index.

Pub. L. 95–627, §12(a), which provided for inserting "(which may include domestic seafood commodities and their products)" after "alternatives" was executed by inserting that parenthetical after "alternates" as the probable intent of Congress.

1977—Subsec. (a). Pub. L. 95–166, §§7, 10(1), inserted provision which authorized refusal of commodities and receipt of other commodities available to State, in lieu of refused commodities, and in cl. (3) authorized grants for pilot projects and cash-in-lieu of commodities study required to be carried out under section 1769 of this title.

Subsec. (b). Pub. L. 95–166, §5, in revising subsec. (b), changed commodity distribution program to a school year from a fiscal year basis, and among other changes, extended deadline for estimated valuation and payment to May 15 and June 15 from February 15 and March 15, and struck out provision respecting apportionment among State educational agencies on basis of meals served in all the States during the fiscal year and specific reference to regulations of the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

Subsec. (e). Pub. L. 95–166, §19(a), substituted "school years" and "school year after June 30, 1975" for "fiscal years" and "fiscal year after June 30, 1975", respectively.

1975—Subsec. (a). Pub. L. 94–105, §11(a), inserted provision prohibiting issuance of specifications in purchase of agricultural commodities and other foods unless such specifications result in significant advantages to the authorized food service programs.

Subsec. (b). Pub. L. 94–105, §4, substituted references to all schools of States for references to only nonprofit private schools of States in provisions covering Secretary's direct administration of school food service programs.

Subsec. (e). Pub. L. 94–105, §11(b), inserted provision mandating that not less than 75 per centum of assistance under this subsection shall be in form of donated foods for the school lunch program.

1974—Subsec. (e). Pub. L. 93–326 added subsec. (e).

1973—Subsec. (a). Pub. L. 93–13 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 93–150, in revising text to make provisions applicable each fiscal year rather than only for fiscal year ending June 30, 1973, substituted in: first sentence, "As of February 15 of each fiscal year" and "during that fiscal year" for "As of March 15, 1973" and "during the fiscal year ending June 30, 1973"; second sentence, "for that fiscal year", "March 15 of that fiscal year", and "as of February 15 of such fiscal year" for "for the fiscal year ending June 30, 1973", "April 15, 1973", and "as of March 15, 1973"; third sentence, "during the preceding fiscal year" for "during the fiscal year ending June 30, 1972"; and proviso of third sentence, "during that fiscal year" for "during the fiscal year ending June 30, 1972,".

Pub. L. 93–13 added subsec. (b).

Subsec. (c). Pub. L. 93–150 reenacted provisions without change.

Pub. L. 93–13 added subsec. (c).

Subsec. (d). Pub. L. 93–150 reenacted provisions without change.

Pub. L. 93–13 added subsec. (d).

1970—Pub. L. 91–248 increased amount authorized for administrative expenses by 3½ percent of the amount appropriated to carry out this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, made such amount available for the Secretary's administrative expenses, authorized use of up to 1 percent of the funds appropriated for this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, for nutritional training and education and studies of food service requirements in connection with those programs, reduced, to the extent funds were used for administrative expenses other than for this chapter or nutritional training or education or studies, the share of this chapter's appropriations which may be used for direct expenditure by the Secretary for agricultural commodities and other foods, and authorized distribution of such foods to schools and service institutions participating in food service programs under this chapter and the Child Nutrition Act of 1966.

1968—Pub. L. 90–302 inserted "except section 1761 of this title" after "The funds appropriated for any fiscal year for carrying out the provisions of this chapter,".

1962—Pub. L. 87–823 substituted ", less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title, and less the amount appropriated pursuant to section 1759a of this title" for "and less the amount apportioned to him pursuant to sections 1753, 1754, and 1759 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title IV, §4301(b), May 13, 2002, 116 Stat. 330, provided that: "The amendment made by this section [amending this section] takes effect on the date of enactment of this Act [May 13, 2002]."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–336, title IV, §401, Oct. 31, 1998, 112 Stat. 3170, provided that: "Except as otherwise provided

in this Act [see Short Title of 1998 Amendment note set out under section 1751 of this title], this Act and the amendments made by this Act shall take effect on October 1, 1998."

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–448, title IV, §401, Nov. 2, 1994, 108 Stat. 4751, provided that: "Except as otherwise provided in this Act [see Short Title of 1994 Amendment note set out under section 1751 of this title], this Act and the amendments made by this Act shall become effective on October 1, 1994."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title I, §131(c), Nov. 10, 1989, 103 Stat. 907, provided that: "The amendments made by this section [amending this section and section 1766 of this title] shall become effective on July 1, 1989."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 802 and 819(h) of Pub. L. 97–35 effective July 1, 1981, and Oct. 1, 1981, respectively, see section 820(a)(2), (4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–627, §14, Nov. 10, 1978, 92 Stat. 3625, provided that: "The provisions of this Act [enacting section 1769c of this title, amending this section and sections 1757, 1760, 1761, 1762a, 1766, 1769, 1773, 1774, 1776, 1784, and 1786 of this title and enacting provisions set out as notes under this section, sections 1751, 1773, and 1786 of this title], except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act [amending section 1759a of this title] shall become effective Jan[u]ary 1, 1979. The provisions of sections 5 [amending this section and sections 1759a, 1761, and 1772 of this title] and 8 [amending section 1758 of this title] of this Act shall become effective July 1, 1979, except that the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 [section 1786 of this title] not earlier than October 1, 1978, and not later than July 1, 1979."

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

REDUCTION IN COMMODITY ASSISTANCE FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96–499, title II, §202(a), Dec. 5, 1980, 94 Stat. 2600, provided that for the fiscal year ending Sept. 30, 1981, the national average value of donated foods or cash payments in lieu thereof, as determined under subsec. (e) of this section, shall be reduced by 2 cents, prior to repeal by Pub. L. 97–35, title VIII, §820(b)(2), Aug. 13, 1981, 95 Stat. 535, effective July 1, 1981.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Pub. L. 93–13, §1, Mar. 30, 1973, 87 Stat. 9, provided that: "The Congress finds that the volume and variety of Federal food donations to the school lunch and child nutrition programs are significantly below the amounts programed and budgeted for the fiscal year ending June 30, 1973, and that schools participating in these programs are confronted with serious financial problems in obtaining sufficient supplies of the foods required to meet the nutritional standards established by law for these programs. It is, therefore, the purpose of this Act [amending this section] to provide an effective and immediate solution to this nutritional crisis."

[1] *See References in Text note below.*

§1755a. Whole grain products

(a) Purpose

The purpose of this section is to encourage greater awareness and interest in the number and variety of whole grain products available to schoolchildren, as recommended by the 2005 Dietary Guidelines for Americans.

(b) Definition of eligible whole grains and whole grain products

In this section, the terms "whole grains" and "whole grain products" have the meaning given the terms by the Food and Nutrition Service in the HealthierUS School Challenge.

(c) Purchase of whole grains and whole grain products

In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), the Secretary shall purchase whole grains and whole grain products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 1773 of this title.

(d) Evaluation

Not later than September 30, 2011, the Secretary shall conduct an evaluation of the activities conducted under subsection (c) that includes—

(1) an evaluation of whether children participating in the school lunch and breakfast programs increased their consumption of whole grains;

(2) an evaluation of which whole grains and whole grain products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of whole grain products in the school lunch and breakfast programs; and

(4) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) Report

As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representative [1] a report describing the results of the evaluation.

(Pub. L. 110–234, title IV, §4305, May 22, 2008, 122 Stat. 1131; Pub. L. 110–246, §4(a), title IV, §4305, June 18, 2008, 122 Stat. 1664, 1892.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Richard B. Russell National School Lunch Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

Section effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 2, The Congress.

DEFINITION OF "SECRETARY"

"Secretary" means the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

[1] *So in original. Probably should be "Representatives".*

§1755b. Pulse crop products

(a) Purpose

The purpose of this section is to encourage greater awareness and interest in the number and variety of pulse crop products available to schoolchildren, as recommended by the most recent Dietary Guidelines for Americans published under section 5341 of title 7.

(b) Definitions

In this section:

(1) Eligible pulse crop

The term "eligible pulse crop" means dry beans, dry peas, lentils, and chickpeas.

(2) Pulse crop product

The term "pulse crop product" means a food product derived in whole or in part from an eligible pulse crop.

(c) Purchase of pulse crops and pulse crop products

In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), subject to the availability of appropriations, the Secretary shall purchase eligible pulse crops and pulse crop products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 1773 of this title.

(d) Evaluation

Not later than September 30, 2016, the Secretary shall conduct an evaluation of the activities conducted under subsection (c), including—

(1) an evaluation of whether children participating in the school lunch and breakfast programs described in subsection (c) increased overall consumption of eligible pulse crops as a result of the activities;

(2) an evaluation of which eligible pulse crops and pulse crop products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of the use of pulse crop products in carrying out the school lunch and breakfast programs;

(4) an evaluation of any change in the nutrient composition in the school lunch and breakfast programs due to the activities; and

(5) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) Report

As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and the Workforce of the House of Representative [1] a report describing the results of the evaluation.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section $10,000,000, to remain available until expended.

(Pub. L. 113–79, title IV, §4213, Feb. 7, 2014, 128 Stat. 830.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(1), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Act of 2014, and not as part of the Richard B. Russell National School Lunch Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITION OF "SECRETARY"

"Secretary" means the Secretary of Agriculture, see section 9001 of Title 7, Agriculture.

[1] *So in original. Probably should be "Representatives".*

§1756. Payments to States

(a) State revenue matching requirements; special provisions for lower than average income per capita States

(1) Funds appropriated to carry out section 1753 of this title during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this chapter, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this chapter. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 1753 of this title for the school year beginning July 1, 1980.

(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 1753 of this title for the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

(b) Disbursements; private schools

The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this chapter. No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

(c) Certification of payments by Secretary

The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the

amounts so certified.

(d) Combined Federal and State commodity purchases

Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 1753 or 1759a of this title may be used by the Secretary for the purpose of purchasing commodities for use by the school food service authority in meals served under the school lunch program under this chapter.

(June 4, 1946, ch. 281, §7, 60 Stat. 232; Pub. L. 91–248, §4, May 14, 1970, 84 Stat. 209; Pub. L. 92–433, §10, Sept. 26, 1972, 86 Stat. 731; Pub. L. 94–105, §5, Oct. 7, 1975, 89 Stat. 511; Pub. L. 95–166, §19(b), Nov. 10, 1977, 91 Stat. 1345; Pub. L. 97–35, title VIII, §804, Aug. 13, 1981, 95 Stat. 526; Pub. L. 101–147, title III, §303, Nov. 10, 1989, 103 Stat. 913; Pub. L. 103–448, title I, §104, Nov. 2, 1994, 108 Stat. 4701.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–448 added subsec. (d).

1989—Pub. L. 101–147, §303(a), inserted "Payments to States" as section catchline.

Subsec. (a)(2). Pub. L. 101–147, §303(b), substituted "the" for "the the" before "school year beginning".

1981—Subsec. (a). Pub. L. 97–35 designated existing provisions as subsec. (a) and substituted provisions relating to funds appropriated to carry out section 1753 of this title during any fiscal year, for provisions relating to funds appropriated to carry out sections 1753 and 1754 of this title during any fiscal year.

Subsecs. (b), (c). Pub. L. 97–35 added subsecs. (b) and (c).

1977—Pub. L. 95–166, among other changes, substituted in first sentence "Funds appropriated to carry out" and "food service equipment assistance" for "Funds apportioned to any State pursuant to" and "nonfood assistance"; substituted in third sentence "fiscal or school year thereafter" for "fiscal year thereafter"; substituted in fourth sentence "fiscal or school year" for "fiscal year"; and substituted sixth sentence "For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year" for "For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter at least 10 per centum of the matching requirement for the preceding fiscal year".

1975—Pub. L. 94–105 made requirements of section that each dollar of Federal assistance be matched by $3 from sources within the State inapplicable with respect to the payments made to participating schools under section 1753 of this title, with the proviso that such inapplicability not affect the level of State matching required by the sixth sentence of the section.

1972—Pub. L. 92–433 substituted "per centum of the matching requirement for the preceding fiscal year" for "per centum of the matching requirement" in four places.

1970—Pub. L. 91–248 inserted provision requiring that State revenues represent a prescribed minimum of the local funds required to match Federal funds apportioned under this chapter, required that amounts derived by the State from the program, or expended by it for salaries or administrative expenses at the State level, would not count toward meeting the State revenue share of the matching requirement, and required State funds disbursed to each school, to the extent practicable, on the basis of its share of the funds apportioned for the regular school lunch program, the special assistance program to schools to assure lunches for low-income children, the school breakfast program for needy children, and the nonfood assistance program for schools drawing from poor economic areas.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective July 1, 1981, see section 820(a)(2) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

§1757. State disbursement to schools

(a) Disbursement by State educational agency

Funds paid to any State during any fiscal year pursuant to section 1753 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary, as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program.

(b) Permanent, amendable agreements

The agreements described in subsection (a) shall be permanent agreements that may be amended as necessary.

(c) Suspension or termination of agreements

The State educational agency may suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(d) Use of funds

Use of funds paid to States may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof.

(e) Limitation

In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this chapter during such year by the maximum per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary.

(f) Increase in meal reimbursement

In any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate, for the type of lunch served, shall be increased by a like amount.

(g) In advance or as reimbursement

Lunch assistance disbursements to schools under this section and under section 1759a of this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(June 4, 1946, ch. 281, §8, 60 Stat. 232; Pub. L. 92–433, §8, Sept. 26, 1972, 86 Stat. 729; Pub. L. 93–150, §2(b), Nov. 7, 1973, 87 Stat. 560; Pub. L. 95–166, §3, Nov. 10, 1977, 91 Stat. 1332; Pub. L. 95–627, §10(d)(1), Nov. 10, 1978, 92 Stat. 3624; Pub. L. 97–35, title VIII, §819(d), Aug. 13, 1981, 95 Stat. 533; Pub. L. 101–147, title II, §201, title III, §§304, 312(1), Nov. 10, 1989, 103 Stat. 908, 914, 916; Pub. L. 104–193, title VII, §701(a), Aug. 22, 1996, 110 Stat. 2287.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–193 designated first and second sentences as subsecs. (a) and (b), respectively, substituted "in subsection (a)" for "in the preceding sentence" in subsec. (b), designated third sentence as subsec. (c) and substituted "The State educational agency may" for "Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to", struck out fourth and fifth sentences, designated sixth sentence as subsec. (d) and substituted "Use of funds paid to States" for "Such food costs", and designated seventh to ninth sentences as subsecs. (e) to (g), respectively. Prior to amendment, fourth and fifth sentences read as follows: "Such disbursement to any school shall be made only for the purpose of assisting it to obtain agricultural commodities and other foods for consumption by children in the school lunch program. The terms 'child' and 'children' as used in this chapter shall be deemed to include individuals regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical handicaps and who are attending any child care institution as defined in section 1766 of this title or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with mental or physical handicaps: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 1766 of this title shall be deemed so eligible because of this sentence."

1989—Pub. L. 101–147, §312(1), substituted "school lunch" for "school-lunch" in three places.

Pub. L. 101–147, §304, which directed the amendment of subsec. (d) by substituting "individuals" for "persons", "to have 1 or more mental or physical handicaps" for "to be mentally or physically handicapped", and "for individuals with mental or physical handicaps" for "for mentally or physically handicapped", was executed by making the substitutions in the undesignated text before the proviso as the probable intent of Congress because the section contains no subsection designations.

Pub. L. 101–147, §201, inserted after first sentence "The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary."

1981—Pub. L. 97–35 substituted references to per meal reimbursement rate, for references to Federal food-cost contribution rate wherever appearing, and struck out reference to section 1754 of this title, and food service equipment assistance.

1978—Pub. L. 95–627 inserted provision relating to definition of "child" and "children".

1977—Pub. L. 95–166 substituted "food service equipment assistance" for "nonfood assistance".

1973—Pub. L. 93–150 provided that in any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.

1972—Pub. L. 92–433 substituted provision that disbursement to schools be made for the purpose of assisting them to finance the costs of agricultural commodities, for provision that such disbursement be made for the purpose of reimbursing them for such costs and inserted provision that lunch assistance disbursements to schools under this section and section 1759a of this title may be made in advance or by way of reimbursement according to procedure prescribed by the Secretary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

§1758. Program requirements

(a) Nutritional requirements

(1)(A) Lunches served by schools participating in the school lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements—

(i) shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students; and

(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.

(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this chapter, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

(2) FLUID MILK.—

(A) IN GENERAL.—Lunches served by schools participating in the school lunch program under this chapter—

(i) shall offer students a variety of fluid milk;

(ii) may offer students options which may include flavored and unflavored organic or nonorganic whole, reduced-fat, low-fat, and fat-free fluid milk and lactose-free fluid milk, and nondairy beverages that are nutritionally equivalent to fluid milk and meet the nutritional standards established by the Secretary (which shall, among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk); and

(iii) shall provide a substitute for fluid milk for students whose disability restricts their diet, on receipt of a written statement from a licensed physician, parent, or legal guardian that identifies the disability that restricts the student's diet and that specifies the substitute for fluid milk.

(B) SUBSTITUTES.—

(i) STANDARDS FOR SUBSTITUTION.—A school may substitute for the fluid milk provided under subparagraph (A), a nondairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards established by the Secretary (which shall, among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk) for students who cannot consume fluid milk because of a medical or other special dietary need other than a disability described in subparagraph (A)(iii).

(ii) NOTICE.—The substitutions may be made if the school notifies the State agency that the school is implementing a variation allowed under this subparagraph, and if the substitution is requested by written statement of a medical authority or by a student's parent or legal guardian that identifies the medical or other special dietary need that restricts the student's diet, except that the school shall not be required to provide beverages other than beverages the school has identified as acceptable substitutes.

(iii) EXCESS EXPENSES BORNE BY SCHOOL FOOD AUTHORITY.—Expenses incurred in providing substitutions under this subparagraph that are in excess of expenses covered by reimbursements under this chapter shall be paid by the school food authority.

(C) RESTRICTIONS ON SALE OF MILK PROHIBITED.—A school that participates in the school lunch program under this chapter shall not directly or indirectly restrict the sale or marketing of products described in subparagraph (A)(ii) by the school (or by a person approved by the school) at any time or any place—

(i) on the school premises; or

(ii) at any school-sponsored event.

(D) SATURATED FAT.—Milk fat included in any fluid milk provided under subparagraph (A) shall not be considered saturated fat for purposes of measuring compliance with the allowable average saturated fat content of a meal under section 210.10 of title 7, Code of Federal Regulations (or successor regulations).

(E) APPLICATION.—Subparagraph (B)(ii) is not applicable to a school that offers nondairy beverages under subparagraph (A)(ii).

(3) Students in senior high schools that participate in the school lunch program under this chapter (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this chapter to any such school for such lunch.

(4) PROVISION OF INFORMATION.—

(A) GUIDANCE.—Prior to the beginning of the school year beginning July 2004, the Secretary shall issue guidance to States and school food authorities to increase the consumption of foods and food ingredients that are recommended for increased serving consumption in the most recent Dietary Guidelines for Americans published under section 5341 of title 7.

(B) RULES.—Not later than 2 years after June 30, 2004, the Secretary shall promulgate rules, based on the most recent Dietary Guidelines for Americans, that reflect specific recommendations, expressed in serving recommendations, for increased consumption of foods and food ingredients offered in school nutrition programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary shall—

(i) identify, develop, and disseminate to State departments of agriculture and education, school food authorities, local educational agencies, and local processing entities, model product specifications and practices for foods offered in school nutrition programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to ensure that the foods reflect the most recent Dietary Guidelines for Americans published under section 5341 of title 7;

(ii) not later than 1 year after December 13, 2010—

(I) carry out a study to analyze the quantity and quality of nutritional information available to school food authorities about food service products and commodities; and

(II) submit to Congress a report on the results of the study that contains such legislative recommendations as the Secretary considers necessary to ensure that school food authorities have access to the nutritional information needed for menu planning and compliance assessments; and

(iii) to the maximum extent practicable, in purchasing and processing commodities for use in school nutrition programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), purchase the widest variety of healthful foods that reflect the most recent Dietary Guidelines for Americans.

(5) WATER.—Schools participating in the school lunch program under this chapter shall make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.

(b) Eligibility

(1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income

levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

(i) the official poverty line (as defined by the Office of Management and Budget); by

(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

(B) APPLICATIONS AND DESCRIPTIVE MATERIAL.—

(i) IN GENERAL.—Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches.

(ii) INCOME ELIGIBILITY GUIDELINES.—Forms and descriptive material distributed in accordance with clause (i) may not contain the income eligibility guidelines for free lunches.

(iii) CONTENTS OF DESCRIPTIVE MATERIAL.—

(I) IN GENERAL.—Descriptive material distributed in accordance with clause (i) shall contain a notification that—

(aa) participants in the programs listed in subclause (II) may be eligible for free or reduced price meals; and

(bb) documentation may be requested for verification of eligibility for free or reduced price meals.

(II) PROGRAMS.—The programs referred to in subclause (I)(aa) are—

(aa) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(bb) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(cc) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)); and

(dd) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(3) HOUSEHOLD APPLICATIONS.—

(A) DEFINITION OF HOUSEHOLD APPLICATION.—In this paragraph, the term "household application" means an application for a child of a household to receive free or reduced price school lunches under this chapter, or free or reduced price school breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), for which an eligibility determination is made other than under paragraph (4) or (5).

(B) ELIGIBILITY DETERMINATION.—

(i) IN GENERAL.—An eligibility determination shall be made on the basis of a complete household application executed by an adult member of the household or in accordance with guidance issued by the Secretary.

(ii) ELECTRONIC SIGNATURES AND APPLICATIONS.—A household application may be executed using an electronic signature if—

(I) the application is submitted electronically; and

(II) the electronic application filing system meets confidentiality standards established by the Secretary.

(C) CHILDREN IN HOUSEHOLD.—

(i) IN GENERAL.—The household application shall identify the names of each child in the household for whom meal benefits are requested.

(ii) SEPARATE APPLICATIONS.—A State educational agency or local educational agency may not request a separate application for each child in the household that attends schools under the same local educational agency.

(D) VERIFICATION OF SAMPLE.—

(i) DEFINITIONS.—In this subparagraph:

(I) ERROR PRONE APPLICATION.—The term "error prone application" means an approved household application that—

(aa) indicates monthly income that is within $100, or an annual income that is within $1,200, of the income eligibility limitation for free or reduced price meals; or

(bb) in lieu of the criteria established under item (aa), meets criteria established by the Secretary.

(II) NON-RESPONSE RATE.—The term "non-response rate" means (in accordance with guidelines established by the Secretary) the percentage of approved household applications for which verification information has not been obtained by a local educational agency after attempted verification under subparagraphs (F) and (G).

(ii) VERIFICATION OF SAMPLE.—Each school year, a local educational agency shall verify eligibility of the children in a sample of household applications approved for the school year by the local educational agency, as determined by the Secretary in accordance with this subsection.

(iii) SAMPLE SIZE.—Except as otherwise provided in this paragraph, the sample for a local educational agency for a school year shall equal the lesser of—

(I) 3 percent of all applications approved by the local educational agency for the school year, as of October 1 of the school year, selected from error prone applications; or

(II) 3,000 error prone applications approved by the local educational agency for the school year, as of October 1 of the school year.

(iv) ALTERNATIVE SAMPLE SIZE.—

(I) IN GENERAL.—If the conditions described in subclause (IV) are met, the verification sample size for a local educational agency shall be the sample size described in subclause (II) or (III), as determined by the local educational agency.

(II) 3,000/3 PERCENT OPTION.—The sample size described in this subclause shall be the lesser of 3,000, or 3 percent of, applications selected at random from applications approved by the local educational agency for the school year, as of October 1 of the school year.

(III) 1,000/1 PERCENT PLUS OPTION.—

(aa) IN GENERAL.—The sample size described in this subclause shall be the sum of—

(AA) the lesser of 1,000, or 1 percent of, all applications approved by the local

educational agency for the school year, as of October 1 of the school year, selected from error prone applications; and

(BB) the lesser of 500, or ½ of 1 percent of, applications approved by the local educational agency for the school year, as of October 1 of the school year, that provide a case number (in lieu of income information) showing participation in a program described in item (bb) selected from those approved applications that provide a case number (in lieu of income information) verifying the participation.

(bb) PROGRAMS.—The programs described in this item are—

(AA) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(BB) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)); and

(CC) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(IV) CONDITIONS.—The conditions referred to in subclause (I) shall be met for a local educational agency for a school year if—

(aa) the nonresponse rate for the local educational agency for the preceding school year is less than 20 percent; or

(bb) the local educational agency has more than 20,000 children approved by application by the local educational agency as eligible for free or reduced price meals for the school year, as of October 1 of the school year, and—

(AA) the nonresponse rate for the preceding school year is at least 10 percent below the nonresponse rate for the second preceding school year; or

(BB) in the case of the school year beginning July 2005, the local educational agency attempts to verify all approved household applications selected for verification through use of public agency records from at least 2 of the programs or sources of information described in subparagraph (F)(i).

(v) ADDITIONAL SELECTED APPLICATIONS.—A sample for a local educational agency for a school year under clauses (iii) and (iv)(III)(AA) shall include the number of additional randomly selected approved household applications that are required to comply with the sample size requirements in those clauses.

(E) PRELIMINARY REVIEW.—

(i) REVIEW FOR ACCURACY.—

(I) IN GENERAL.—Prior to conducting any other verification activity for approved household applications selected for verification, the local educational agency shall ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial eligibility determination, unless otherwise determined by the Secretary.

(II) WAIVER.—The requirements of subclause (I) shall be waived for a local educational agency if the local educational agency is using a technology-based solution that demonstrates a high level of accuracy, to the satisfaction of the Secretary, in processing an initial eligibility determination in accordance with the income eligibility guidelines of the school lunch program.

(ii) CORRECT ELIGIBILITY DETERMINATION.—If the review indicates that the initial eligibility determination is correct, the local educational agency shall verify the approved

household application.

(iii) INCORRECT ELIGIBILITY DETERMINATION.—If the review indicates that the initial eligibility determination is incorrect, the local educational agency shall (as determined by the Secretary)—

(I) correct the eligibility status of the household;

(II) notify the household of the change;

(III) in any case in which the review indicates that the household is not eligible for free or reduced-price meals, notify the household of the reason for the ineligibility and that the household may reapply with income documentation for free or reduced-price meals; and

(IV) in any case in which the review indicates that the household is eligible for free or reduced-price meals, verify the approved household application.

(F) DIRECT VERIFICATION.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to verify eligibility for free or reduced price meals for approved household applications selected for verification, the local educational agency may (in accordance with criteria established by the Secretary) first obtain and use income and program participation information from a public agency administering—

(I) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(II) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b));

(III) the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(IV) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(V) a similar income-tested program or other source of information, as determined by the Secretary.

(ii) FREE MEALS.—Public agency records that may be obtained and used under clause (i) to verify eligibility for free meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for free meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 133 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 133 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iii) REDUCED PRICE MEALS.—Public agency records that may be obtained and used under clause (i) to verify eligibility for reduced price meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for reduced price meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 185 percent of the official poverty

line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 185 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iv) EVALUATION.—Not later than 3 years after June 30, 2004, the Secretary shall complete an evaluation of—

(I) the effectiveness of direct verification carried out under this subparagraph in decreasing the portion of the verification sample that must be verified under subparagraph (G) while ensuring that adequate verification information is obtained; and

(II) the feasibility of direct verification by State agencies and local educational agencies.

(v) EXPANDED USE OF DIRECT VERIFICATION.—If the Secretary determines that direct verification significantly decreases the portion of the verification sample that must be verified under subparagraph (G), while ensuring that adequate verification information is obtained, and can be conducted by most State agencies and local educational agencies, the Secretary may require a State agency or local educational agency to implement direct verification through 1 or more of the programs described in clause (i), as determined by the Secretary, unless the State agency or local educational agency demonstrates (under criteria established by the Secretary) that the State agency or local educational agency lacks the capacity to conduct, or is unable to implement, direct verification.

(G) HOUSEHOLD VERIFICATION.—

(i) IN GENERAL.—If an approved household application is not verified through the use of public agency records, a local educational agency shall provide to the household written notice that—

(I) the approved household application has been selected for verification; and

(II) the household is required to submit verification information to confirm eligibility for free or reduced price meals.

(ii) PHONE NUMBER.—The written notice in clause (i) shall include a toll-free phone number that parents and legal guardians in households selected for verification can call for assistance with the verification process.

(iii) FOLLOWUP ACTIVITIES.—If a household does not respond to a verification request, a local educational agency shall make at least 1 attempt to obtain the necessary verification from the household in accordance with guidelines and regulations promulgated by the Secretary.

(iv) CONTRACT AUTHORITY FOR SCHOOL FOOD AUTHORITIES.—A local educational agency may contract (under standards established by the Secretary) with a third party to assist the local educational agency in carrying out clause (iii).

(H) VERIFICATION DEADLINE.—

(i) GENERAL DEADLINE.—

(I) IN GENERAL.—Subject to subclause (II), not later than November 15 of each school year, a local educational agency shall complete the verification activities required for the school year (including followup activities).

(II) EXTENSION.—Under criteria established by the Secretary, a State may extend the deadline established under subclause (I) for a school year for a local educational agency to December 15 of the school year.

(ii) ELIGIBILITY CHANGES.—Based on the verification activities, the local educational agency shall make appropriate modifications to the eligibility determinations made for household applications in accordance with criteria established by the Secretary.

(I) LOCAL CONDITIONS.—In the case of a natural disaster, civil disorder, strike, or other local condition (as determined by the Secretary), the Secretary may substitute alternatives for—

(i) the sample size and sample selection criteria established under subparagraph (D); and

(ii) the verification deadline established under subparagraph (H).

(J) INDIVIDUAL REVIEW.—In accordance with criteria established by the Secretary, the local educational agency may, on individual review—

(i) decline to verify no more than 5 percent of approved household applications selected under subparagraph (D); and

(ii) replace the approved household applications with other approved household applications to be verified.

(K) FEASIBILITY STUDY.—

(i) IN GENERAL.—The Secretary shall conduct a study of the feasibility of using computer technology (including data mining) to reduce—

(I) overcertification errors in the school lunch program under this chapter;

(II) waste, fraud, and abuse in connection with this paragraph; and

(III) errors, waste, fraud, and abuse in other nutrition programs, as determined to be appropriate by the Secretary.

(ii) REPORT.—Not later than 180 days after June 30, 2004, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(I) the results of the feasibility study conducted under this subsection;

(II) how a computer system using technology described in clause (i) could be implemented;

(III) a plan for implementation; and

(IV) proposed legislation, if necessary, to implement the system.

(4) DIRECT CERTIFICATION FOR CHILDREN IN SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM HOUSEHOLDS.—

(A) IN GENERAL.—Subject to subparagraph (D), each State agency shall enter into an agreement with the State agency conducting eligibility determinations for the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(B) PROCEDURES.—Subject to paragraph (6), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the supplemental nutrition assistance program shall be certified as eligible for free lunches under this chapter and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(C) CERTIFICATION.—Subject to paragraph (6), under the agreement, the local educational agency conducting eligibility determinations for a school lunch program under this chapter and a school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall certify a child who is a member of a household receiving assistance under the supplemental nutrition assistance program as eligible for free lunches under this chapter and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(D) APPLICABILITY.—This paragraph applies to—

(i) in the case of the school year beginning July 2006, a school district that had an enrollment of 25,000 students or more in the preceding school year;

(ii) in the case of the school year beginning July 2007, a school district that had an enrollment of 10,000 students or more in the preceding school year; and

(iii) in the case of the school year beginning July 2008 and each subsequent school year, each

local educational agency.

(E) PERFORMANCE AWARDS.—

(i) IN GENERAL.—Effective for each of the school years beginning July 1, 2011, July 1, 2012, and July 1, 2013, the Secretary shall offer performance awards to States to encourage the States to ensure that all children eligible for direct certification under this paragraph are certified in accordance with this paragraph.

(ii) REQUIREMENTS.—For each school year described in clause (i), the Secretary shall—

(I) consider State data from the prior school year, including estimates contained in the report required under section 1758a of this title; and

(II) make performance awards to not more than 15 States that demonstrate, as determined by the Secretary—

(aa) outstanding performance; and

(bb) substantial improvement.

(iii) USE OF FUNDS.—A State agency that receives a performance award under clause (i)—

(I) shall treat the funds as program income; and

(II) may transfer the funds to school food authorities for use in carrying out the program.

(iv) FUNDING.—

(I) IN GENERAL.—On October 1, 2011, and each subsequent October 1 through October 1, 2013, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary—

(aa) $2,000,000 to carry out clause (ii)(II)(aa); and

(bb) $2,000,000 to carry out clause (ii)(II)(bb).

(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this clause the funds transferred under subclause (I), without further appropriation.

(v) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to make a performance award under this subparagraph shall not be subject to administrative or judicial review.

(F) CONTINUOUS IMPROVEMENT PLANS.—

(i) DEFINITION OF REQUIRED PERCENTAGE.—In this subparagraph, the term "required percentage" means—

(I) for the school year beginning July 1, 2011, 80 percent;

(II) for the school year beginning July 1, 2012, 90 percent; and

(III) for the school year beginning July 1, 2013, and each school year thereafter, 95 percent.

(ii) REQUIREMENTS.—Each school year, the Secretary shall—

(I) identify, using data from the prior year, including estimates contained in the report required under section 1758a of this title, States that directly certify less than the required percentage of the total number of children in the State who are eligible for direct certification under this paragraph;

(II) require the States identified under subclause (I) to implement a continuous improvement plan to fully meet the requirements of this paragraph, which shall include a plan to improve direct certification for the following school year; and

(III) assist the States identified under subclause (I) to develop and implement a continuous improvement plan in accordance with subclause (II).

(iii) FAILURE TO MEET PERFORMANCE STANDARD.—

(I) IN GENERAL.—A State that is required to develop and implement a continuous improvement plan under clause (ii)(II) shall be required to submit the continuous improvement plan to the Secretary, for the approval of the Secretary.

(II) REQUIREMENTS.—At a minimum, a continuous improvement plan under subclause (I) shall include—

(aa) specific measures that the State will use to identify more children who are eligible for direct certification, including improvements or modifications to technology, information systems, or databases;

(bb) a timeline for the State to implement those measures; and

(cc) goals for the State to improve direct certification results.

(G) WITHOUT FURTHER APPLICATION.—

(i) IN GENERAL.—In this paragraph, the term "without further application" means that no action is required by the household of the child.

(ii) CLARIFICATION.—A requirement that a household return a letter notifying the household of eligibility for direct certification or eligibility for free school meals does not meet the requirements of clause (i).

(5) DISCRETIONARY CERTIFICATION.—Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as—

(A) a member of a family that is receiving assistance under the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

(B) a homeless child or youth (defined as 1 of the individuals described in section 11434a(2) of this title);

(C) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); [1]

(D) a migratory child (as defined in section 6399 of title 20); or

(E)(i) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.]; or

(ii) a foster child who a court has placed with a caretaker household.

(6) USE OR DISCLOSURE OF INFORMATION.—

(A) IN GENERAL.—The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in paragraph (3)(F), (4), or (5), shall be limited to—

(i) a person directly connected with the administration or enforcement of this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (including a regulation promulgated under either this chapter or that Act);

(ii) a person directly connected with the administration or enforcement of—

(I) a Federal education program;

(II) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)); or

(III) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the school lunch program under this chapter;

(iii)(I) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(II) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by this paragraph or paragraph (3)(F), (4), or (5);

(iv) a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purposes of—

(I) identifying children eligible for benefits under, and enrolling children in, those programs, except that this subclause shall apply only to the extent that the State and the local educational agency or school food authority so elect; and

(II) verifying the eligibility of children for programs under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(v) a third party contractor described in paragraph (3)(G)(iv).

(B) LIMITATION ON INFORMATION PROVIDED.—Information provided under clause (ii) or (v) of subparagraph (A) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits is made or for whom eligibility information is provided under paragraph (3)(F), (4), or (5), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(C) CRIMINAL PENALTY.—A person described in subparagraph (A) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(D) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in subparagraph (A)(iv)(I) shall ensure that any local educational agency or school food authority acting in accordance with that option—

(i) has a written agreement with 1 or more State or local agencies administering health programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under subparagraph (A) to seek to enroll children in those health programs; and

(ii)(I) notifies each household, the information of which shall be disclosed under subparagraph (A), that the information disclosed will be used only to enroll children in health programs referred to in subparagraph (A)(iv); and

(II) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

(E) USE OF DISCLOSED INFORMATION.—A person to which information is disclosed under subparagraph (A)(iv)(I) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in subparagraph (A)(iv).

(7) FREE AND REDUCED PRICE POLICY STATEMENT.—

(A) IN GENERAL.—After the initial submission, a local educational agency shall not be required to submit a free and reduced price policy statement to a State educational agency under this chapter unless there is a substantive change in the free and reduced price policy of the local educational agency.

(B) ROUTINE CHANGE.—A routine change in the policy of a local educational agency (such as an annual adjustment of the income eligibility guidelines for free and reduced price meals) shall not be sufficient cause for requiring the local educational agency to submit a policy statement.

(8) COMMUNICATIONS.—

(A) IN GENERAL.—Any communication with a household under this subsection or subsection (d) shall be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

(B) ELECTRONIC AVAILABILITY.—In addition to the distribution of applications and descriptive material in paper form as provided for in this paragraph, the applications and material may be made available electronically via the Internet.

(9) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—

(A) FREE LUNCHES.—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch.

(B) REDUCED PRICE LUNCHES.—

(i) IN GENERAL.—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch.

(ii) MAXIMUM PRICE.—The price charged for a reduced price lunch shall not exceed 40 cents.

(C) DURATION.—Except as otherwise specified in paragraph (3)(E), (3)(H)(ii), and section 1759a(a) of this title, eligibility for free or reduced price meals for any school year shall remain in effect—

(i) beginning on the date of eligibility approval for the current school year; and

(ii) ending on a date during the subsequent school year determined by the Secretary.

(10) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there by [2] any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means.

(11) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local educational agencies shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(12)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is—

(i) a member of a household receiving assistance under the supplemental nutrition assistance program authorized under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(ii) a member of a family (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable

to or more restrictive than those in effect on June 1, 1995;

(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B));

(iv) a homeless child or youth (defined as 1 of the individuals described in section 11434a(2) of this title);

(v) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); [1]

(vi) a migratory child (as defined in section 6399 of title 20); or

(vii)(I) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.]; or

(II) a foster child who a court has placed with a caretaker household.

(B) Proof of receipt of supplemental nutrition assistance program benefits or assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), shall be sufficient to satisfy any verification requirement imposed under this subsection.

(13) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—The amount of a basic allowance provided under section 403 of title 37 on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this chapter.

(14) COMBAT PAY.—

(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term "combat pay" means any additional payment under chapter 5 of title 37, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

(i) is the result of deployment to or service in a combat zone; and

(ii) was not received immediately prior to serving in a combat zone.

(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.

(15) DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS.—

(A) DEFINITIONS.—In this paragraph:

(i) ELIGIBLE CHILD.—The term "eligible child" means a child—

(I)(aa) who is eligible for and receiving medical assistance under the Medicaid program; and

(bb) who is a member of a family with an income as measured by the Medicaid program before the application of any expense, block, or other income disregard, that does not exceed 133 percent of the poverty line (as defined in section 9902(2) of this title, including any revision required by such section) applicable to a family of the size used for purposes of determining eligibility for the Medicaid program; or

(II) who is a member of a household (as that term is defined in section 245.2 of title 7, Code of Federal Regulations (or successor regulations) [3] with a child described in subclause (I).

(ii) MEDICAID PROGRAM.—The term "Medicaid program" means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(B) DEMONSTRATION PROJECT.—

(i) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service and in cooperation with selected State agencies, shall conduct a demonstration project in selected local educational agencies to determine whether direct certification of eligible children is an effective method of certifying children for free lunches and breakfasts under subsection (b)(1)(A) and section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)).

(ii) SCOPE OF PROJECT.—The Secretary shall carry out the demonstration project under this subparagraph—

(I) for the school year beginning July 1, 2012, in selected local educational agencies that collectively serve 2.5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data;

(II) for the school year beginning July 1, 2013, in selected local educational agencies that collectively serve 5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data; and

(III) for the school year beginning July 1, 2014, and each subsequent school year, in selected local educational agencies that collectively serve 10 percent of students certified for free and reduced price meals nationwide, based on the most recent available data.

(iii) PURPOSES OF THE PROJECT.—At a minimum, the purposes of the demonstration project shall be—

(I) to determine the potential of direct certification with the Medicaid program to reach children who are eligible for free meals but not certified to receive the meals;

(II) to determine the potential of direct certification with the Medicaid program to directly certify children who are enrolled for free meals based on a household application; and

(III) to provide an estimate of the effect on Federal costs and on participation in the school lunch program under this chapter and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) of direct certification with the Medicaid program.

(iv) COST ESTIMATE.—For each of 2 school years of the demonstration project, the Secretary shall estimate the cost of the direct certification of eligible children for free school meals through data derived from—

(I) the school meal programs authorized under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(II) the Medicaid program; and

(III) interviews with a statistically representative sample of households.

(C) AGREEMENT.—

(i) IN GENERAL.—Not later than July 1 of the first school year during which a State agency will participate in the demonstration project, the State agency shall enter into an agreement with the 1 or more State agencies conducting eligibility determinations for the Medicaid program.

(ii) WITHOUT FURTHER APPLICATION.—Subject to paragraph (6), the agreement described in subparagraph (D) shall establish procedures under which an eligible child shall be certified for free lunches under this chapter and free breakfasts under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), without further application (as defined in paragraph (4)(G)).

(D) CERTIFICATION.—For the school year beginning on July 1, 2012, and each subsequent school year, subject to paragraph (6), the local educational agencies participating in the

demonstration project shall certify an eligible child as eligible for free lunches under this chapter and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application (as defined in paragraph (4)(G)).

(E) SITE SELECTION.—

(i) IN GENERAL.—To be eligible to participate in the demonstration project under this subsection, a State agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) CONSIDERATIONS.—In selecting States and local educational agencies for participation in the demonstration project, the Secretary may take into consideration such factors as the Secretary considers to be appropriate, which may include—

(I) the rate of direct certification;

(II) the share of individuals who are eligible for benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) who participate in the program, as determined by the Secretary;

(III) the income eligibility limit for the Medicaid program;

(IV) the feasibility of matching data between local educational agencies and the Medicaid program;

(V) the socioeconomic profile of the State or local educational agencies; and

(VI) the willingness of the State and local educational agencies to comply with the requirements of the demonstration project.

(F) ACCESS TO DATA.—For purposes of conducting the demonstration project under this paragraph, the Secretary shall have access to—

(i) educational and other records of State and local educational and other agencies and institutions receiving funding or providing benefits for 1 or more programs authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(ii) income and program participation information from public agencies administering the Medicaid program.

(G) REPORT TO CONGRESS.—

(i) IN GENERAL.—Not later than October 1, 2014, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, an interim report that describes the results of the demonstration project required under this paragraph.

(ii) FINAL REPORT.—Not later than October 1, 2015, the Secretary shall submit a final report to the committees described in clause (i).

(H) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subparagraph (G) $5,000,000, to remain available until expended.

(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subparagraph (G) the funds transferred under clause (i), without further appropriation.

(c) Operation on nonprofit basis; donation of agricultural commodities

School lunch programs under this chapter shall be operated on a nonprofit basis. Commodities purchased under the authority of section 612c of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this chapter as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any provision of law.

(d) Social Security numbers and other documentation required as condition of eligibility

(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the last 4 digits of the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary.

(2) No member of a household may be provided a free or reduced price lunch under this chapter unless—

(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local educational agency so that the local educational agency may calculate the total income of such household;

(B) documentation showing that the household is participating in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.] has been provided to the appropriate local educational agency;

(C) documentation has been provided to the appropriate local educational agency showing that the family is receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

(D) documentation has been provided to the appropriate local educational agency showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(12)(A);

(E) documentation has been provided to the appropriate local educational agency showing the status of the child as a migratory child (as defined in section 6399 of title 20);

(F)(i) documentation has been provided to the appropriate local educational agency showing the status of the child as a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act [42 U.S.C. 620 et seq., 670 et seq.]; or

(ii) documentation has been provided to the appropriate local educational agency showing the status of the child as a foster child who a court has placed with a caretaker household; or

(G) documentation has been provided to the appropriate local educational agency showing the status of the child as an eligible child (as defined in subsection (b)(15)(A)).

(e) Limitation on meal contracting

A school or school food authority participating in a program under this chapter may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and full-price reimbursable meals to all eligible children.

(f) Nutritional requirements

(1) IN GENERAL.—Schools that are participating in the school lunch program or school breakfast program shall serve lunches and breakfasts that—

(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 5341 of title 7; and

(B) consider the nutrient needs of children who may be at risk for inadequate food intake and food insecurity.

(2) To assist schools in meeting the requirements of this subsection, the Secretary—

(A) shall—

(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

(B) may provide to schools information regarding other approaches, as determined by the Secretary.

(3) USE OF ANY REASONABLE APPROACH.—

(A) IN GENERAL.—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this subsection, including—

(i) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

(ii) using any of the approaches described in paragraph (3).

(B) NUTRIENT ANALYSIS.—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this subsection.

(4) WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—During the period ending on September 30, 2010, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(g) Justification of production records; paperwork reduction

Not later than 1 year after November 2, 1994, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.

(h) Food safety

(1) In general

A school participating in the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall—

(A) at least twice during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections;

(B) post in a publicly visible location a report on the most recent inspection conducted under subparagraph (A); and

(C) on request, provide a copy of the report to a member of the public.

(2) State and local government inspections

Nothing in paragraph (1) prevents any State or local government from adopting or enforcing any requirement for more frequent food safety inspections of schools.

(3) Audits and reports by States

For fiscal year 2026, each State shall annually—

(A) audit food safety inspections of schools conducted under paragraphs (1) and (2); and

(B) submit to the Secretary a report of the results of the audit.

(4) Audit by the Secretary

For fiscal year 2026, the Secretary shall annually audit State reports of food safety inspections of schools submitted under paragraph (3).

(5) School food safety program

(A) In general

Each school food authority shall implement a school food safety program, in the preparation and service of each meal served to children, that complies with any hazard analysis and critical control point system established by the Secretary.

(B) Applicability

Subparagraph (A) shall apply to any facility or part of a facility in which food is stored, prepared, or served for the purposes of the school nutrition programs under this chapter or

section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(i) Single permanent agreement between State agency and school food authority; common claims form

(1) In general

If a single State agency administers any combination of the school lunch program under this chapter, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 1761 of this title, or the child and adult care food program under section 1766 of this title, the agency shall—

(A) require each school food authority to submit to the State agency a single agreement with respect to the operation by the authority of the programs administered by the State agency; and

(B) use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

(2) Additional requirement

The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.

(j) Purchases of locally produced foods

The Secretary shall—

(1) encourage institutions receiving funds under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;

(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and

(3) allow institutions receiving funds under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.

(k) Information on the school nutrition environment

(1) In general

The Secretary shall—

(A) establish requirements for local educational agencies participating in the school lunch program under this chapter and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to report information about the school nutrition environment, for all schools under the jurisdiction of the local educational agencies, to the Secretary and to the public in the State on a periodic basis; and

(B) provide training and technical assistance to States and local educational agencies on the assessment and reporting of the school nutrition environment, including the use of any assessment materials developed by the Secretary.

(2) Requirements

In establishing the requirements for reporting on the school nutrition environment under paragraph (1), the Secretary shall—

(A) include information pertaining to food safety inspections, local wellness policies, meal program participation, the nutritional quality of program meals, and other information as determined by the Secretary; and

(B) ensure that information is made available to the public by local educational agencies in an accessible, easily understood manner in accordance with guidelines established by the Secretary.

(3) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as are necessary

for each of fiscal years 2011 through 2015.

(l) Food donation program

(1) In general

Each school and local educational agency participating in the school lunch program under this chapter may donate any food not consumed under such program to eligible local food banks or charitable organizations.

(2) Guidance

(A) In general

Not later than 180 days after November 18, 2011, the Secretary shall develop and publish guidance to schools and local educational agencies participating in the school lunch program under this chapter to assist such schools and local educational agencies in donating food under this subsection.

(B) Updates

The Secretary shall update such guidance as necessary.

(3) Liability

Any school or local educational agency making donations pursuant to this subsection shall be exempt from civil and criminal liability to the extent provided under section 1791 of this title.

(4) Definition

In this subsection, the term "eligible local food banks or charitable organizations" means any food bank or charitable organization which is exempt from tax under section 501(c)(3) of title 26.

(June 4, 1946, ch. 281, §9, 60 Stat. 233; Pub. L. 90–302, §2(b), May 8, 1968, 82 Stat. 117; Pub. L. 91–248, §6(a), (b), (d), (e), May 14, 1970, 84 Stat. 210; Pub. L. 92–153, §5, Nov. 5, 1971, 85 Stat. 420; Pub. L. 92–433, §5, Sept. 26, 1972, 86 Stat. 726; Pub. L. 93–150, §9, Nov. 7, 1973, 87 Stat. 564; Pub. L. 93–326, §4, June 30, 1974, 88 Stat. 286; Pub. L. 94–105, §6, Oct. 7, 1975, 89 Stat. 512; Pub. L. 95–166, §8, Nov. 10, 1977, 91 Stat. 1335; Pub. L. 95–627, §8, Nov. 10, 1978, 92 Stat. 3622; Pub. L. 97–35, title VIII, §§803(a), (b), 811, Aug. 13, 1981, 95 Stat. 524, 525, 529; Pub. L. 99–500, title III, §§322–324, Oct. 18, 1986, 100 Stat. 1783–361, and Pub. L. 99–591, title III, §§322–324, Oct. 30, 1986, 100 Stat. 3341–364; Pub. L. 99–661, div. D, title II, §§4202–4204, Nov. 14, 1986, 100 Stat. 4072; Pub. L. 100–356, §1, June 28, 1988, 102 Stat. 669; Pub. L. 101–147, title I, §101, title II, §202(a)(1), (2)(A), (b), title III, §§305, 312(1), (2), Nov. 10, 1989, 103 Stat. 878, 908, 914, 916; Pub. L. 103–448, title I, §§105(a), 106–109(a), 110, Nov. 2, 1994, 108 Stat. 4701–4705; Pub. L. 104–149, §2, May 29, 1996, 110 Stat. 1379; Pub. L. 104–193, title I, §109(g), title VII, §§702, 703, Aug. 22, 1996, 110 Stat. 2170, 2288, 2289; Pub. L. 105–336, title I, §102, Oct. 31, 1998, 112 Stat. 3144; Pub. L. 106–224, title II, §242(a), June 20, 2000, 114 Stat. 411; Pub. L. 107–171, title IV, §§4302(a), 4303, May 13, 2002, 116 Stat. 330, 331; Pub. L. 108–134, §1, Nov. 22, 2003, 117 Stat. 1389; Pub. L. 108–211, §1, Mar. 31, 2004, 118 Stat. 566; Pub. L. 108–265, title I, §§102–104(b)(1), (d)(1), (2), 105(a), 106–108(a), 109–112, June 30, 2004, 118 Stat. 731–734, 737, 738, 745–747; Pub. L. 108–447, div. A, title VII, §788(a), Dec. 8, 2004, 118 Stat. 2851; Pub. L. 110–134, §29(c)(1), Dec. 12, 2007, 121 Stat. 1449; Pub. L. 110–234, title IV, §§4002(b)(1)(A), (B), (E), (2)(Z), 4302, May 22, 2008, 122 Stat. 1095–1097, 1125; Pub. L. 110–246, §4(a), title IV, §§4002(b)(1)(A), (B), (E), (2)(Z), 4302, June 18, 2008, 122 Stat. 1664, 1857, 1859, 1887; Pub. L. 111–80, title VII, §§734(a), 749(b), (c), Oct. 21, 2009, 123 Stat. 2125, 2131; Pub. L. 111–296, title I, §§101—103(b), title II, §§202, 203, 209, 242, title III, §§301, 302, title IV, §§402, 441(a)(1), Dec. 13, 2010, 124 Stat. 3185–3191, 3216, 3222, 3236, 3240, 3259, 3261; Pub. L. 112–55, div. A, title VII, §734, Nov. 18, 2011, 125 Stat. 587; Pub. L. 115–31, div. A, title IV, May 5, 2017, 131 Stat. 159; Pub. L. 115–141, div. A, title IV, Mar. 23, 2018, 132 Stat. 373; Pub. L. 116–6, div. B, title IV, Feb. 15, 2019, 133 Stat. 67; Pub. L. 116–94, div. B, title IV, Dec. 20, 2019, 133 Stat. 2635; Pub. L. 116–260, div. A, title IV, Dec. 27, 2020, 134 Stat. 1209; Pub. L. 117–103, div. A, title IV, Mar. 15, 2022, 136 Stat. 77; Pub. L. 117–328, div. A, title IV, Dec. 29, 2022, 136 Stat. 4488; Pub. L. 118–42, div. B, title IV, Mar. 9,

2024, 138 Stat. 92; Pub. L. 119–37, div. B, title IV, Nov. 12, 2025, 139 Stat. 534; Pub. L. 119–69, §2(a), Jan. 14, 2026, 139 Stat. 1997.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in text, is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A, B, and E of title IV, title XIX, and title XXI of the Act are classified generally to parts A (§601 et seq.), B (§620 et seq.), and E (§670 et seq.) of subchapter IV, subchapter XIX (§1396 et seq.), and subchapter XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Runaway and Homeless Youth Act, referred to in subsec. (b)(5)(C), (12)(A)(v), is title III of Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1129, which was classified generally to subchapter III (§5701 et seq.) of chapter 72 of this title, prior to editorial reclassification and renumbering as subchapter III (§11201 et seq.) of chapter 111 of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of Title 34 and Tables.

The Head Start Act, referred to in subsec. (b)(12)(A)(iii), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2026—Subsec. (a)(2)(A)(i), (ii). Pub. L. 119–69, §2(a)(1)(A), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) shall offer students a variety of fluid milk. Such milk shall be consistent with the most recent Dietary Guidelines for Americans published under section 5341 of title 7;

"(ii) may offer students flavored and unflavored fluid milk and lactose-free fluid milk; and".

Subsec. (a)(2)(A)(iii). Pub. L. 119–69, §2(a)(1)(B), substituted "physician, parent, or legal guardian" for "physician".

Subsec. (a)(2)(C). Pub. L. 119–69, §2(a)(2), substituted "products described in subparagraph (A)(ii)" for "fluid milk products" in introductory provisions.

Subsec. (a)(2)(D), (E). Pub. L. 119–69, §2(a)(3), added subpars. (D) and (E).

2025—Subsec. (h)(3). Pub. L. 119–37 substituted "For fiscal year 2026" for "For fiscal year 2024" in introductory provisions.

Subsec. (h)(4). Pub. L. 119–37 substituted "For fiscal year 2026" for "For fiscal year 2024".

2024—Subsec. (h)(3). Pub. L. 118–42 substituted "For fiscal year 2024" for "For fiscal year 2023" in introductory provisions.

Subsec. (h)(4). Pub. L. 118–42 substituted "For fiscal year 2024" for "For fiscal year 2023".

2022—Subsec. (h)(3). Pub. L. 117–328 substituted "For fiscal year 2023" for "For fiscal year 2022" in introductory provisions.

Pub. L. 117–103 substituted "For fiscal year 2022" for "For fiscal year 2021" in introductory provisions.

Subsec. (h)(4). Pub. L. 117–328 substituted "For fiscal year 2023" for "For fiscal year 2022".

Pub. L. 117–103 substituted "For fiscal year 2022" for "For fiscal year 2021".

2020—Subsec. (h)(3). Pub. L. 116–260 substituted "For fiscal year 2021" for "For fiscal year 2020" in introductory provisions.

Subsec. (h)(4). Pub. L. 116–260 substituted "For fiscal year 2021" for "For fiscal year 2020".

2019—Subsec. (h)(3). Pub. L. 116–94 substituted "For fiscal year 2020" for "For fiscal year 2019" in

introductory provisions.

Pub. L. 116–6, which directed substitution of "For fiscal year 2019" for "For fiscal year 2018", was executed by making the substitution for "for fiscal year 2018" in introductory provisions, to reflect the probable intent of Congress.

Subsec. (h)(4). Pub. L. 116–94 substituted "For fiscal year 2020" for "For fiscal year 2019".

Pub. L. 116–6, which directed substitution of "For fiscal year 2019" for "For fiscal year 2018", was executed by making the substitution for "for fiscal year 2018", to reflect the probable intent of Congress.

2018—Subsec. (h)(3). Pub. L. 115–141, substituted "for fiscal year 2018" for "for fiscal year 2017" in introductory provisions.

Subsec. (h)(4). Pub. L. 115–141, substituted "for fiscal year 2018" for "for fiscal year 2017".

2017—Subsec. (h)(3). Pub. L. 115–31, which directed substitution of "for fiscal year 2017" for "for each of fiscal years 2011 through 2015", was executed by making the substitution for "For each of fiscal years 2011 through 2015" in introductory provisions, to reflect the probable intent of Congress.

Subsec. (h)(4). Pub. L. 115–31, which directed substitution of "for fiscal year 2017" for "for each of fiscal years 2011 through 2015", was executed by making the substitution for "For each of fiscal years 2011 through 2015", to reflect the probable intent of Congress.

2011—Subsec. (l). Pub. L. 112–55 added subsec. (l).

2010—Subsec. (a)(2)(A)(i). Pub. L. 111–296, §202, added cl. (i) and struck out former cl. (i) which read as follows: "shall offer students fluid milk in a variety of fat contents;".

Subsec. (a)(4)(C). Pub. L. 111–296, §242, added subpar. (C).

Subsec. (a)(5). Pub. L. 111–296, §203, added par. (5).

Subsec. (b)(4). Pub. L. 111–296, §101(a)(1), substituted "supplemental nutrition assistance program" for "food stamp" in heading.

Subsec. (b)(4)(E). Pub. L. 111–296, §101(a)(2), added subpar. (E).

Subsec. (b)(4)(F). Pub. L. 111–296, §101(b), added subpar. (F).

Subsec. (b)(4)(G). Pub. L. 111–296, §101(c), added subpar. (G).

Subsec. (b)(5)(E). Pub. L. 111–296, §102(a), added subpar. (E).

Subsec. (b)(12)(A)(iv). Pub. L. 111–296, §102(b)(1), inserted closing parenthesis before semicolon at end.

Subsec. (b)(12)(A)(vii). Pub. L. 111–296, §102(b)(2)–(4), added cl. (vii).

Subsec. (b)(15). Pub. L. 111–296, §103(a), added par. (15).

Subsec. (d)(1). Pub. L. 111–296, §301, inserted "the last 4 digits of" before "the social security account number" in first sentence and struck out second sentence which read as follows: "The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(3)(G) of this section."

Subsec. (d)(2)(F). Pub. L. 111–296, §102(c), added subpar. (F).

Subsec. (d)(2)(G). Pub. L. 111–296, §103(b), added subpar. (G).

Subsec. (f). Pub. L. 111–296, §441(a)(1), inserted subsec. heading, added par. (1), redesignated former pars. (3) to (5) as (2) to (4), respectively, and struck out former pars. (1) and (2) which related to nutritional requirements and grants of waivers from such requirements by State educational agencies.

Subsec. (h)(3). Pub. L. 111–296, §402(1), substituted "2011 through 2015" for "2006 through 2010" in introductory provisions.

Subsec. (h)(4). Pub. L. 111–296, §402(2), substituted "2011 through 2015" for "2006 through 2010".

Subsec. (h)(5). Pub. L. 111–296, §302, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (k). Pub. L. 111–296, §209, added subsec. (k).

2009—Subsec. (b)(14). Pub. L. 111–80, §734(a), added par. (14).

Subsec. (f)(5). Pub. L. 111–80, §749(b), substituted "2010" for "2009".

Subsec. (h)(3), (4). Pub. L. 111–80, §749(c), substituted "2010" for "2009".

2008—Subsec. (b)(2) to (4). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(Z), substituted "supplemental nutrition assistance program" for "food stamp program" wherever appearing and "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977" wherever appearing.

Subsec. (b)(12)(A)(i). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(Z), substituted "supplemental nutrition assistance program" for "food stamp program" and "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

Subsec. (b)(12)(B). Pub. L. 110–246, §4002(b)(1)(E), (2)(Z), substituted "supplemental nutrition assistance program benefits" for "food stamps".

Subsec. (d)(2)(B). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(Z), substituted "supplemental nutrition assistance program" for "food stamp program" and "Food and Nutrition Act of 2008" for "Food Stamp Act of

1977".

Subsec. (j). Pub. L. 110–246, §4302, amended subsec. (j) generally. Prior to amendment, subsec. (j) related to encouragement of purchases of locally produced foods, provision of startup grants, and authorization of appropriations.

2007—Subsec. (b)(12)(A)(iii). Pub. L. 110–134 substituted "the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B))" for "the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))".

2004—Subsec. (a)(2). Pub. L. 108–265, §102, added par. (2) and struck out former par. (2) which read as follows: "Lunches served by schools participating in the school lunch program under this chapter—

"(A) shall offer students fluid milk; and

"(B) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school."

Subsec. (a)(4). Pub. L. 108–265, §103, added par. (4).

Subsec. (b)(2)(B). Pub. L. 108–265, §104(a)(2)(A), inserted subpar. heading, designated first and second sentences as cls. (i) and (ii), respectively, and inserted headings, in cl. (ii) substituted "Forms and descriptive material distributed in accordance with clause (i)" for "Such forms and descriptive material", and added cl. (iii).

Subsec. (b)(2)(C)(i). Pub. L. 108–265, §104(a)(2)(B), redesignated par. (2)(C)(i) as par. (3).

Subsec. (b)(2)(C)(ii) to (vii), (D). Pub. L. 108–265, §104(a)(2)(C), struck out subpars. (C)(ii) to (vii) and (D), which related to direct certification of children in households receiving other assistance, disclosure of eligibility information, limitations, sanction for wrongful disclosure, waiver of confidentiality, use of disclosed information, and submission of price policy statement by school food authority.

Subsec. (b)(3). Pub. L. 108–265, §105(a), added par. (3) and struck out former par. (3) which read as follows: "Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification."

Pub. L. 108–265, §104(a)(2)(B), redesignated par. (2)(C)(i) as par. (3).

Pub. L. 108–265, §104(a)(1), redesignated par. (3) as (9).

Subsec. (b)(4). Pub. L. 108–265, §104(a)(2)(C), added par. (4).

Pub. L. 108–265, §104(a)(1), redesignated par. (4) as (10).

Subsec. (b)(5). Pub. L. 108–265, §104(d)(1), struck out "(A) IN GENERAL.—" before "Subject to paragraph (6)", redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively, and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "Subject to paragraph (6), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as a member of a household that is receiving food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)."

Pub. L. 108–265, §104(b)(1), as amended by Pub. L. 108–447, added par. (5).

Pub. L. 108–265, §104(a)(1), redesignated par. (5) as (11).

Subsec. (b)(6). Pub. L. 108–265, §104(b)(1), added par. (6).

Pub. L. 108–265, §104(a)(1), redesignated par. (6) as (12).

Subsec. (b)(7). Pub. L. 108–265, §104(b)(1), added par. (7).

Pub. L. 108–265, §104(a)(1), redesignated par. (7) as (13).

Pub. L. 108–211 substituted "June 30, 2004" for "March 31, 2004".

Subsec. (b)(8). Pub. L. 108–265, §104(b)(1), added par. (8).

Subsec. (b)(9). Pub. L. 108–265, §106, inserted par. heading, designated existing provisions as subpars. (A) and (B), inserted subpar. headings, in subpar. (B) designated existing provisions as cls. (i) and (ii) and inserted cl. headings, and added subpar. (C).

Pub. L. 108–265, §104(a)(1), redesignated par. (3) as (9).

Subsec. (b)(10). Pub. L. 108–265, §104(a)(1), redesignated par. (4) as (10).

Subsec. (b)(11). Pub. L. 108–265, §108(a)(1), substituted "Local educational agencies" for "Local school authorities" in second sentence.

Pub. L. 108–265, §104(a)(1), redesignated par. (5) as (11).

Subsec. (b)(12). Pub. L. 108–265, §104(a)(1), redesignated par. (6) as (12).

Subsec. (b)(12)(A)(iv) to (vi). Pub. L. 108–265, §107(a), added cls. (iv) to (vi).

Subsec. (b)(12)(B). Pub. L. 108–265, §104(d)(2)(A), substituted "this subsection" for "paragraph (2)(C)".

Subsec. (b)(13). Pub. L. 108–265, §109, substituted "The" for "For each of fiscal years 2002 and 2003 and through June 30, 2004, the".

Pub. L. 108–265, §104(a)(1), redesignated par. (7) as (13).

Subsec. (d)(1). Pub. L. 108–265, §104(d)(2)(B), substituted "subsection (b)(3)(G)" for "subsection (b)(2)(C)" in second sentence.

Subsec. (d)(2)(A). Pub. L. 108–265, §108(a)(2), substituted "appropriate local educational agency" for "appropriate local school food authority" and "the local educational agency" for "such authority".

Subsec. (d)(2)(B), (C). Pub. L. 108–265, §108(a)(2)(A), substituted "local educational agency" for "local school food authority".

Subsec. (d)(2)(D), (E). Pub. L. 108–265, §107(b), added subpars. (D) and (E).

Subsec. (f)(5). Pub. L. 108–265, §110, substituted "September 30, 2009" for "September 30, 2003".

Subsec. (h). Pub. L. 108–265, §111(1), struck out "inspections" after "safety" in heading.

Subsec. (h)(1). Pub. L. 108–265, §111(2), substituted "A school" for "Except as provided in paragraph (2), a school", inserted subpar. (A) designation, substituted "at least twice" for "at least once", and added subpars. (B) and (C).

Subsec. (h)(2) to (5). Pub. L. 108–265, §111(3), added pars. (2) to (5) and struck out heading and text of former par. (2). Text read as follows: "Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local governmental agency responsible for food safety inspections."

Subsec. (j)(2)(A). Pub. L. 108–265, §112, substituted "2009" for "2007".

2003—Subsec. (b)(7). Pub. L. 108–134 inserted "and through March 31, 2004" after "and 2003".

2002—Subsec. (b)(7). Pub. L. 107–171, §4302(a), added par. (7).

Subsec. (j). Pub. L. 107–171, §4303, added subsec. (j).

2000—Subsec. (b)(2)(C)(iii)(IV). Pub. L. 106–224, §242(a)(1), added subcl. (IV).

Subsec. (b)(2)(C)(vi), (vii). Pub. L. 106–224, §242(a)(2), added cls. (vi) and (vii).

1998—Subsec. (f)(2). Pub. L. 105–336, §102(a)(1), substituted "paragraph (1)" for "subparagraph (A)".

Subsec. (f)(3), (4). Pub. L. 105–336, §102(a)(2), substituted "this subsection" for "this paragraph" wherever appearing.

Subsec. (f)(5). Pub. L. 105–336, §102(b), added par. (5).

Subsec. (h). Pub. L. 105–336, §102(c), added subsec. (h).

Subsec. (i). Pub. L. 105–336, §102(d), added subsec. (i).

1996—Subsec. (a)(2). Pub. L. 104–193, §702(a)(1), redesignated par. (2)(A) as (2) and cls. (i) and (ii) of former subpar. (A) as subpars. (A) and (B), respectively, and struck out former subpar. (B) which read as follows:

"(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this chapter, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

"(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

"(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools."

Subsec. (a)(3), (4). Pub. L. 104–193, §702(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this chapter without endangering the nutritional integrity of the lunches served by such schools."

Subsec. (b)(2)(C)(ii)(II). Pub. L. 104–193, §109(g)(1)(A), substituted "State program funded" for "program for aid to families with dependent children" and inserted before period at end "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

Subsec. (b)(2)(D). Pub. L. 104–193, §703, added subpar. (D).

Subsec. (b)(6)(A)(ii). Pub. L. 104–193, §109(g)(1)(B)(i), substituted "a family (under the State program funded" for "an AFDC assistance unit (under the aid to families with dependent children program authorized" and "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995" for ", in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 9902(2) of this title)".

Subsec. (b)(6)(B). Pub. L. 104–193, §109(g)(1)(B)(ii), substituted "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995" for "aid to families with dependent children".

Subsec. (c). Pub. L. 104–193, §702(b)(2), struck out "Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area or commodities donated by the Secretary." after "operated on a nonprofit basis.", "The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 612c of title 7, under section 1431 of title 7 and under section 1446a–1 of title 7, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions." after "authorized to receive such commodities.", and "None of the requirements of this section in respect to the amount for 'reduced cost' meals and to eligibility for meals without cost shall apply to schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title) which participate in the school lunch program under this chapter until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 1759 of this title the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements." at end.

Pub. L. 104–193, §702(b)(1), substituted "provision of law" for "of the provisions of law referred to in the preceding sentence" in fifth sentence.

Subsec. (d)(2)(C). Pub. L. 104–193, §109(g)(2), substituted "State program funded" for "program for aid to families with dependent children" and inserted before period at end "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

Subsec. (f). Pub. L. 104–193, §702(c)(1)–(3), struck out "(2)" designation before "(A) Except as provided", redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, and struck out former par. (1) which read as follows: "Not later than the first day of the 1996–97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 5341 of title 7 (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content."

Subsec. (f)(1). Pub. L. 104–193, §702(c)(4), added par. (1) and struck out former par. (1), as redesignated by Pub. L. 104–193, §702(c)(3), which read as follows: "Except as provided in subparagraph (B), not later than the first day of the 1996–97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii) of this section and section 4(e)(1))."

Subsec. (f)(2)(D). Pub. L. 104–149 added subpar. (D) and struck out former subpar. (D) which read as follows: "Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph. In the case of schools that elect to use food-based menu systems to meet the requirements of this paragraph, the Secretary may not require the schools to conduct or use nutrient analysis."

Subsec. (f)(3). Pub. L. 104–193, §702(c)(5), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and subcls. (I) and (II) of subpar. (A) as cls. (i) and (ii), respectively.

Subsec. (f)(4). Pub. L. 104–193, §702(c)(6), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, in subpar. (A), redesignated subcls. (I) and (II) as cls. (i) and (ii), respectively, and in subpar. (A)(ii), substituted "paragraph (3)" for "subparagraph (C)".

Subsec. (h). Pub. L. 104–193, §702(d), struck out subsec. (h) which read as follows: "In carrying out this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may use resources provided through the nutrition education and training program authorized under section 19 of the

Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals."

1994—Subsec. (a)(1). Pub. L. 103–448, §§105(a), 106(a), designated existing provisions as subpar. (A) and cl. (i) of subpar. (A) and added cl. (ii) of subpar. (A) and subpar. (B).

Subsec. (a)(2). Pub. L. 103–448, §107, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Lunches served by schools participating in the school lunch program under this chapter shall offer students fluid whole milk and fluid unflavored lowfat milk."

Subsec. (b)(2)(C)(iii) to (v). Pub. L. 103–448, §108, added cls. (iii) to (v) and struck out former cl. (iii), which read as follows: "School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this chapter and the Child Nutrition Act of 1966."

Subsec. (b)(6)(A). Pub. L. 103–448, §109(a)(1), struck out "a member of" after "if the child is" in introductory provisions, inserted "a member of" after "(i)" and "(ii)", and added cl. (iii).

Subsec. (b)(6)(B). Pub. L. 103–448, §109(a)(2), inserted ", or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii)," after "aid to families with dependent children".

Subsecs. (f) to (h). Pub. L. 103–448, §§106(b), (c), 110, added subsecs. (f) to (h).

1989—Subsec. (a). Pub. L. 101–147, §101(a), amended subsec. (a), as amended identically by Pub. L. 99–500 and 99–591, §322, and Pub. L. 99–661, §4202, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (a)(1). Pub. L. 101–147, §312(1), substituted "school lunch" for "school-lunch".

Subsec. (a)(2). Pub. L. 101–147, §101(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage."

Subsec. (b). Pub. L. 101–147, §§305(b)(1), 312(2), substituted "reduced price" for "reduced-price" and "family size" for "family-size" wherever appearing.

Pub. L. 101–147, §202(a)(1), (2)(A), amended subsec. (b), as amended identically by Pub. L. 99–500 and Pub. L. 99–591, §323, and Pub. L. 99–661, §4203, and as amended by Pub. L. 100–356, §1, to read as if only the amendment by Pub. L. 99–661 was enacted, and further amended subsec. (b) identically to the amendments that were made by Pub. L. 100–356, §1, resulting in no change in text, see 1986 and 1988 Amendment notes below.

Subsec. (b)(2)(C). Pub. L. 101–147, §202(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, States, and local school food authorities may seek verification of the data contained in the application. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification."

Subsec. (c). Pub. L. 101–147, §§305(b)(2), 312(1), substituted "School lunch" for "School-lunch", substituted "school lunch" for "school-lunch" wherever appearing, and made technical amendments to the references to sections 612c, 1431, and 1446a–1 of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (d)(1). Pub. L. 101–147, §§202(b)(2)(A), 312(2), substituted "reduced price" for "reduced-price" and "number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C) of this section." for "numbers of all adult members of the household of which such person is a member."

Subsec. (d)(2). Pub. L. 101–147, §312(2), substituted "reduced price" for "reduced-price".

Subsec. (d)(2)(A). Pub. L. 101–147, §202(b)(2)(B)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority; or".

Subsec. (d)(2)(C). Pub. L. 101–147, §202(b)(2)(B)(ii), (iii), added subpar. (C).

Subsec. (e). Pub. L. 101–147, §312(2), substituted "reduced price" for "reduced-price".

Pub. L. 101–147, §305(a), amended subsec. (e), as amended identically by Pub. L. 99–500 and Pub. L. 99–591, §324, and Pub. L. 99–661, §4204, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

1988—Subsec. (b)(1)(A). Pub. L. 100–356 substituted "The" for "For the school years ending June 30,

1982, and June 30, 1983, the" in second sentence and struck out provisions which equated income guidelines for determining eligibility for free lunches with gross income eligibility standards for participation in food stamp program.

1986—Subsec. (a). Pub. L. 99–500 and Pub. L. 99–591, §322, and Pub. L. 99–661, §4202, amended subsec. (a) identically, designating existing provisions as pars. (1), (3), and (4) and adding par. (2).

Subsec. (b)(6). Pub. L. 99–500 and Pub. L. 99–591, §323, and Pub. L. 99–661, §4203, amended subsec. (b) identically, adding par. (6).

Subsec. (e). Pub. L. 99–500 and Pub. L. 99–591, §324, and Pub. L. 99–661, §4204, amended section identically, adding subsec. (e).

1981—Subsec. (a). Pub. L. 97–35, §811, struck out "in any junior high school or middle school" after "grade level".

Subsec. (b). Pub. L. 97–35, §803(a), in par. (1) substituted provisions relating to income eligibility guidelines, for provisions relating to income poverty guidelines, redesignated former par. (2) as (5) and, as so redesignated, struck out "solely" after "sentence", and added pars. (2) to (4).

Subsec. (d). Pub. L. 97–35, §803(b), added subsec. (d).

1978—Subsec. (b)(1). Pub. L. 95–627 substituted guidelines prescribed by the Office of Management and Budget for the Consumer Price Index for purposes of determining the income poverty guidelines.

1977—Subsec. (a). Pub. L. 95–166 inserted parenthetical text authorizing students in any grade level in any junior high school or middle school, when approved by local school district or nonprofit private school, to refuse to accept offered foods they do not intend to consume.

1975—Subsec. (a). Pub. L. 94–105, §6(a), directed Secretary to establish administrative procedures designed to diminish food waste in school lunch programs and made provision for senior high school students to refuse food which they do not intend to consume without affecting lunch charges or payments to schools for lunches served.

Subsec. (b)(1). Pub. L. 94–105, §6(b), designated existing provisions as subsec. (b)(1), struck out "if a school elects to serve reduced-price lunches" after "reduced price not to exceed 20 cents", inserted provision for a reduced price lunch for any child eligible under reduced price lunch income guidelines, established income guidelines for reduced price lunches, beginning with fiscal year ending June 30, 1976, at 95 per centum above applicable family size income levels in income poverty guidelines, and provided for a reduced price lunch not to exceed 20 cents to any child belonging to a household whose income falls between guidelines for a free lunch and 95 per centum above income levels in the income poverty guidelines.

Pub. L. 94–105, §6(c), substituted provision adjusting income poverty guidelines that take effect July 1 of each year according to percentage change in Consumer Price Index for 12-month period ending in April of that year, except that the first adjustment, effective July 1, 1976, shall be made according to percentage change between average Consumer Price Index for 1974, on which the 1975–1976 guidelines are based, and Consumer Price Index for April 1976 for provision basing the guidelines on average Consumer Price Index for previous calendar year.

Subsec. (b)(2). Pub. L. 94–105, §6(d), added par. (2).

Subsec. (c). Pub. L. 94–105, §6(e), substituted "schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title)" for "nonprofit private schools".

1974—Subsec. (b). Pub. L. 93–326 substituted "beginning with the fiscal year ending June 30, 1974" for "for the fiscal year ending June 30, 1974" in provision authorizing State educational agencies to establish income guidelines for reduced price lunches at not more than 75 per centum above applicable family size income levels in income poverty guidelines as prescribed by Secretary.

1973—Subsec. (b). Pub. L. 93–150 inserted proviso relating to income guidelines for reduced price lunches.

1972—Subsec. (a). Pub. L. 92–433, §5(a), designated first sentence as subsec. (a).

Subsec. (b). Pub. L. 92–433, §5(b), designated second through seventh sentences of existing provisions as subsec. (b), separated provisions relating to free and reduced price lunches, substituted May 15 of each year for July 1 of each year as the date by which the Secretary is required to prescribe an income poverty guideline, prescribed free lunch for children of households below the guideline instead of prior provision requiring free lunch or lunch at reduced price, authorized State educational agencies to set up family-size income levels for free and reduced price lunches to be within certain percentage limitations of the guideline prescribed by the Secretary, and provided for continuation until July 1, 1973 of higher guidelines established prior to July 1, 1972.

Subsec. (c). Pub. L. 92–433, §5(c), designated eighth through thirteenth sentences as subsec. (c) and in last sentence inserted provision that requirements of this section are not applicable to nonprofit private schools

which participate in the school lunch program under this chapter until the State educational agency certifies about the funds.

1971—Pub. L. 92–153 inserted provisions for consideration of income poverty guidelines during fiscal year 1972 as a national minimum standard of eligibility and for reimbursement of State agencies during such fiscal year pursuant to eligibility standards established by State agencies prior to Oct. 1, 1971.

1970—Pub. L. 91–248 placed a ceiling of 20 cents on any reduced price meal offered under the school lunch program, provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general, but, under which, by Jan. 1, 1971, such determination shall be based on the income poverty guidelines with first priority given to providing free meals to the neediest children, provided that there be no overt identification of those children who receive free and reduced price meals, authorized the Secretary to prescribe such terms and conditions for food service in the non-national School Lunch Act schools as well as schools under this Act which are receiving Federal assistance in the form of commodities, and excepted from requirements of this section with respect to amount for reduced cost meals and eligibility for meals without cost nonprofit private schools which participate in the school lunch program under the provisions of section 1759 of this title until the Secretary certifies that sufficient funds are available to enable such schools to meet the requirements of this section.

1968—Pub. L. 90–302 provided that minimum nutritional requirements prescribed by the Secretary on basis of tested nutritional research which lunches served by participating schools must meet could not be construed to prohibit substitution of foods to accommodate medical or other special dietary needs of individual students.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4002(b)(1)(A), (B), (E), (2)(Z), and 4302 of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by sections 102, 104(a)(2), (b)(1), (d)(1), (2), 105(a), and 111 of Pub. L. 108–265 effective July 1, 2005, see section 502(b)(4) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

Amendment by sections 103, 104(a)(1), 108(a), 109, 110, and 112 of Pub. L. 108–265 effective June 30, 2004, except as otherwise provided, see section 502(a) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

Pub. L. 108–265, title I, §104(d)(1), June 30, 2004, 118 Stat. 737, provided that the amendment made by section 104(d)(1) is effective July 1, 2008.

Amendment by sections 106 and 107 of Pub. L. 108–265 effective July 1, 2004, see section 502(b)(1) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title IV, §4302(b), May 13, 2002, 116 Stat. 331, provided that: "The amendment made by this section [amending this section] takes effect on the date of enactment of this Act [May 13, 2002]."

Amendment by section 4303 of Pub. L. 107–171 effective Oct. 1, 2002, except as otherwise provided, see section 4405 of Pub. L. 107–171, set out as an Effective Date note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–224, title II, §242(c), June 20, 2000, 114 Stat. 413, provided that: "The amendments made by this section [amending this section and sections 1760 and 1786 of this title] take effect on October 1, 2000."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(g) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 105(a) and 106 to 108 of Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

Pub. L. 103–448, title I, §109(c), Nov. 2, 1994, 108 Stat. 4705, provided that: "The amendments made by this section [amending this section and section 1766 of this title] shall become effective on September 25, 1995."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title II, §202(a)(2)(B), Nov. 10, 1989, 103 Stat. 908, provided that: "The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on June 28, 1988."

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–500, title III, §§322–324, Oct. 18, 1986, 100 Stat. 1783–361, Pub. L. 99–591, title III, §§322–324, Oct. 30, 1986, 100 Stat. 3341–364, and Pub. L. 99–661, div. D, title II, §§4202–4204, Nov. 14, 1986, 100 Stat. 4072, provided that the amendments made by those sections are effective July 1, 1986.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 803(a), (b) and 811 of Pub. L. 97–35 effective Aug. 13, 1981, and Sept. 1, 1981, respectively, see section 820(a)(1)(E), (7)(A) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective July 1, 1979, except as specifically provided, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94–105, §6(c), Oct. 7, 1975, 89 Stat. 512, provided that the amendment made by that section is effective Jan. 1, 1976.

REGULATIONS

Pub. L. 108–265, title V, §501, June 30, 2004, 118 Stat. 789, provided that:

"(a) GUIDANCE.—As soon as practicable after the date of enactment of this Act [June 30, 2004], the Secretary of Agriculture shall issue guidance to implement the amendments made by sections 102, 103, 104, 105, 106, 107, 111, 116, 119(c), 119(g), 120, 126(b), 126(c), 201, 203(a)(3), 203(b), 203(c)(5), 203(e)(3), 203(e)(4), 203(e)(5), 203(e)(6), 203(e)(7), 203(e)(10), and 203(h)(1) [amending this section, sections 1396a, 1759a, 1761, 1766, 1769, 1769c, 1773, 1776, and 1786 of this title, and section 2020 of Title 7, Agriculture].

"(b) INTERIM FINAL REGULATIONS.—The Secretary may promulgate interim final regulations to implement the amendments described in subsection (a).

"(c) REGULATIONS.—Not later than 2 years after the date of enactment of this Act [June 30, 2004], the Secretary shall promulgate final regulations to implement the amendments described in subsection (a)."

Pub. L. 101–147, title II, §202(c), Nov. 10, 1989, 103 Stat. 909, provided that: "Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b) [amending this section]."

MEAL REIMBURSEMENT FOR LOW-FAT AND FAT-FREE MILK IN FOOD PROGRAMS

Pub. L. 118–42, div. B, title VII, §769, Mar. 9, 2024, 138 Stat. 116, provided that: "Any rule-making, notice or guidance of or regarding USDA Proposed Rule (Child Nutrition Programs: Revisions to Meal Patterns Consistent With the 2020 Dietary Guidelines for Americans; RIN 0584–AE88) shall allow and provide meal reimbursement for (or 'low fat or fat free') flavored milk in National School Lunch Program and School Breakfast Program for grades Kindergarten through 12th grade and in Child and Adult Care Food Program for participants 6 years of age and older, and for any other program complying with the meal pattern requirements covered in such final rule."

SODIUM LIMITS TO REMAIN IN EFFECT THROUGH SCHOOL YEAR 2026–2027; LIMITS NOT TO BE MORE RESTRICTIVE IN RULEMAKING THAN TARGET 2 SODIUM LEVELS

Pub. L. 118–42, div. B, title VII, §770, Mar. 9, 2024, 138 Stat. 116, provided that: "Sodium limits in effect for School Year 2023–2024 in child nutrition meal patterns shall remain effective through School Year 2026–2027, after which sodium limits that may be included in any rulemaking, notice or guidance of or regarding USDA Proposed Rule (Child Nutrition Programs: Revisions to Meal Patterns Consistent With the 2020 Dietary Guidelines for Americans; RIN 0584–AE88), shall not be more restrictive than the Target 2 sodium levels published in the final rule entitled 'Nutrition Standards in the National School Lunch and School Breakfast Programs' published by the Department of Agriculture in the Federal Register on January 26, 2012 (77 Fed. Reg 4087)."

REVIEW OF LOCAL POLICIES ON MEAL CHARGES AND PROVISION OF ALTERNATE MEALS

Pub. L. 111–296, title I, §143, Dec. 13, 2010, 124 Stat. 3213, provided that:

"(a) IN GENERAL.—

"(1) REVIEW.—The Secretary [of Agriculture], in conjunction with States and participating local educational agencies, shall examine the current policies and practices of States and local educational agencies regarding extending credit to children to pay the cost to the children of reimbursable school lunches and breakfasts.

"(2) SCOPE.—The examination under paragraph (1) shall include the policies and practices in effect as of the date of enactment of this Act [Dec. 13, 2010] relating to providing to children who are without funds a meal other than the reimbursable meals.

"(3) FEASIBILITY.—In carrying out the examination under paragraph (1), the Secretary shall—

"(A) prepare a report on the feasibility of establishing national standards for meal charges and the provision of alternate meals; and

"(B) provide recommendations for implementing those standards.

"(b) FOLLOWUP ACTIONS.—

"(1) IN GENERAL.—Based on the findings and recommendations under subsection (a), the Secretary may—

"(A) implement standards described in paragraph (3) of that subsection through regulation;

"(B) test recommendations through demonstration projects; or

"(C) study further the feasibility of recommendations.

"(2) FACTORS FOR CONSIDERATION.—In determining how best to implement recommendations described in subsection (a)(3), the Secretary shall consider such factors as—

"(A) the impact of overt identification on children;

"(B) the manner in which the affected households will be provided with assistance in establishing eligibility for free or reduced price school meals; and

"(C) the potential financial impact on local educational agencies."

INCOME ELIGIBILITY GUIDELINES

Pub. L. 96–499, title II, §203(a)–(c), Dec. 5, 1980, 94 Stat. 2600, as amended by Pub. L. 97–35, title VIII, §820(b)(3), Aug. 13, 1981, 95 Stat. 535, provided that:

"(a), (b) [Repealed].

"(c) For the school year ending June 30, 1981, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications."

VERIFICATION OF ELIGIBILITY DATA SUBMITTED ON A SAMPLE OF APPLICATIONS FOR FREE AND REDUCED-PRICE MEALS

Pub. L. 97–35, title VIII, §803(c), Aug. 13, 1981, 95 Stat. 525, provided that: "Notwithstanding any other provision of law, the Secretary of Agriculture shall conduct a pilot study to verify the data submitted on a sample of applications for free and reduced-price meals. In conducting the pilot study, the Secretary may require households included in the study to furnish social security numbers of all household members and such other information as the Secretary may require, including, but not limited to, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers, as a condition for receipt of free or reduced-price meals."

PROCEDURES FOR IMPLEMENTING NEW INCOME ELIGIBILITY GUIDELINES FOR FREE AND REDUCED-PRICE LUNCHES

Pub. L. 97–35, title VIII, §803(d), Aug. 13, 1981, 95 Stat. 526, provided that for school year ending June 30, 1982, Secretary could prescribe procedures for implementing the revisions made by section 803 of Pub. L. 97–35, amending this section, to the income eligibility guidelines for free and reduced-price lunches under this section, and that such procedures could allow school food authorities to use applications distributed at beginning of school year when making eligibility determinations or to distribute new applications.

LOWERING MINIMUM STANDARD OF ELIGIBILITY AND REDUCTION IN NUMBER OF CHILDREN SERVED, FISCAL YEAR 1972

Pub. L. 92–153, §6, Nov. 5, 1971, 85 Stat. 420, provided that: "The Secretary shall not lower minimum standards of eligibility for free and reduced price meals nor require a reduction in the number of children served in any school district during a fiscal year to be effective for that fiscal year. This section shall apply to fiscal year 1972."

[1] See References in Text note below.

[2] So in original. Probably should be "be".

[3] So in original. Another closing parenthesis probably should appear.

§1758a. State performance on enrolling children receiving program benefits for free school meals

(a) In general

Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as "program benefits") for free school meals using direct certification.

(b) Specific measures

The assessment of the Secretary of the performance of each State shall include—

(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;

(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and

(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children

attended a school operating under the special assistance provisions of section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.

(c) Performance innovations

The report of the Secretary shall describe best practices from States with the best performance or the most improved performance from the previous year.

(Pub. L. 110–234, title IV, §4301, May 22, 2008, 122 Stat. 1125; Pub. L. 110–246, §4(a), title IV, §4301, June 18, 2008, 122 Stat. 1664, 1886.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (a), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Richard B. Russell National School Lunch Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

Section effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 2, The Congress.

DEFINITION OF "SECRETARY"

"Secretary" means the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§1758b. Local school wellness policy

(a) In general

Each local educational agency participating in a program authorized by this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for all schools under the jurisdiction of the local educational agency.

(b) Guidelines

The Secretary shall promulgate regulations that provide the framework and guidelines for local educational agencies to establish local school wellness policies, including, at a minimum,—

(1) goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness;

(2) for all foods available on each school campus under the jurisdiction of the local educational agency during the school day, nutrition guidelines that—

(A) are consistent with sections 1758 and 1766 of this title, and sections 4 and 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1773, 1779); and

(B) promote student health and reduce childhood obesity;

(3) a requirement that the local educational agency permit parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the general public to participate in the development, implementation, and periodic review and update of the local school wellness policy;

(4) a requirement that the local educational agency inform and update the public (including parents, students, and others in the community) about the content and implementation of the local school wellness policy; and

(5) a requirement that the local educational agency—

(A) periodically measure and make available to the public an assessment on the implementation of the local school wellness policy, including—

(i) the extent to which schools under the jurisdiction of the local educational agency are in compliance with the local school wellness policy;

(ii) the extent to which the local school wellness policy of the local educational agency compares to model local school wellness policies; and

(iii) a description of the progress made in attaining the goals of the local school wellness policy; and

(B) designate 1 or more local educational agency officials or school officials, as appropriate, to ensure that each school complies with the local school wellness policy.

(c) Local discretion

The local educational agency shall use the guidelines promulgated by the Secretary under subsection (b) to determine specific policies appropriate for the schools under the jurisdiction of the local educational agency.

(d) Technical assistance and best practices

(1) In general

The Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, shall provide information and technical assistance to local educational agencies, school food authorities, and State educational agencies for use in establishing healthy school environments that are intended to promote student health and wellness.

(2) Content

The Secretary shall provide technical assistance that—

(A) includes resources and training on designing, implementing, promoting, disseminating, and evaluating local school wellness policies and overcoming barriers to the adoption of local school wellness policies;

(B) includes model local school wellness policies and best practices recommended by Federal agencies, State agencies, and nongovernmental organizations;

(C) includes such other technical assistance as is required to promote sound nutrition and establish healthy school nutrition environments; and

(D) is consistent with the specific needs and requirements of local educational agencies.

(3) Study and report

(A) In general

Subject to the availability of appropriations, the Secretary, in conjunction with the Director of the Centers for Disease Control and Prevention, shall prepare a report on the implementation,

strength, and effectiveness of the local school wellness policies carried out in accordance with this section.

(B) Study of local school wellness policies

The study described in subparagraph (A) shall include—

(i) an analysis of the strength and weaknesses of local school wellness policies and how the policies compare with model local wellness policies recommended under paragraph (2)(B); and

(ii) an assessment of the impact of the local school wellness policies in addressing the requirements of subsection (b).

(C) Report

Not later than January 1, 2014, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the findings of the study.

(D) Authorization of appropriations

There are authorized to be appropriated to carry out this paragraph $3,000,000 for fiscal year 2011, to remain available until expended.

(June 4, 1946, ch. 281, §9A, as added Pub. L. 111–296, title II, §204(a), Dec. 13, 2010, 124 Stat. 3216.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Section effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as an Effective Date of 2010 Amendment note under section 1751 of this title.

§1759. Direct disbursement to schools by Secretary

(a) The Secretary shall withhold funds payable to a State under this chapter and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this chapter to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this chapter. If the Secretary is administering (in whole or in part) any program authorized under this chapter, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

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

authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

(June 4, 1946, ch. 281, §10, 60 Stat. 233; Pub. L. 87–823, §4, Oct. 15, 1962, 76 Stat. 945; Pub. L. 91–248, §1(b), May 14, 1970, 84 Stat. 208; Pub. L. 93–433, §4(d), Sept. 26, 1972, 86 Stat. 726; Pub. L. 93–150, §3(b), Nov. 7, 1973, 87 Stat. 562; Pub. L. 94–105, §7, Oct. 7, 1975, 89 Stat. 514; Pub. L. 97–35, title VIII, §817(a), Aug. 13, 1981, 95 Stat. 531.)

EDITORIAL NOTES

AMENDMENTS

1981—Pub. L. 97–35 designated existing provisions as subsec. (a), substituted provisions relating to disbursement of funds directly to schools, institutions, or service institutions for the purposes authorized by this chapter, for provisions relating to disbursement of funds directly to schools for the purposes and subject to conditions authorized or required for disbursements to schools within the State by the State educational agency, and added subsec. (b).

1975—Pub. L. 94–105 altered provisions of section to accommodate authorization of direct payments to private nonprofit schools and institutions in conformity with revised allocation method for school lunch funds and expanded definition of "school" to include any public or licensed nonprofit residential child care institution, including but not limited to, orphanages and homes for the mentally retarded.

1973—Pub. L. 93–150 inserted in proviso reference to section 1759a of this title.

1972—Pub. L. 92–433 inserted proviso that beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments directly to the nonprofit private schools for the purpose of section 1753 of this title under the same conditions as are prescribed for State educational agencies.

1970—Pub. L. 91–248 provided that data upon which State apportionments are calculated is the program year completed two years immediately prior to the fiscal year for which the appropriation is requested.

1962—Pub. L. 87–823 substituted "an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the preceding fiscal year by all nonprofit private schools participating in the program under this chapter within the State, as determined by the Secretary, bears to the participation rate for the State" for "the same proportion of the funds as the number of children between the ages of 5 and 17, inclusive, attending nonprofit private schools within the State, is of the total number of persons of those ages within the State attending school".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

§1759a. Special assistance funds

(a) Formula for computation of payments; computation for lunches to eligible children in schools funding service to ineligible children from non-Federal sources; special assistance factors; annual adjustments

(1)(A) Except as provided in section 1759 of this title, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758(a) of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year.

(B) Except as provided in subparagraph (C), (D), (E), or (F), in the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced price lunches, special assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches.

(C)(i) Except as provided in subparagraph (D), in the case of any school or school district that—

(I) elects to serve all children in the school or school district free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school or school district that serves both lunches and breakfasts, elects to serve all children in the school or school district free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 4 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school or school district during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school or school district to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 4-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school or school district to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

(iii) For purposes of computing the amount of the payments, a school or school district may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 4-school-year period.

(D)(i) In the case of any school or school district that is receiving special assistance payments under this paragraph for a 4-school-year period described in subparagraph (C), the State may grant, at the end of the 4-school-year period, an extension of the period for an additional 4 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school or school district has remained stable.

(ii) A school or school district described in clause (i) may reapply to the State at the end of the 4-school-year period, and at the end of each 4-school-year period thereafter for which the school or school district receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 4-school-year period.

(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school or school district has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 4-school-year period for which the school or school district receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

(iv) For the purpose of updating information and reimbursement levels, a school or school district described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

(E)(i) In the case of any school or school district that—

(I) elects to serve all children in the school or school district free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school or school district that serves both lunches and breakfasts, elects to serve all children in the school or school district free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school or school district at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school or school district in the last school year for which the school or school district accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

(ii) A school or school district described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school or school district receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school or school district has remained consistent with the income level of the population of the school or school district in the last school year for which the school or school district accepted the applications described in clause (i).

(F) UNIVERSAL MEAL SERVICE IN HIGH POVERTY AREAS.—

(i) DEFINITION OF IDENTIFIED STUDENTS.—The term "identified students" means students certified based on documentation of benefit receipt or categorical eligibility as described in section 245.6a(c)(2) of title 7, Code of Federal Regulations (or successor regulations).

(ii) ELECTION OF SPECIAL ASSISTANCE PAYMENTS.—

(I) IN GENERAL.—A local educational agency may, for all schools in the district or on behalf of certain schools in the district, elect to receive special assistance payments under this subparagraph in lieu of special assistance payments otherwise made available under this paragraph based on applications for free and reduced price lunches if—

(aa) during a period of 4 successive school years, the local educational agency elects to serve all children in the applicable schools free lunches and breakfasts under the school lunch program under this chapter and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(bb) the local educational agency pays, from sources other than Federal funds, the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(cc) the local educational agency is not a residential child care institution (as that term is used in section 210.2 of title 7, Code of Federal Regulations (or successor regulations)); and

(dd) during the school year prior to the first year of the period for which the local educational agency elects to receive special assistance payments under this subparagraph, the local educational agency or school had a percentage of enrolled students who were identified students that meets or exceeds the threshold described in clause (viii).

(II) ELECTION TO STOP RECEIVING PAYMENTS.—A local educational agency may, for all schools in the district or on behalf of certain schools in the district, elect to stop receiving

special assistance payments under this subparagraph for the following school year by notifying the State agency not later than June 30 of the current school year of the intention to stop receiving special assistance payments under this subparagraph.

(iii) FIRST YEAR OF OPTION.—

(I) SPECIAL ASSISTANCE PAYMENT.—For each month of the first school year of the 4-year period during which a school or local educational agency elects to receive payments under this subparagraph, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

(aa) the multiplier described in clause (vii); by

(bb) the percentage of identified students at the school or local educational agency as of April 1 of the prior school year, up to a maximum of 100 percent.

(II) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 1753 of this title.

(iv) SECOND, THIRD, OR FOURTH YEAR OF OPTION.—

(I) SPECIAL ASSISTANCE PAYMENT.—For each month of the second, third, or fourth school year of the 4-year period during which a school or local educational agency elects to receive payments under this subparagraph, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

(aa) the multiplier described in clause (vii); by

(bb) the higher of the percentage of identified students at the school or local educational agency as of April 1 of the prior school year or the percentage of identified students at the school or local educational agency as of April 1 of the school year prior to the first year that the school or local educational agency elected to receive special assistance payments under this subparagraph, up to a maximum of 100 percent.

(II) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 1753 of this title.

(v) GRACE YEAR.—

(I) IN GENERAL.—If, not later than April 1 of the fourth year of a 4-year period described in clause (ii)(I), a school or local educational agency has a percentage of enrolled students who are identified students that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii), the school or local educational agency may elect to receive special assistance payments under subclause (II) for an additional grace year.

(II) SPECIAL ASSISTANCE PAYMENT.—For each month of a grace year, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

(aa) the multiplier described in clause (vii); by

(bb) the percentage of identified students at the school or local educational agency as of April 1 of the prior school year, up to a maximum of 100 percent.

(III) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (II) shall be reimbursed at the rate provided under section 1753 of this title.

(vi) APPLICATIONS.—A school or local educational agency that receives special assistance payments under this subparagraph may not be required to collect applications for free and reduced price lunches.

(vii) MULTIPLIER.—

(I) PHASE-IN.—For each school year beginning on or before July 1, 2013, the multiplier shall be 1.6.

(II) FULL IMPLEMENTATION.—For each school year beginning on or after July 1, 2014, the Secretary may use, as determined by the Secretary—

(aa) a multiplier between 1.3 and 1.6; and

(bb) subject to item (aa), a different multiplier for different schools or local educational agencies.

(viii) THRESHOLD.—

(I) PHASE-IN.—For each school year beginning on or before July 1, 2013, the threshold shall be 40 percent.

(II) FULL IMPLEMENTATION.—For each school year beginning on or after July 1, 2014, the Secretary may use a threshold that is less than 40 percent.

(ix) PHASE-IN.—

(I) IN GENERAL.—In selecting States for participation during the phase-in period, the Secretary shall select States with an adequate number and variety of schools and local educational agencies that could benefit from the option under this subparagraph, as determined by the Secretary.

(II) LIMITATION.—The Secretary may not approve additional schools and local educational agencies to receive special assistance payments under this subparagraph after the Secretary has approved schools and local educational agencies in—

(aa) for the school year beginning on July 1, 2011, 3 States; and

(bb) for each of the school years beginning July 1, 2012 and July 1, 2013, an additional 4 States per school year.

(x) ELECTION OF OPTION.—

(I) IN GENERAL.—For each school year beginning on or after July 1, 2014, any local educational agency eligible to make the election described in clause (ii) for all schools in the district or on behalf of certain schools in the district may elect to receive special assistance payments under clause (iii) for the next school year if, not later than June 30 of the current school year, the local educational agency submits to the State agency the percentage of identified students at the school or local educational agency.

(II) STATE AGENCY NOTIFICATION.—Not later than May 1 of each school year beginning on or after July 1, 2011, each State agency with schools or local educational agencies that may be eligible to elect to receive special assistance payments under this subparagraph shall notify—

(aa) each local educational agency that meets or exceeds the threshold described in clause (viii) that the local educational agency is eligible to elect to receive special assistance payments under clause (iii) for the next 4 school years, of the blended reimbursement rate the local educational agency would receive under clause (iii), and of the procedures for the local educational agency to make the election;

(bb) each local educational agency that receives special assistance payments under clause (iii) of the blended reimbursement rate the local educational agency would receive under clause (iv);

(cc) each local educational agency in the fourth year of electing to receive special assistance payments under this subparagraph that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii) and that receives special assistance payments under clause (iv), that the local educational agency may continue to

receive such payments for the next school year, of the blended reimbursement rate the local educational agency would receive under clause (v), and of the procedures for the local educational agency to make the election; and

(dd) each local educational agency that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii) that the local educational agency may be eligible to elect to receive special assistance payments under clause (iii) if the threshold described in clause (viii) is met by April 1 of the school year or if the threshold is met for a subsequent school year.

(III) PUBLIC NOTIFICATION OF LOCAL EDUCATIONAL AGENCIES.—Not later than May 1 of each school year beginning on or after July 1, 2011, each State agency with 1 or more schools or local educational agencies eligible to elect to receive special assistance payments under clause (iii) shall submit to the Secretary, and the Secretary shall publish, lists of the local educational agencies receiving notices under subclause (II).

(IV) PUBLIC NOTIFICATION OF SCHOOLS.—Not later than May 1 of each school year beginning on or after July 1, 2011, each local educational agency in a State with 1 or more schools eligible to elect to receive special assistance payments under clause (iii) shall submit to the State agency, and the State agency shall publish—

(aa) a list of the schools that meet or exceed the threshold described in clause (viii);

(bb) a list of the schools that meet or exceed a percentage that is 10 percentage points lower than the threshold described in clause (viii) and that are in the fourth year of receiving special assistance payments under clause (iv); and

(cc) a list of the schools that meet or exceed a percentage that is 10 percentage points lower than the threshold described in clause (viii).

(xi) IMPLEMENTATION.—

(I) GUIDANCE.—Not later than 90 days after December 13, 2010, the Secretary shall issue guidance to implement this subparagraph.

(II) REGULATIONS.—Not later than December 31, 2013, the Secretary shall promulgate regulations that establish procedures for State agencies, local educational agencies, and schools to meet the requirements of this subparagraph, including exercising the option described in this subparagraph.

(III) PUBLICATION.—If the Secretary uses the authority provided in clause (vii)(II)(bb) to use a different multiplier for different schools or local educational agencies, for each school year beginning on or after July 1, 2014, not later than April 1, 2014, the Secretary shall publish on the website of the Secretary a table that indicates—

(aa) each local educational agency that may elect to receive special assistance payments under clause (ii);

(bb) the blended reimbursement rate that each local educational agency would receive; and

(cc) an explanation of the methodology used to calculate the multiplier or threshold for each school or local educational agency.

(xii) REPORT.—Not later than December 31, 2013, the Secretary shall publish a report that describes—

(I) an estimate of the number of schools and local educational agencies eligible to elect to receive special assistance payments under this subparagraph that do not elect to receive the payments;

(II) for schools and local educational agencies described in subclause (I)—

(aa) barriers to participation in the special assistance option under this subparagraph, as described by the nonparticipating schools and local educational agencies; and

(bb) changes to the special assistance option under this subparagraph that would make eligible schools and local educational agencies more likely to elect to receive special assistance payments;

(III) for schools and local educational agencies that elect to receive special assistance payments under this subparagraph—

(aa) the number of schools and local educational agencies;

(bb) an estimate of the percentage of identified students and the percentage of enrolled students who were certified to receive free or reduced price meals in the school year prior to the election to receive special assistance payments under this subparagraph, and a description of how the ratio between those percentages compares to 1.6;

(cc) an estimate of the number and share of schools and local educational agencies in which more than 80 percent of students are certified for free or reduced price meals that elect to receive special assistance payments under that clause; and

(dd) whether any of the schools or local educational agencies stopped electing to receive special assistance payments under this subparagraph;

(IV) the impact of electing to receive special assistance payments under this subparagraph on—

(aa) program integrity;

(bb) whether a breakfast program is offered;

(cc) the type of breakfast program offered;

(dd) the nutritional quality of school meals; and

(ee) program participation; and

(V) the multiplier and threshold, as described in clauses (vii) and (viii) respectively, that the Secretary will use for each school year beginning on or after July 1, 2014 and the rationale for any change in the multiplier or threshold.

(xiii) FUNDING.—

(I) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out clause (xii) $5,000,000, to remain available until September 30, 2014.

(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out clause (xii) the funds transferred under subclause (I), without further appropriation.

(2) The special assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special assistance factor for reduced price lunches shall be 40 cents less than the special assistance factor for free lunches.

(3)(A) The Secretary shall prescribe on July 1, 1982, and on each subsequent July 1, an annual adjustment in the following:

(i) The national average payment rates for lunches (as established under section 1753 of this title).

(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966 [42 U.S.C. 1773 (b)]).

(iv) The national average payment rates for supplements (as established under section 1766(c) of this title).

(B) COMPUTATION OF ADJUSTMENT.—

(i) IN GENERAL.—The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(ii) BASIS.—Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available.

(iii) ROUNDING.—On July 1, 1999, and on each subsequent July 1, the national average payment rates for meals and supplements shall be adjusted to the nearest lower cent increment and shall be based on the unrounded amounts for the preceding 12-month period.

(b) Financing cost of free and reduced price lunches on basis of need of school for special assistance; maximum per lunch amount

Except as provided in section 10 of the Child Nutrition Act of 1966 [42 U.S.C. 1779], the special assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in providing free and reduced price lunches served to children pursuant to section 1758(b) of this title. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Payments to States

Special assistance payments to any State under this section shall be made as provided in the last sentence of section 1756 of this title.

(d) Report of school to State educational agency, contents; report of State educational agency to Secretary, contents

(1) The Secretary, when appropriate, may request each school participating in the school lunch program under this chapter to report monthly to the State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) On request of the Secretary, the State educational agency of each State shall report to the Secretary the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

(e) Eligibility of commodity only schools for special assistance payments; free and reduced price meals; discrimination and identification prohibited

Commodity only schools shall also be eligible for special assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 1758(b) of this title, and shall serve meals at a reduced price, not exceeding the price specified in section 1758(b)(9) of this title, to children meeting the eligibility requirements for reduced price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced-priced [1] lunch shall be made by the school, nor shall there be any overt identification of any such child by any means.

(f) Repealed. Pub. L. 111–296, title IV, §441(a)(3), Dec. 13, 2010, 124 Stat. 3261

(g) Universal meal service through Census data

(1) In general

To the maximum extent practicable, the Secretary shall identify alternatives to—

(A) the daily counting by category of meals provided by school lunch programs under this chapter and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(B) the use of annual applications as the basis for eligibility to receive free meals or reduced price meals under this chapter.

(2) Recommendations

(A) Considerations

(i) In general

In identifying alternatives under paragraph (1), the Secretary shall consider the recommendations of the Committee on National Statistics of the National Academy of Sciences relating to use of the American Community Survey of the Bureau of the Census and other data sources.

(ii) Socioeconomic survey

The Secretary shall consider use of a periodic socioeconomic survey of households of children attending school in the school food authority in not more than 3 school food authorities participating in the school lunch program under this chapter.

(iii) Survey parameters

The Secretary shall establish requirements for the use of a socioeconomic survey under clause (ii), which shall—

(I) include criteria for survey design, sample frame validity, minimum level of statistical precision, minimum survey response rates, frequency of data collection, and other criteria as determined by the Secretary;

(II) be consistent with the Standards and Guidelines for Statistical Surveys, as published by the Office of Management and Budget;

(III) be consistent with standards and requirements that ensure proper use of Federal funds; and

(IV) specify that the socioeconomic survey be conducted at least once every 4 years.

(B) Use of alternatives

Alternatives described in subparagraph (A) that provide accurate and effective means of providing meal reimbursement consistent with the eligibility status of students may be—

(i) implemented for use in schools or by school food authorities that agree—

(I) to serve all breakfasts and lunches to students at no cost in accordance with regulations issued by the Secretary; and

(II) to pay, from sources other than Federal funds, the costs of serving any lunches and breakfasts that are in excess of the value of assistance received under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches and breakfasts served during the applicable period; or

(ii) further tested through demonstration projects carried out by the Secretary in accordance with subparagraph (C).

(C) Demonstration projects

(i) In general

For the purpose of carrying out demonstration projects described in subparagraph (B), the Secretary may waive any requirement of this chapter relating to—

(I) counting of meals provided by school lunch or breakfast programs;

(II) applications for eligibility for free or reduced priced meals; or

(III) required direct certification under section 1758(b)(4) of this title.

(ii) Number of projects

The Secretary shall carry out demonstration projects under this paragraph in not more than 5 local educational agencies for each alternative model that is being tested.

(iii) Limitation

A demonstration project carried out under this paragraph shall have a duration of not more than 3 years.

(iv) Evaluation

The Secretary shall evaluate each demonstration project carried out under this paragraph in

accordance with procedures established by the Secretary.

(v) Requirement

In carrying out evaluations under clause (iv), the Secretary shall evaluate, using comparisons with local educational agencies with similar demographic characteristics—

(I) the accuracy of the 1 or more methodologies adopted as compared to the daily counting by category of meals provided by school meal programs under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and the use of annual applications as the basis for eligibility to receive free or reduced price meals under those Acts;

(II) the effect of the 1 or more methodologies adopted on participation in programs under those Acts;

(III) the effect of the 1 or more methodologies adopted on administration of programs under those Acts; and

(IV) such other matters as the Secretary determines to be appropriate.

(June 4, 1946, ch. 281, §11, as added Pub. L. 87–823, §6, Oct. 15, 1962, 76 Stat. 946; amended Pub. L. 91–248, §7, May 14, 1970, 84 Stat. 211; Pub. L. 92–153, §4, Nov. 5, 1971, 85 Stat. 420; Pub. L. 93–150, §3(a), Nov. 7, 1973, 87 Stat. 561; Pub. L. 94–105, §8, Oct. 7, 1975, 89 Stat. 514; Pub. L. 95–166, §9, Nov. 10, 1977, 91 Stat. 1336; Pub. L. 95–627, §§4, 5(c), Nov. 10, 1978, 92 Stat. 3619, 3620; Pub. L. 96–499, title II, §204(a), Dec. 5, 1980, 94 Stat. 2601; Pub. L. 97–35, title VIII, §§801(b), 812, 813(b), 819(a), Aug. 13, 1981, 95 Stat. 522, 530, 533; Pub. L. 101–147, title II, §203, title III, §312(2), (3), Nov. 10, 1989, 103 Stat. 909, 916; Pub. L. 103–448, title I, §111, Nov. 2, 1994, 108 Stat. 4706; Pub. L. 104–193, title VII, §704(a), (b)(1), (c), Aug. 22, 1996, 110 Stat. 2289, 2290; Pub. L. 105–336, title I, §103(a), (b)(1), (c)(1), Oct. 31, 1998, 112 Stat. 3145, 3146; Pub. L. 107–76, title VII, §766, Nov. 28, 2001, 115 Stat. 744; Pub. L. 108–265, title I, §§104(d)(3), 113, June 30, 2004, 118 Stat. 738, 747; Pub. L. 111–296, title I, §104, title IV, §441(a)(2), (3), Dec. 13, 2010, 124 Stat. 3193, 3261.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1)(C)(i)(II), (E)(i)(II), (F)(ii)(I)(bb), (3)(B)(i), and (g)(2)(B)(i)(II), (C)(v)(I), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of that Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

Those Acts, referred to in subsec. (g)(2)(C)(v)(I) to (III), mean the Richard B. Russell National School Lunch Act, which was in the original "this Act" and was translated to read "this chapter", and the Child Nutrition Act of 1966. See above.

AMENDMENTS

2010—Subsec. (a)(1)(B). Pub. L. 111–296, §104(a)(2), substituted "(E), or (F)" for "or (E)".

Subsec. (a)(1)(F). Pub. L. 111–296, §104(a)(1), added subpar. (F).

Subsec. (a)(3)(B)(iii). Pub. L. 111–296, §441(a)(2), struck out designations and headings of subcls. (I) and (II) and text of subcl. (I). Text of former subcl. (I) read as follows: "For the period ending June 30, 1999, the adjustments made under this paragraph shall be computed to the nearest one-fourth cent, except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period."

Subsec. (f). Pub. L. 111–296, §441(a)(3), struck out subsec. (f) which related to information and assistance concerning reimbursement options.

Subsec. (g). Pub. L. 111–296, §104(b), added subsec. (g).

2004—Subsec. (a)(1)(C) to (E). Pub. L. 108–265, §113, inserted "or school district" after "school" wherever appearing other than as part of "school year", "school years", "school lunch", "school breakfast", and "4-school-year period".

Subsec. (e). Pub. L. 108–265, §104(d)(3), substituted "section 1758(b)(9)" for "section 1758(b)(3)".

2001—Subsec. (f)(1)(E). Pub. L. 107–76, §766(1), substituted "2003" for "2001".

Subsec. (f)(2)(A). Pub. L. 107–76, §766(2)(A), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Not later than January 1, 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report on the activities of the State agencies receiving grants under this subsection."

Subsec. (f)(2)(B). Pub. L. 107–76, §766(2)(B), substituted "reports" for "report" in introductory provisions.

1998—Subsec. (a)(1)(C)(i)(I). Pub. L. 105–336, §103(a)(1)(A), substituted "4" for "3" before "successive school years" in two places.

Subsec. (a)(1)(C)(ii), (iii). Pub. L. 105–336, §103(a)(1)(B), substituted "4-" for "3-" before "school-year period".

Subsec. (a)(1)(D)(i). Pub. L. 105–336, §103(a)(2)(A), substituted "4-" for "3-" before "school-year period" in two places and "4" for "2" before "school years".

Subsec. (a)(1)(D)(ii). Pub. L. 105–336, §103(a)(2)(B), struck out first sentence which read "A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period.", substituted "A school described in clause (i)" for "The school", and substituted "4-" for "5-" before "school-year period" wherever appearing.

Subsec. (a)(1)(D)(iii). Pub. L. 105–336, §103(a)(2)(C), substituted "4-" for "5-" before "school-year period".

Subsec. (a)(1)(E)(iii). Pub. L. 105–336, §103(a)(3), struck out cl. (iii) which read as follows: "Not later than 1 year after November 2, 1994, the Secretary shall evaluate the effects of this subparagraph and notify the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the results of the evaluation."

Subsec. (a)(3)(B). Pub. L. 105–336, §103(b)(1), inserted subpar. heading, designated first two sentences as cls. (i) and (ii), respectively, and inserted headings, and designated last sentence as subcl. (I) of cl. (iii), inserted headings, substituted "For the period ending June 30, 1999, the adjustments" for "The adjustments", and added subcl. (II).

Subsec. (f). Pub. L. 105–336, §103(c)(1), added subsec. (f).

1996—Subsec. (a)(1)(D)(i). Pub. L. 104–193, §704(a), struck out ", on November 2, 1994," after "any school that".

Subsec. (a)(3)(B). Pub. L. 104–193, §704(b)(1), inserted before period at end ", except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period".

Subsec. (d). Pub. L. 104–193, §704(c)(1), (3) redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this chapter, including those applicable to funds apportioned or paid pursuant to section 1753 of this title but excluding the provisions of section 1756 of this title relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section."

Subsec. (e). Pub. L. 104–193, §704(c)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2). Pub. L. 104–193, §704(c)(2), substituted "On request of the Secretary, the State educational agency" for "The State educational agency" and struck out "each month" after "report to the Secretary".

Subsec. (f). Pub. L. 104–193, §704(c)(3), redesignated subsec. (f) as (e).

1994—Subsec. (a)(1). Pub. L. 103–448 designated first sentence as subpar. (A) and second sentence as subpar. (B), substituted "Except as provided in subparagraph (C), (D), or (E), in the case of" for "In the case of" in subpar. (B), added subpars. (C) to (E), and struck out at end "In the case of any school that (A) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (B) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this chapter with respect to the number of lunches served during that period, special assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to

determine on a more frequent basis the number of children eligible for free and reduced price lunches who are served lunches during such period."

1989—Subsecs. (a), (b). Pub. L. 101–147, §312(2), (3), substituted "reduced price" for "reduced-price" and "special assistance" for "special-assistance" wherever appearing in pars. (1) and (2) of subsec. (a) and first sentence of subsec. (b).

Subsec. (e)(1). Pub. L. 101–147, §203, substituted "The Secretary, when appropriate, may request each school participating in the school lunch program under this chapter to report monthly to the State educational agency" for "Each school participating in the school lunch program under this chapter shall report each month to its State educational agency".

Subsec. (f). Pub. L. 101–147, §312(3), substituted "special assistance" for "special-assistance".

Pub. L. 101–147, §312(2), which directed substitution of "reduced price" for "reduced-price", could not be executed because the word "reduced-price" did not appear.

1981—Subsec. (a). Pub. L. 97–35, §801(b), redesignated existing provisions as par. (1), substituted "(A)" for "(1)" and "(B)" for "(2)", and struck out provisions relating to special assistance factors, adjustments, etc., for funds for the fiscal year beginning July 1, 1973, and after, and added pars. (2) and (3).

Subsec. (b). Pub. L. 97–35, §819(a)(1), struck out "financing the cost of" before "providing free".

Subsec. (d). Pub. L. 97–35, §819(a)(2), struck out reference to section 1754 of this title.

Subsec. (e). Pub. L. 97–35, §812, struck out par. (1) which related to submission of State plan for child nutrition operations. Former pars. (2) and (3) were redesignated as (1) and (2), respectively, and in such pars. as so redesignated, struck out requirement respecting estimation of eligible children by participating State.

Subsec. (f). Pub. L. 97–35, §813(b), added subsec. (f).

1980—Subsec. (a). Pub. L. 96–499 struck out provision that if in any State all schools charged students a uniform price for reduced-price lunches, and such price was less than twenty cents, the special assistance factor prescribed for reduced-price lunches in such State was to be equal to the special assistance factor for free lunches reduced by either ten cents or the price charged for reduced-price lunches in such State, whichever was greater.

1978—Subsec. (a). Pub. L. 95–627 substituted "20 cents" for "10 cents" after "which shall be", inserted "for All Urban Consumers" after "Consumer Price Index", and inserted provision relating to the special assistance factor prescribed for reduced-price lunches in any State in which all schools charge students a uniform price for lunches.

1977—Subsec. (a). Pub. L. 95–166 provided for special-assistance payments to the State educational agency where 80 percent of children in attendance during the school year are eligible for free lunches or reduced-price lunches and for determination of number of lunches served to children eligible for free lunches and reduced-price lunches where the school serves all students, eligible and noneligible, and funds for noneligible students are from other than Federal funds.

1975—Subsec. (e)(1). Pub. L. 94–105 substituted "Each year by not later than a date specified by the Secretary" for "Not later than January 1 of each year", and "following school year" for "following fiscal year".

1973—Subsec. (a). Pub. L. 93–150 added subsec. (a) and struck out former subsec. (a) provisions relating to appropriations authorization for fiscal year ending June 30, 1971, and succeeding fiscal years of such sums as may be necessary to provide special assistance to assure access to the school lunch program under this chapter by children of low-income families.

Subsec. (b). Pub. L. 93–150 added subsec. (b) and struck out former subsec. (b) provisions relating to formula for apportionment of funds and need for additional funds.

Subsec. (c). Pub. L. 93–150 redesignated subsec. (d) as (c), substituted "Special assistance payments to any State" for "Payment of the funds apportioned to any State", and struck out former subsec. (c) provisions relating to basis for apportionment among States and need for additional funds.

Subsec. (d). Pub. L. 93–150 redesignated subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 93–150 redesignated subsec. (h) as (e) and struck out former subsec. (e) provisions relating to State disbursement to schools for financing operating costs of the school lunch program and basis for determination of amount of funds. Subject matter was covered by subsecs. (a) and (b) of this section.

Subsec. (f). Pub. L. 93–150 struck out subsec. (f) provisions relating to withholding of funds from State educational agencies not permitted to disburse funds to nonprofit private schools and direct disbursement to nonprofit private schools, and conditions thereof.

Subsecs. (g), (h). Pub. L. 93–150 redesignated subsecs. (g) and (h) as (d) and (e), respectively.

1971—Subsec. (e). Pub. L. 92–153 established a reimbursement rate as amount of funds to be disbursed to schools in a State, provided for receipt of a greater amount or reimbursement per meal if the school established financial inability to support service of meals, and prescribed maximum per meal amount and higher maximum per meal amount for especially needy schools.

1970—Subsec. (a). Pub. L. 91–248 authorized for fiscal year ending June 30, 1971, and for each succeeding fiscal year such sums as may be necessary to provide assistance to assure access to school lunch program by children of low-income families.

Subsec. (b). Pub. L. 91–248 substituted formula for apportionment of funds among Puerto Rico, the Virgin Islands, Guam, and American Samoa based on the ratio of the number of children aged three to seventeen, inclusive, in such State as compared to the total number of such children in all such States, for a ratio based on the number of free or reduced price lunches served in the preceding fiscal year in such State as compared to the number of such lunches served in all such States in the preceding fiscal year.

Subsec. (c). Pub. L. 91–248 struck out provision requiring that not less than 50 percent of the remaining sums appropriated be apportioned among the States other than Puerto Rico, the Virgin Islands, Guam, and American Samoa, substituted formula for apportionment of special assistance funds among the States based on the total number of children aged three to seventeen, inclusive, in households with incomes of less than $4,000 per annum, for a formula based on the number of free or reduced price lunches served in the preceding fiscal year and the assistance need rate, and provided that further apportionment be made on the same basis as the initial apportionment to any State which justifies the need for additional funds.

Subsec. (e). Pub. L. 91–248 substituted provision requiring that funds disbursed by the State be used to assist schools in financing all or part of the operating costs of the school lunch program, for requirement that disbursed funds be used to assist schools in the purchase of agricultural commodities and other foods, struck out provision relating to the selection of schools to receive funds, and substituted as a basis for determination of the amount of funds to go to each school the need of that school for assistance in meeting the requirements of section 1758 of this title, for such factors as economic condition of area from which school draws attendance, the percentages of free and reduced price lunches being served in such schools, the price of lunches in such schools compared with the average prevailing price of lunches served in the State under this chapter and the need of such schools for assistance as reflected by the financial position of the school's lunch programs.

Subsec. (f). Pub. L. 91–248 substituted "in the fiscal year beginning two years immediately prior to the fiscal year for which the funds are appropriated" for "in the preceding fiscal year".

Subsec. (h). Pub. L. 91–248 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 104(d)(3) of Pub. L. 108–265 effective July 1, 2005, and amendment by section 113 of Pub. L. 108–265 effective June 30, 2004, see section 502(a), (b)(4) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–193, title VII, §704(b)(2), Aug. 22, 1996, 110 Stat. 2290, provided that: "The amendment made by paragraph (1) [amending this section] shall become effective on July 1, 1997."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 801 of Pub. L. 97–35 effective Sept. 1, 1981, amendment by sections 812 and 819 of Pub. L. 97–35 effective Oct. 1, 1981, and amendment by section 813 of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, see section 820(a)(1)(A), (4), (5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by sections 4 and 5(c) of Pub. L. 95–627 effective Jan. 1, 1979, and July 1, 1979, respectively, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

SEMIANNUAL ADJUSTMENTS REFLECTING THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS DURING FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96–499, title II, §204(b), Dec. 5, 1980, 94 Stat. 2601, related to annual and semiannual adjustments required under the former sixth sentence of subsec. (a) of this section during the fiscal year ending Sept. 30, 1981.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under section 612(c) of Title 7, Agriculture, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see section 1 of Pub. L. 92–153, set out as a note under section 1753 of this title.

[1] So in original. Probably should be "reduced price".

§1760. Miscellaneous provisions

(a) Accounts and records

States, State educational agencies, and schools participating in the school lunch program under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) Agreements

(1) In general

The Secretary shall incorporate, in the agreement of the Secretary with the State agencies and Indian Tribal organizations administering programs authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the express requirements with respect to the operation of the programs to the extent applicable and such other provisions as in the opinion of the Secretary are reasonably necessary or appropriate to effectuate the purposes of this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) Expectations for use of funds

Agreements described in paragraph (1) shall include a provision that—

(A) supports full use of Federal funds provided to State agencies and Indian Tribal organizations for the administration of programs authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(B) excludes the Federal funds from State and Indian Tribal organization budget restrictions or limitations including, at a minimum—

(i) hiring freezes;

(ii) work furloughs; and

(iii) travel restrictions.

(c) Requirements with respect to teaching personnel, curriculum, instruction, etc.

In carrying out the provisions of this chapter, the Secretary shall not impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) Definitions

For the purposes of this chapter—

(1) CHILD.—

(A) IN GENERAL.—The term "child" includes an individual, regardless of age, who—

(i) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have one or more disabilities; and

(ii) is attending any institution, as defined in section 1766(a) of this title, or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with disabilities.

(B) RELATIONSHIP TO CHILD AND ADULT CARE FOOD PROGRAM.—No institution that is not otherwise eligible to participate in the program under section 1766 of this title shall be considered eligible because of this paragraph.

(2) "Commodity only schools" means schools that do not participate in the school lunch program under this chapter, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

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

(4) LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—The term "local educational agency" has the meaning given the term in section 7801 of title 20.

(B) INCLUSION.—The term "local educational agency" includes, in the case of a private nonprofit school, an appropriate entity determined by the Secretary.

(5) "School" means (A) any public or nonprofit private school of high school grade or under, and (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor). For purposes of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

(6) "School year" means the annual period from July 1 through June 30.

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

(8) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

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

(e) Value of assistance as income or resources under Federal or State laws

The value of assistance to children under this chapter shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

(f) Adjustment of national average payment rate for Alaska, Hawaii, territories and possessions, etc.

In providing assistance for breakfasts, lunches, suppers, and supplements served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 1753, 1759a, 1761, and 1766 of this title and section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773], to reflect the differences between the costs of providing meals and supplements in those States and the costs of providing meals and supplements in all other States.

(g) Criminal penalties

Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to personal use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $25,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) Combined allocation for breakfast and lunch

No provision of this chapter or of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] shall require any school receiving funds under this chapter and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs.

(i) Use of school lunch facilities for elderly programs

Facilities, equipment, and personnel provided to a school food authority for a program authorized under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(j) Reimbursement for final claims

(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.

(k) Repealed. Pub. L. 111–296, title IV, §441(a)(4), Dec. 13, 2010, 124 Stat. 3261

(l) Waiver of statutory and regulatory requirements

(1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either this chapter or such Act, for a State or eligible service provider that requests a waiver if—

(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

(i) identifies the statutory or regulatory requirements that are requested to be waived;

(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted; and

(iv) includes a description of the impediments to the efficient operation and administration of the program.

(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

(3) The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

(4) The Secretary may not grant a waiver under this subsection that increases Federal costs or that relates to—

(A) the nutritional content of meals served;

(B) Federal reimbursement rates;

(C) the provision of free and reduced price meals;

(D) limits on the price charged for a reduced price meal;

(E) maintenance of effort;

(F) equitable participation of children in private schools;

(G) distribution of funds to State and local school food service authorities and service institutions participating in a program under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(H) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

(I) prohibiting the operation of a profit producing program;

(J) the sale of competitive foods;

(K) the commodity distribution program under section 1762a of this title;

(L) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); or

(M) enforcement of any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

(6) The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

(A) summarizing the use of waivers by the State and eligible service providers;

(B) describing whether the waivers resulted in improved services to children;

(C) describing the impact of the waivers on providing nutritional meals to participants; and

(D) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

(7) As used in this subsection, the term "eligible service provider" means—

(A) a local school food service authority;

(B) a service institution or private nonprofit organization described in section 1761 of this title; or

(C) a family or group day care home sponsoring organization described in section 1766 of this title.

(m) Procurement training

(1) In general

Subject to the availability of funds made available under paragraph (4), the Secretary shall provide technical assistance and training to States, State agencies, schools, and school food authorities in the procurement of goods and services for programs under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)).

(2) Buy American training

Activities carried out under paragraph (1) shall include technical assistance and training to ensure compliance with subsection (n).

(3) Procuring safe foods

Activities carried out under paragraph (1) shall include technical assistance and training on procuring safe foods, including the use of model specifications for procuring safe foods.

(4) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $1,000,000 for each of fiscal years 2010 through 2015, to remain available until expended.

(n) Buy American

(1) Definition of domestic commodity or product

In this subsection, the term "domestic commodity or product" means—

(A) an agricultural commodity that is produced in the United States; and

(B) a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(2) Requirement

(A) In general

Subject to subparagraph (B), the Secretary shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

(B) Limitations

Subparagraph (A) shall apply only to—

(i) a school food authority located in the contiguous United States; and

(ii) a purchase of a domestic commodity or product for the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(3) Applicability to Hawaii

Paragraph (2)(A) shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(4) Applicability to Puerto Rico

Paragraph (2)(A) shall apply to a school food authority in the Commonwealth of Puerto Rico with respect to domestic commodities or products that are produced in the Commonwealth of

Puerto Rico in sufficient quantities to meet the needs of meals provided under the school lunch program under this chapter or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(o) Procurement contracts

In acquiring a good or service for programs under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)), a State, State agency, school, or school food authority may enter into a contract with a person that has provided specification information to the State, State agency, school, or school food authority for use in developing contract specifications for acquiring such good or service.

(p) Price for a paid lunch

(1) Definition of paid lunch

In this subsection, the term "paid lunch" means a reimbursable lunch served to students who are not certified to receive free or reduced price meals.

(2) Requirement

(A) In general

For each school year beginning July 1, 2011, each school food authority shall establish a price for paid lunches in accordance with this subsection.

(B) Lower price

(i) In general

In the case of a school food authority that established a price for a paid lunch in the previous school year that was less than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch, the school food authority shall establish an average price for a paid lunch that is not less than the price charged in the previous school year, as adjusted by a percentage equal to the sum obtained by adding—

(I) 2 percent; and

(II) the percentage change in the Consumer Price Index for All Urban Consumers (food away from home index) used to increase the Federal reimbursement rate under section 1759a of this title for the most recent school year for which data are available, as published in the Federal Register.

(ii) Rounding

A school food authority may round the adjusted price for a paid lunch under clause (i) down to the nearest 5 cents.

(iii) Maximum required price increase

(I) In general

The maximum annual average price increase required to meet the requirements of this subparagraph shall not exceed 10 cents for any school food authority.

(II) Discretionary increase

A school food authority may increase the average price for a paid lunch for a school year by more than 10 cents.

(C) Equal or greater price

(i) In general

In the case of a school food authority that established an average price for a paid lunch in the previous school year that was equal to or greater than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch, the school food authority shall establish an average price for a paid lunch that is not less than

the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch.

(ii) Rounding

A school food authority may round the adjusted price for a paid lunch under clause (i) down to the nearest 5 cents.

(3) Exceptions

(A) Reduction in price

A school food authority may reduce the average price of a paid lunch established under this subsection if the State agency ensures that funding from non-Federal sources (other than in-kind contributions) is added to the nonprofit school food service account of the school food authority in an amount estimated to be equal to at least the difference between—

(i) the average price required of the school food authority for the paid lunches under paragraph (2); and

(ii) the average price charged by the school food authority for the paid lunches.

(B) Non-Federal sources

For the purposes of subparagraph (A), non-Federal sources does not include revenue from the sale of foods sold in competition with meals served under the school lunch program authorized under this chapter or the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(C) Other programs

This subsection shall not apply to lunches provided under section 1766 of this title.

(4) Regulations

The Secretary shall establish procedures to carry out this subsection, including collecting and publishing the prices that school food authorities charge for paid meals on an annual basis and procedures that allow school food authorities to average the pricing of paid lunches at schools throughout the jurisdiction of the school food authority.

(q) Nonprogram food sales

(1) Definition of nonprogram food

In this subsection:

(A) In general

The term "nonprogram food" means food that is—

(i) sold in a participating school other than a reimbursable meal provided under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(ii) purchased using funds from the nonprofit school food service account of the school food authority of the school.

(B) Inclusion

The term "nonprogram food" includes food that is sold in competition with a program established under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) Revenues

(A) In general

The proportion of total school food service revenue provided by the sale of nonprogram foods to the total revenue of the school food service account shall be equal to or greater than the proportion of total food costs associated with obtaining nonprogram foods to the total costs associated with obtaining program and nonprogram foods from the account.

(B) Accrual

All revenue from the sale of nonprogram foods shall accrue to the nonprofit school food

service account of a participating school food authority.

(C) Effective date

This subsection shall be effective beginning on July 1, 2011.

(r) Disqualified schools, institutions, and individuals

Any school, institution, service institution, facility, or individual that has been terminated from any program authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and is on a list of disqualified institutions and individuals under section 1761 of this title or section 1766(d)(5)(E) of this title may not be approved to participate in or administer any program authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(June 4, 1946, ch. 281, §12, formerly §11, 60 Stat. 233; July 12, 1952, ch. 699, §1(c), 66 Stat. 591; Pub. L. 87–688, §3(a), Sept. 25, 1962, 76 Stat. 587; renumbered §12 and amended Pub. L. 87–823, §5, Oct. 15, 1962, 76 Stat. 945; Pub. L. 91–248, §1(b), May 14, 1970, 84 Stat. 208; Pub. L. 94–105, §9, Oct. 7, 1975, 89 Stat. 514; Pub. L. 95–166, §§3, 19(c), Nov. 10, 1977, 91 Stat. 1332, 1345; Pub. L. 95–627, §§6(a), 10(a), (b), Nov. 10, 1978, 92 Stat. 3620, 3623; Pub. L. 96–499, title II, §205, Dec. 5, 1980, 94 Stat. 2601; Pub. L. 97–35, title VIII, §§808(a), 813(d), 819(c), Aug. 13, 1981, 95 Stat. 527, 530, 533; Pub. L. 99–500, title III, §§325(a), 326, 373(a), Oct. 18, 1986, 100 Stat. 1783–361, 1783–369, and Pub. L. 99–591, title III, §§325(a), 326, 373(a), Oct. 30, 1986, 100 Stat. 3341–364, 3341–365, 3341–372; Pub. L. 99–661, div. D, title II, §§4205(a), 4206, title V, §4503(a), Nov. 14, 1986, 100 Stat. 4072, 4073, 4081; Pub. L. 100–71, title I, §101(a), July 11, 1987, 101 Stat. 429; Pub. L. 101–147, title III, §§306, 312(1), Nov. 10, 1989, 103 Stat. 914, 916; Pub. L. 103–448, title I, §§112(a)(1), (b)–(d), 113, Nov. 2, 1994, 108 Stat. 4708–4712; Pub. L. 104–193, title VII, §§701(b), 705, Aug. 22, 1996, 110 Stat. 2288, 2290; Pub. L. 105–336, title I, §§104, 107(j)(3)(A), Oct. 31, 1998, 112 Stat. 3147, 3153; Pub. L. 106–224, title II, §242(b)(3), June 20, 2000, 114 Stat. 412; Pub. L. 107–171, title IV, §4304, May 13, 2002, 116 Stat. 331; Pub. L. 108–265, title I, §§108(b), 114, 115, title II, §203(i)(2), June 30, 2004, 118 Stat. 746, 748, 780; Pub. L. 111–296, title II, §§205, 206, title III, §§361, 362, title IV, §§403, 441(a)(4), Dec. 13, 2010, 124 Stat. 3218, 3220, 3258, 3259, 3261; Pub. L. 114–95, title IX, §9215(nnn), Dec. 10, 2015, 129 Stat. 2188; Pub. L. 117–328, div. HH, title IV, §502(a), Dec. 29, 2022, 136 Stat. 5988.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d)(3), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. Title II of the Act is classified generally to subchapter II (§760 et seq.) of chapter 16 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Older Americans Act of 1965, referred to in subsec. (i), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (l)(4)(M)(i), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Education Amendments of 1972, referred to in subsec. (l)(4)(M)(iii), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (l)(4)(M)(iv), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (l)(4)(M)(v), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (l)(4)(M)(vi), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2022—Subsec. (b). Pub. L. 117–328, §502(a)(1), inserted "and Indian Tribal organizations" after "State agencies" in pars. (1) and (2)(A).

Subsec. (b)(2)(B). Pub. L. 117–328, §502(a)(2), inserted "and Indian Tribal organization" before "budget" in introductory provisions.

2015—Subsec. (d)(4)(A). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2010—Subsec. (b). Pub. L. 111–296, §361, added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The Secretary shall incorporate, in the Secretary's agreements with the State educational agencies, the express requirements under this chapter with respect to the operation of the school lunch program under this chapter insofar as they may be applicable and such other provisions as in the Secretary's opinion are reasonably necessary or appropriate to effectuate the purposes of this chapter."

Subsec. (k). Pub. L. 111–296, §441(a)(4), struck out subsec. (k) which related to expedited rulemaking.

Subsec. (m)(4). Pub. L. 111–296, §403, substituted "2010 through 2015" for "2005 through 2009".

Subsec. (p). Pub. L. 111–296, §205, added subsec. (p).

Subsec. (q). Pub. L. 111–296, §206, added subsec. (q).

Subsec. (r). Pub. L. 111–296, §362, added subsec. (r).

2004—Subsec. (d)(3) to (9). Pub. L. 108–265, §108(b), redesignated par. (8) as (3), added par. (4), and redesignated former pars. (3) to (7) as (5) to (9), respectively.

Subsec. (m). Pub. L. 108–265, §115, added subsec. (m).

Pub. L. 108–265, §114, struck out subsec. (m), which related to grants for food and nutrition projects for each of fiscal years 1995 through 2003.

Subsec. (p). Pub. L. 108–265, §203(i)(2), struck out subsec. (p), which authorized grants for carrying out the demonstration project under section 1786(r) of this title and directed the Secretary to conduct an evaluation of such project and grant program.

2002—Subsec. (n)(4). Pub. L. 107–171 added par. (4).

2000—Subsec. (p). Pub. L. 106–224 added subsec. (p).

1998—Subsec. (d)(1)(A)(i), (ii). Pub. L. 105–336, §107(j)(3)(A)(i), struck out "mental or physical" before "disabilities".

Subsec. (d)(8). Pub. L. 105–336, §107(j)(3)(A)(ii), added par. (8).

Subsec. (f). Pub. L. 105–336, §104(a), substituted "breakfasts, lunches, suppers, and supplements" for "school breakfasts and lunches", substituted "sections 1753, 1759a, 1761, and 1766" for "sections 1753 and 1759a", and substituted "meals and supplements" for "lunches and breakfasts" in two places.

Subsec. (g). Pub. L. 105–336, §104(b), substituted "$25,000" for "$10,000".

Subsec. (m)(3), (5). Pub. L. 105–336, §104(c), substituted "2003" for "1998".

Subsec. (n). Pub. L. 105–336, §104(d), added subsec. (n).

Subsec. (o). Pub. L. 105–336, §104(e), added subsec. (o).

1996—Subsec. (a). Pub. L. 104–193, §705(a), substituted "be available at any reasonable time" for "at all times be available".

Subsec. (c). Pub. L. 104–193, §705(b), substituted "the Secretary shall not" for "neither the Secretary nor the State shall".

Subsec. (d)(1). Pub. L. 104–193, §705(c)(3), redesignated par. (9) as (1). Former par. (1) redesignated (6).

Pub. L. 104–193, §705(c)(1), substituted "the Commonwealth of the Northern Mariana Islands" for "the Trust Territory of the Pacific Islands".

Subsec. (d)(2). Pub. L. 104–193, §705(c)(3), redesignated par. (7) as (2). Former par. (2) redesignated (7).

Subsec. (d)(3). Pub. L. 104–193, §705(c)(2), (3), redesignated par. (5) as (3) and struck out former par. (3) which read as follows: " 'Participation rate' for a State means a number equal to the number of lunches,

consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this chapter in the State, as determined by the Secretary."

Subsec. (d)(4). Pub. L. 104–193, §705(c)(2), (3), redesignated par. (6) as (4) and struck out former par. (4) which read as follows: " 'Assistance need rate' (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967."

Subsec. (d)(5). Pub. L. 104–193, §705(c)(3), redesignated par. (8) as (5). Former par. (5) redesignated (3).

Subsec. (d)(6), (7). Pub. L. 104–193, §705(c)(3), redesignated pars. (1) and (2) as (6) and (7), respectively. Former pars. (6) and (7) redesignated (4) and (2), respectively.

Subsec. (d)(8). Pub. L. 104–193, §705(c)(3), redesignated par. (8) as (5).

Subsec. (d)(9). Pub. L. 104–193, §705(c)(3), redesignated par. (9) as (1).

Pub. L. 104–193, §701(b), added par. (9).

Subsec. (f). Pub. L. 104–193, §705(d), struck out "the Trust Territory of the Pacific Islands," after "the Virgin Islands of the United States,".

Subsec. (k)(1). Pub. L. 104–193, §705(e)(3), substituted "with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 5341 of title 7" for "with the Guidelines" in introductory provisions.

Pub. L. 104–193, §705(e)(1), (2), redesignated par. (3) as (1) and struck out former par. (1) which read as follows: "Prior to the publication of final regulations that implement changes that are intended to bring the meal pattern requirements of the school lunch and breakfast programs into conformance with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 5341 of title 7 (referred to in this subsection as the 'Guidelines'), the Secretary shall issue proposed regulations permitting the use of food-based menu systems."

Subsec. (k)(2). Pub. L. 104–193, §705(e)(1), (2), redesignated par. (4) as (2) and struck out former par. (2) which read as follows: "Notwithstanding chapter 5 of title 5, not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register of, and hold, a public meeting with—

"(A) representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers; and

"(B) organizations representing affected parties, such as public interest antihunger organizations, doctors specializing in pediatric nutrition, health and consumer groups, commodity groups, food manufacturers and vendors, and nutritionists involved with the implementation and operation of programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

to discuss and obtain public comments on the proposed rule."

Subsec. (k)(3), (4). Pub. L. 104–193, §705(e)(2), redesignated pars. (3) and (4) as (1) and (2), respectively.

Subsec. (k)(5). Pub. L. 104–193, §705(e)(1), struck out par. (5) which read as follows: "The final regulations shall reflect comments made at each phase of the proposed rulemaking process, including the public meeting required under paragraph (2)."

Subsec. (l)(2)(A)(iii) to (vii). Pub. L. 104–193, §705(f)(1), struck out "and" at end of cl. (iii), substituted period for semicolon at end of cl. (iv), and struck out cls. (v) to (vii) which read as follows:

"(v) describes the management goals to be achieved, such as fewer hours devoted to, or fewer number of personnel involved in, the administration of the program;

"(vi) provides a timetable for implementing the waiver; and

"(vii) describes the process the State or eligible service provider will use to monitor the progress in implementing the waiver, including the process for monitoring the cost implications of the waiver to the Federal Government."

Subsec. (l)(3). Pub. L. 104–193, §705(f)(2), designated subpar. (A) as par. (3) and struck out subpars. (B) to (D) which read as follows:

"(B) If the Secretary grants a waiver request, the Secretary shall state in writing the expected outcome of granting the waiver.

"(C) The result of the decision of the Secretary shall be disseminated by the State or eligible service provider through normal means of communication.

"(D)(i) Except as provided in clause (ii), a waiver granted by the Secretary under this subsection shall be for a period not to exceed 3 years.

"(ii) The Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State or eligible service provider to carry out the purposes of the program."

Subsec. (l)(4). Pub. L. 104–193, §705(f)(3)(A), substituted "that increases Federal costs or that relates to" for "of any requirement relating to" in introductory provisions.

Subsec. (l)(4)(D) to (K). Pub. L. 104–193, §705(f)(3)(B), (C), redesignated subpars. (E) to (L) as (D) to (K), respectively, and struck out former subpar. (D) which read as follows: "offer versus serve provisions;".

Subsec. (l)(4)(L). Pub. L. 104–193, §705(f)(3)(D), substituted "or" for "and" at end.

Pub. L. 104–193, §705(f)(3)(C), redesignated subpar. (M) as (L). Former subpar. (L) redesignated (K).

Subsec. (l)(4)(M), (N). Pub. L. 104–193, §705(f)(3)(C), redesignated subpar. (N) as (M). Former subpar. (M) redesignated (L).

Subsec. (l)(6). Pub. L. 104–193, §705(f)(4), struck out subpar. (A) and designation of subpar. (B) and redesignated cls. (i) to (iv) of former subpar. (B) as subpars. (A) to (D). Prior to amendment, subpar. (A) read as follows:

"(A)(i) An eligible service provider that receives a waiver under this subsection shall annually submit to the State a report that—

"(I) describes the use of the waiver by the eligible service provider; and

"(II) evaluates how the waiver contributed to improved services to children served by the program for which the waiver was requested.

"(ii) The State shall annually submit to the Secretary a report that summarizes all reports received by the State from eligible service providers."

1994—Subsec. (d)(5). Pub. L. 103–448, §112(a)(1), in first sentence struck out cl. (C) which read as follows: "with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico" and in second sentence struck out "of clauses (A) and (B)" after "For purposes".

Subsecs. (j) to (m). Pub. L. 103–448, §§112(b)–(d), 113, added subsecs. (j) to (m).

1989—Subsec. (a). Pub. L. 101–147, §312(1), substituted "school lunch" for "school-lunch".

Subsec. (b). Pub. L. 101–147, §§306(b)(1), 312(1), substituted "the Secretary's" for "his" in two places and "school lunch" for "school-lunch".

Subsec. (d)(5). Pub. L. 101–147, §306(b)(2), substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (d)(8). Pub. L. 101–147, §306(a)(1), amended par. (8), as amended identically by Pub. L. 99–500 and 99–591, §373(a), and Pub. L. 99–661, §4503(a), to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (g). Pub. L. 101–147, §306(b)(3), substituted "personal" for "his" before "use".

Subsec. (i). Pub. L. 101–147, §306(b)(4), struck out "(42 U.S.C. 1771 et seq.)" after "Child Nutrition Act of 1966" and "(42 U.S.C. 3001 et seq.)" after "Older Americans Act of 1965".

Pub. L. 101–147, §306(a)(2), amended subsec. (i), as amended identically by Pub. L. 99–500 and 99–591, §326, and Pub. L. 99–661, §4206, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

1987—Subsec. (d)(5). Pub. L. 100–71 amended par. (5) generally. Prior to amendment, par. (5) read as follows: " 'School' means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26. On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available."

1986—Subsec. (d)(5). Pub. L. 99–661, §4205(a)(2), inserted "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this

paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available."

Subsec. (d)(5)(A). Pub. L. 99–500 and Pub. L. 99–591, §325(a), which directed the amendment of subpar. (A) by striking out "except private schools whose average yearly tuition exceeds $1,500 per child," after "grade or under," was executed by striking out "except private schools whose average yearly tuition exceeds $2,000 per child," after "grade or under," to reflect the probable intent of Congress and the intervening amendment of subpar. (A) by Pub. L. 99–661, §4205(a)(1). See below.

Pub. L. 99–661, §4205(a)(1), substituted "$2,000" for "$1,500".

Subsec. (d)(8). Pub. L. 99–500 and Pub. L. 99–591, §373(a), and Pub. L. 99–661, §4503(a), amended subsec. (d) identically, adding par. (8).

Subsec. (i). Pub. L. 99–500 and Pub. L. 99–591, §326, and Pub. L. 99–661, §4206, amended section identically, adding subsec. (i).

1981—Subsec. (d). Pub. L. 97–35, §819(c)(1), struck out par. (3) which defined "food service equipment assistance", and redesignated pars. (4) to (8) as (3) to (7), respectively.

Pub. L. 97–35, §808(a), inserted reference to private schools in par. (6).

Pub. L. 97–35, §813(d), added par. (8).

Subsec. (h). Pub. L. 97–35, §819(c)(2), struck out provisions relating to net cost of operating limitation.

1980—Subsec. (d)(6). Pub. L. 96–499 inserted ", but excluding Job Corps Centers funded by the Department of Labor".

1978—Subsec. (d)(7). Pub. L. 95–627, §10(b), substituted "from July 1 through June 30" for "determined in accordance with regulations issued by the Secretary".

Subsecs. (f), (g). Pub. L. 95–627, §10(a), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 95–627, §6(a), added subsec. (h).

1977—Subsec. (d)(3). Pub. L. 95–166, §3, substituted "food service equipment assistance" for "nonfood assistance".

Subsec. (d)(7). Pub. L. 95–166, §19(c), added par. (7).

1975—Subsec. (d)(1). Pub. L. 94–105, §9(b), inserted reference to Trust Territory of the Pacific Islands.

Subsec. (d)(3) to (7). Pub. L. 94–105, §9(a), (c), struck out par. (3) defining "Nonprofit private schools", redesignated pars. (4) to (7) as (3) to (6), respectively, and in par. (6), as so redesignated, expanded definition of "school" to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded, and inserted provision defining "nonprofit" as any school or institution exempt under section 501(c)(3) of title 26.

Subsec. (e). Pub. L. 94–105, §9(d), added subsec. (e).

1970—Subsec. (d)(5). Pub. L. 91–248 provided that data upon which State apportionments are calculated is program year completed two years immediately prior to fiscal year for which appropriation is requested.

1962—Subsec. (c). Pub. L. 87–823 struck out requirement of just and equitable distribution of funds in States maintaining separate schools for minority and majority races.

Subsec. (d). Pub. L. 87–823 redefined "State" in par. (1) to recognize Hawaiian and Alaskan statehood and to include American Samoa; "State educational agency" in par. (2) to exclude an exception applicable to the District of Columbia and language which was effective by its terms only through June 30, 1948; "nonprofit private school" in par. (3), substituting "section 501(c)(3) of title 26" for "section 101(6) of title 26"; and "nonfood assistance" in par. (4), substituting "used by schools" for "used on school premises"; and added pars. (5) to (7).

Pub. L. 87–688 inserted "American Samoa," after "Guam".

1952—Subsec. (d)(1). Act July 12, 1952, included Guam within definition of State.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–171 effective Oct. 1, 2002, except as otherwise provided, see section 4405 of Pub. L. 107–171, set out as an Effective Date note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–224 effective Oct. 1, 2000, see section 242(c) of Pub. L. 106–224, set out as a note under section 1758 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–448, title I, §112(a)(2), Nov. 2, 1994, 108 Stat. 4708, provided that: "The amendments made by paragraph (1) [amending this section] shall become effective on October 1, 1995."

Amendment by sections 112(b)–(d) and 113 of Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–71, title I, §101(c), July 11, 1987, 101 Stat. 430, provided that: "The amendments made by subsections (a) and (b) [amending sections 1760 and 1784 of this title] shall take effect on July 1, 1987."

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99–661, div. D, title II, §4205(c), Nov. 14, 1986, 100 Stat. 4073, provided that:

"(1) The amendments made by subsections (a)(1) and (b)(1) [amending sections 1760 and 1784 of this title] shall apply for the fiscal year beginning on October 1, 1986, and each school year thereafter.

"(2) The amendments made by subsections (a)(2) and (b)(2) [amending sections 1760 and 1784 of this title] shall apply for the school year beginning on July 1, 1988, and each school year thereafter."

Pub. L. 99–500, title III, §325(c), Oct. 18, 1986, 100 Stat. 1783–361, and Pub. L. 99–591, title III, §325(c), Oct. 30, 1986, 100 Stat. 3341–365, provided that: "The amendments made by this section [amending sections 1760 and 1784 of this title] shall take effect July 1, 1987."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 808 and 819 of Pub. L. 97–35 effective Oct. 1, 1981, and amendment by section 813 of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, see section 820(a)(3)–(5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–688 applicable only with respect to funds appropriated after Sept. 25, 1962, see section 3(b) of Pub. L. 87–688, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act July 12, 1952, effective only with respect to funds appropriated after July 12, 1952, see section 1(d) of act July 12, 1952, set out as a note under section 1753 of this title.

NATIONWIDE WAIVER FOR SCHOOL YEAR 2022–2023

Pub. L. 117–158, §2(d), June 25, 2022, 136 Stat. 1310, provided that:

"(1) IN GENERAL.—For purposes of school year 2022-2023, the Secretary of Agriculture may establish

waivers under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l))—

"(A) on a nationwide basis; and

"(B) without regard to the requirements under paragraphs (1), (2), and (3) of such section that a State or eligible service provider shall submit an application for a waiver request.

"(2) SUNSET.—A nationwide waiver established by the Secretary of Agriculture under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) pursuant to paragraph (1) shall not be in effect after June 30, 2023."

OPERATIONALLY READY

Pub. L. 117–158, §5, June 25, 2022, 136 Stat. 1312, provided that: "The Secretary of Agriculture shall ensure that technical assistance is made available to States and school food authorities for purposes of assisting parents and school leaders with respect to the transition of operating school meal programs not pursuant to a waiver under section 2(d) [of Pub. L. 117–158, set out as a note above] or section 2202 of the Families First Coronavirus Response Act (42 U.S.C. 1760 note; Public Law 116–127)."

WAIVER EXCEPTION FOR SCHOOL CLOSURES DUE TO COVID–19

Pub. L. 116–127, div. B, title I, §2102, Mar. 18, 2020, 134 Stat. 184, provided that:

"(a) IN GENERAL.—The requirements under section 12(l)(1)(A)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(1)(A)(iii)) shall not apply to a qualified COVID–19 waiver.

"(b) ALLOWABLE INCREASE IN FEDERAL COSTS.—Notwithstanding paragraph (4) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), the Secretary of Agriculture may grant a qualified COVID–19 waiver that increases Federal costs.

"(c) TERMINATION AFTER PERIODIC REVIEW.—The requirements under section 12(l)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(5)) shall not apply to a qualified COVID–19 waiver.

"(d) QUALIFIED COVID–19 WAIVER.—In this section, the term 'qualified COVID–19 waiver' means a waiver—

"(1) requested by a State (as defined in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8))) or eligible service provider under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)); and

"(2) to waive any requirement under such Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for purposes of providing meals and meal supplements under such Acts during a school closure due to COVID–19."

NATIONAL SCHOOL LUNCH PROGRAM REQUIREMENT WAIVERS ADDRESSING COVID–19

Pub. L. 116–127, div. B, title II, §2202, Mar. 18, 2020, 134 Stat. 185, as amended by Pub. L. 116–159, div. D, title VI, §4602(a), Oct. 1, 2020, 134 Stat. 745; Pub. L. 117–43, div. D, title I, §3102(a), Sept. 30, 2021, 135 Stat. 380; Pub. L. 117–158, §2(b), June 25, 2022, 136 Stat. 1309, provided that:

"(a) NATIONWIDE WAIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may establish a waiver for all States under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) due to the COVID–19 pandemic, for purposes of—

"(A) providing meals and meal supplements under a qualified program; or

"(B) ensuring continuity of program operation under a qualified program.

"(2) STATE ELECTION.—A waiver established under paragraph (1) shall—

"(A) notwithstanding paragraph (2) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), apply automatically to any State that elects to be subject to the waiver without further application; and

"(B) not be subject to the requirements under paragraph (3) of such section.

"(b) CHILD AND ADULT CARE FOOD PROGRAM WAIVER.—Notwithstanding any other provision of law, the Secretary may grant a waiver under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) to allow non-congregate feeding under a child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) if such waiver is for the purposes of—

"(1) providing meals and meal supplements under such child and adult care food program; and

"(2) carrying out paragraph (1) with appropriate safety measures with respect to COVID–19, as determined by the Secretary.

"(c) MEAL PATTERN WAIVER.—Notwithstanding paragraph (4)(A) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) the Secretary may grant a waiver under such section

that relates to the nutritional content of meals served if the Secretary determines that—

"(1) such waiver is necessary to provide meals and meal supplements under a qualified program; and

"(2) there is a supply chain disruption with respect to foods served under such a qualified program and such disruption is due to COVID–19.

"(d) REPORTS.—Each State that receives a waiver under subsection (a), (b), or (c), shall, not later than 1 year after the date such State received such waiver, submit a report to the Secretary that includes a summary of the use of such waiver by the State and eligible service providers.

"(e) SUNSET.—

"(1) NATIONWIDE WAIVERS.—The authority of the Secretary to establish or grant a waiver under subsection (a) shall expire on September 30, 2022.

"(2) WAIVER RESTRICTION.—After June 30, 2022, a waiver established or granted under subsection (a) shall only apply to schools or summer food service program food service sites—

"(A) operating—

"(i) the qualified program described in subsection (f)(1)(D); or

"(ii) the option described in section 13(a)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)(8)); and

"(B) not operating the qualified program described in subsection (f)(1)(A).

"(3) OTHER WAIVERS.—

"(A) CHILD AND ADULT CARE FOOD PROGRAM WAIVER.—The authority of the Secretary to establish or grant a waiver under subsection (b) shall expire on June 30, 2022.

"(B) MEAL PATTERN WAIVER.—The authority of the Secretary to establish or grant a waiver under subsection (c) shall expire on June 30, 2023.

"(4) LIMITATIONS.—A waiver authorized by the Secretary under this section shall not be in effect after the date on which the authority of the Secretary to establish or grant that waiver under this subsection expires.

"(f) DEFINITIONS.—In this section:

"(1) QUALIFIED PROGRAM.—The term 'qualified program' means the following:

"(A) The school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

"(B) The school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

"(C) The child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

"(D) The summer food service program for children under section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(3) STATE.—The term 'State' has the meaning given such term in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8))."

BUY AMERICAN REQUIREMENTS

Pub. L. 115–334, title IV, §4207, Dec. 20, 2018, 132 Stat. 4666, provided that:

"(a) ENFORCEMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2018], the Secretary of Agriculture shall—

"(1) enforce full compliance with the requirements of section 12(n) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(n)) for purchases of agricultural commodities, including fish, meats, vegetables, and fruits, and the products thereof, and

"(2) ensure that States and school food authorities fully understand their responsibilities under such Act [42 U.S.C. 1751 et seq.].

"(b) REQUIREMENT.—The products of the agricultural commodities described in subsection (a)(1) shall be processed in the United States and substantially contain—

"(1) meats, vegetables, fruits, and other agricultural commodities produced in—

"(A) a State,

"(B) the District of Columbia,

"(C) the Commonwealth of Puerto Rico, or

"(D) any territory or possession of the United States, or

"(2) fish harvested—

"(A) within the Exclusive Economic Zone of the United States, as described in Presidential Proclamation 5030 (48 Fed. Reg. 10605; March 10, 1983) [16 U.S.C. 1453 note], or

"(B) by a United States flagged vessel.

"(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions the Secretary has taken, and plans to take, to comply with this section."

STUDY OF COST ACCOUNTING REQUIREMENTS

Pub. L. 94–105, §21, Oct. 7, 1975, 89 Stat. 527, prohibited Secretary from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per-meal costs on basis of noncompliance with cost accounting procedures until requirements of subsec. (b) of this section have been met, and called for a study by Secretary of additional personnel and training needs of States, school districts, and schools resulting from requirement of full cost accounting procedures, such report with recommendations to be submitted to appropriate committees of Congress within one year after Oct. 7, 1975.

§1761. Summer food service program for children

(a) In general

(1) Definitions

In this section:

(A) Area in which poor economic conditions exist

(i) In general

Subject to clause (ii), the term "area in which poor economic conditions exist", as the term relates to an area in which a program food service site is located, means—

(I) the attendance area of a school in which at least 50 percent of the enrolled children have been determined eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(II) a geographic area, as defined by the Secretary based on the most recent census data available, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(III) an area—

(aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and

(bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(IV) a geographic area, as defined by the Secretary based on information provided from a department of welfare or zoning commission, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(V) an area for which the program food service site demonstrates through other means approved by the Secretary that at least 50 percent of the children enrolled at the program food service site are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(ii) Duration of determination

A determination that an area is an "area in which poor economic conditions exist" under clause (i) shall be in effect for—

(I) in the case of an area described in clause (i)(I), 5 years;

(II) in the case of an area described in clause (i)(II), until more recent census data are available;

(III) in the case of an area described in clause (i)(III), 1 year; and

(IV) in the case of an area described in subclause (IV) or (V) of clause (i), a period of time to be determined by the Secretary, but not less than 1 year.

(B) Children

The term "children" means—

(i) individuals who are 18 years of age and under; and

(ii) individuals who are older than 18 years of age who are—

(I) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations promulgated by the Secretary, to have a disability, and

(II) participating in a public or nonprofit private school program established for individuals who have a disability.

(C) Program

The term "program" means the summer food service program for children authorized by this section.

(D) Service institution

The term "service institution" means a public or private nonprofit school food authority, local, municipal, or county government, public or private nonprofit higher education institution participating in the National Youth Sports Program, or residential public or private nonprofit summer camp, that develops special summer or school vacation programs providing food service similar to food service made available to children during the school year under the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(E) State

The term "State" means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands; and

(vii) the United States Virgin Islands.

(2) Program authorization

(A) In general

The Secretary may carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain nonprofit summer food service programs for children in service institutions.

(B) Preparation of food

(i) In general

To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools.

(ii) Information and technical assistance

The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions

Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist; or

(ii) qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) Priority

(A) In general

The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(i) Local schools.

(ii) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

(iii) New public institutions.

(iv) New private nonprofit organizations eligible under paragraph (7).

(B) Rural areas

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps

Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(6) Government institutions

Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.

(7) Private nonprofit organizations

(A) Definition of private nonprofit organization

In this paragraph, the term "private nonprofit organization" means an organization that—

(i) exercises full control and authority over the operation of the program at all sites under the sponsorship of the organization;

(ii) provides ongoing year-round activities for children or families;

(iii) demonstrates that the organization has adequate management and the fiscal capacity to operate a program under this section;

(iv) is an organization described in section 501(c) of title 26 and exempt from taxation under 501(a) [1] of that title; and

(v) meets applicable State and local health, safety, and sanitation standards.

(B) Eligibility

Private nonprofit organizations (other than organizations eligible under paragraph (1)) shall be eligible for the program under the same terms and conditions as other service institutions.

(8) Seamless summer option

Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program established under this chapter or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(9) Exemption

(A) In general

For each of calendar years 2005 and 2006 in rural areas of the State of Pennsylvania (as determined by the Secretary), the threshold for determining "areas in which poor economic conditions exist" under paragraph (1)(C) shall be 40 percent.

(B) Evaluation

(i) In general

The Secretary, acting through the Administrator of the Food and Nutrition Service, shall evaluate the impact of the eligibility criteria described in subparagraph (A) as compared to the eligibility criteria described in paragraph (1)(C).

(ii) Impact

The evaluation shall assess the impact of the threshold in subparagraph (A) on—

(I) the number of sponsors offering meals through the summer food service program;
(II) the number of sites offering meals through the summer food service program;
(III) the geographic location of the sites;
(IV) services provided to eligible children; and
(V) other factors determined by the Secretary.

(iii) Report

Not later than January 1, 2008, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation under this subparagraph.

(iv) Funding

(I) In general

On January 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subparagraph $400,000, to remain available until expended.

(II) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subparagraph the funds transferred under subclause (I), without further appropriation.

(10) Summer food service rural transportation

(A) In general

The Secretary shall provide grants, through not more than 5 eligible State agencies selected by the Secretary, to not more than 60 eligible service institutions selected by the Secretary to increase participation at congregate feeding sites in the summer food service program for children authorized by this section through innovative approaches to limited transportation in rural areas.

(B) Eligibility

To be eligible to receive a grant under this paragraph—

(i) a State agency shall submit an application to the Secretary, in such manner as the Secretary shall establish, and meet criteria established by the Secretary; and

(ii) a service institution shall agree to the terms and conditions of the grant, as established by the Secretary.

(C) Duration

A service institution that receives a grant under this paragraph may use the grant funds during the 3-fiscal year period beginning in fiscal year 2006.

(D) Reports

The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(i) not later than January 1, 2008, an interim report that describes—

(I) the use of funds made available under this paragraph; and

(II) any progress made by using funds from each grant provided under this paragraph; and

(ii) not later than January 1, 2009, a final report that describes—

(I) the use of funds made available under this paragraph;

(II) any progress made by using funds from each grant provided under this paragraph;

(III) the impact of this paragraph on participation in the summer food service program for children authorized by this section; and

(IV) any recommendations by the Secretary concerning the activities of the service institutions receiving grants under this paragraph.

(E) Funding

(i) In general

Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this paragraph—

(I) on October 1, 2005, $2,000,000; and

(II) on October 1, 2006, and October 1, 2007, $1,000,000.

(ii) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

(iii) Availability of funds

Funds transferred under clause (i) shall remain available until expended.

(iv) Reallocation

The Secretary may reallocate any amounts made available to carry out this paragraph that are not obligated or expended, as determined by the Secretary.

(11) Outreach to eligible families

(A) In general

The Secretary shall require each State agency that administers the national school lunch program under this chapter to ensure that, to the maximum extent practicable, school food authorities participating in the school lunch program under this chapter cooperate with participating service institutions to distribute materials to inform families of—

(i) the availability and location of summer food service program meals; and

(ii) the availability of reimbursable breakfasts served under the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(B) Inclusions

Informational activities carried out under subparagraph (A) may include—

(i) the development or dissemination of printed materials, to be distributed to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals;

(ii) the development or dissemination of materials, to be distributed using electronic means to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals; and

(iii) such other activities as are approved by the applicable State agency to promote the availability and location of summer food service program meals to school children and the families of school children.

(C) Multiple State agencies

If the State agency administering the program under this section is not the same State agency that administers the school lunch program under this chapter, the 2 State agencies shall work cooperatively to implement this paragraph.

(12) Summer food service support grants

(A) In general

The Secretary shall use funds made available to carry out this paragraph to award grants on a competitive basis to State agencies to provide to eligible service institutions—

(i) technical assistance;

(ii) assistance with site improvement costs; or

(iii) other innovative activities that improve and encourage sponsor retention.

(B) Eligibility

To be eligible to receive a grant under this paragraph, a State agency shall submit an application to the Secretary in such manner, at such time, and containing such information as the Secretary may require.

(C) Priority

In making grants under this paragraph, the Secretary shall give priority to—

(i) applications from States with significant low-income child populations; and

(ii) State plans that demonstrate innovative approaches to retain and support summer food service programs after the expiration of the start-up funding grants.

(D) Use of funds

A State and eligible service institution may use funds made available under this paragraph to pay for such costs as the Secretary determines are necessary to establish and maintain summer food service programs.

(E) Reallocation

The Secretary may reallocate any amounts made available to carry out this paragraph that are not obligated or expended, as determined by the Secretary.

(F) Authorization of appropriations

There is authorized to be appropriated to carry out this paragraph $20,000,000 for fiscal years 2011 through 2015.

(13) Noncongregate meals

(A) In general

Beginning not later than summer 2023, the Secretary shall make available an option to States to provide program meals under this section for noncongregate consumption in a rural area with no congregate meal service, as determined by the Secretary.

(B) Summer 2023

Notwithstanding any other provision in this paragraph, for summer 2023, the Secretary may allow States to use implementation models developed by the Secretary for demonstration

projects carried out under section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2132), to carry out subparagraph (A).

(C) Eligibility determination

In administering this paragraph, the Secretary shall ensure that noncongregate meals are only available for a child—

(i) in an area in which poor economic conditions exist; and

(ii) in an area that is not an area in which poor economic conditions exist, if the child is determined to be eligible for a free or reduced price lunch under this chapter or a free or reduced price breakfast under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(D) Priorities

(i) In general

States shall—

(I) identify areas with no congregate meal service that could benefit the most from the provision of noncongregate meals; and

(II) encourage participating service institutions in those areas to provide noncongregate meals as appropriate.

(ii) Areas

Areas identified under clause (i) may include areas that are not areas in which poor economic conditions exist but that have children who are determined to be eligible for free or reduced price lunch under this chapter or free or reduced price breakfast under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(E) Administration

In administering this paragraph, the Secretary shall ensure that—

(i) any meal served for noncongregate consumption—

(I) meets all applicable State and local health, safety, and sanitation standards; and

(II) meets the requirements under subsection (f)(1);

(ii) over a 10-day calendar period, the number of reimbursable meals provided to a child does not exceed the number of meals that could be provided over a 10-day calendar period, as established under subsection (b)(2); and

(iii) States establish a process for identifying gaps in service and barriers in reaching needy children for congregate and noncongregate models.

(F) Regulations

Not later than 1 year after December 29, 2022, the Secretary shall promulgate regulations (which shall include interim final regulations) to carry out this section, including provisions—

(i) to ensure the integrity of the alternative option for program delivery described in subparagraph (A); and

(ii) to incorporate best practices and lessons learned from noncongregate demonstration projects under section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2132).

(b) Service institutions

(1) PAYMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and in addition to amounts made available under paragraph (3), payments to service institutions shall be—

(i) $1.97 for each lunch and supper served;

(ii) $1.13 for each breakfast served; and

(iii) 46 cents for each meal supplement served.

(B) ADJUSTMENTS.—Amounts specified in subparagraph (A) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment to reflect changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.

(C) SEAMLESS SUMMER REIMBURSEMENTS.—A service institution described in subsection (a)(8) shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this chapter (other than subparagraphs (A) and (B) of this paragraph and paragraph (4)) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.

(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to 3 meals, or 2 meals and 1 supplement, during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap.

(3) PERMANENT OPERATING AGREEMENTS AND BUDGET FOR ADMINISTRATIVE COSTS.—

(A) PERMANENT OPERATING AGREEMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the program, a service institution that meets the conditions of eligibility described in this section and in regulations promulgated by the Secretary, shall be required to enter into a permanent agreement with the applicable State agency.

(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to ensure that the service institution is in compliance with all requirements established in this section or by the Secretary.

(iii) TERMINATION.—A permanent agreement described in clause (i)—

(I) may be terminated for convenience by the service institution and State agency that is a party to the permanent agreement; and

(II) shall be terminated—

(aa) for cause by the applicable State agency in accordance with subsection (q) and with regulations promulgated by the Secretary; or

(bb) on termination of participation of the service institution in the program.

(B) BUDGET FOR ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—When applying for participation in the program, and not less frequently than annually thereafter, each service institution shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State.

(ii) AMOUNT.—Payment to service institutions for administrative costs shall equal the levels determined by the Secretary pursuant to the study required in paragraph (4).

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

(i) an evaluation of meal quality as related to costs; and

(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in

the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c) Payments for meals served during May through September; exceptions for continuous school calendars or non-school sites; National Youth Sports Program

(1) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause.

(2) Children participating in National Youth Sports Programs operated by higher education institutions shall be eligible to participate in the program under this paragraph on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program.

(d) Advance program payments to States for monthly meal service; letters of credit, forwarding to States; determination of amount; valid claims, receipt

Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e) Advance program payments to service institutions for monthly meal service; certification of personnel training sessions; minimum days per month operations requirement; payments: computation, limitation; valid claims, receipt; withholding; demand for repayment; subtraction of disputed payments

(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution. The State shall not release the second month's advance program payment to any service institution (excluding a school) that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities. No advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the

program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f) Nutritional standards

(1) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research.

(2) The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection.

(3) Meals described in paragraph (1) shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section.

(4) To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State.

(5) Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) conformance with standards set by local health authorities.

(6) Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

(g) Regulations, guidelines, applications, and handbooks; publication; startup costs

The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

(h) Direct disbursement to service institutions by Secretary

Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 1431 of title 7, or purchased under section 612c of title 7 or section 1446a–1 of title 7. Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(i) Repealed. Pub. L. 97–35, title VIII, §817(b), Aug. 13, 1981, 95 Stat. 532

(j) Administrative expenses of Secretary; authorization of appropriations

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k) Administrative costs of State; payment; adjustment; standards and effective dates, establishment; funds: withholding, inspection

(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(l) Food service management companies; subcontracts; assignments, conditions and limitations; meal capacity information in bids subject to review; registration; record, availability to States; small and minority-owned businesses for supplies and services; contracts: standard form, bid and contract procedures, bonding requirements and exemption, review by States, collusive bidding safeguards

(1) Service institutions may contract on a competitive basis with food service management companies for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity.

(2) Each State may provide for the registration of food service management companies.

(3) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(4) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

(m) Accounts and records

States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has

been compliance with this section and the regulations issued hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Management and administration State plans

(1) Summer 2023

Each State desiring to participate in the program shall notify the Secretary of its intent to administer the program and shall submit for approval by April 1, 2023, a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (A) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (B) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children; (C) the State's plans for providing technical assistance and training eligible service institutions; (D) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (E) the State's plan for timely and effective action against program violators; (F) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (G) the State's plan for using the alternative option for program delivery described in subsection (a)(13), if applicable, including plans to provide a reasonable opportunity to access meals across all areas of the State.

(2) Summer 2024 and beyond

Beginning in 2024, each State desiring to participate in the program under this section or in the summer EBT program under section 1762 of this title shall notify the Secretary by January 1 of each year of its intent to administer the applicable program and shall submit for approval by February 15 a management and administration plan for the applicable program for the fiscal year, which shall include, as applicable—

(A) the requirements listed in subparagraphs (A) through (G) of paragraph (1);

(B) the administrative budget of the State for administering the summer EBT program under section 1762 of this title;

(C) the State's plan to comply with the State requirements in section 1762(c) of this title and any other standards prescribed by the Secretary under section 1762 of this title;

(D) the State's plan to identify areas with no congregate meal service;

(E) the State's plan to target priority areas identified under subsection (a)(13)(D)(i)(I); and

(F) the State's plan to ensure that summer EBT benefits (as described in section 1762(a) of this title) are issued to children based on their school attendance at the end of the instructional year immediately preceding such summer.

(o) Violations and penalties

(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds,

assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(p) Monitoring of participating private nonprofit organizations

(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

(2) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraph (1) not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

(q) Termination and disqualification of participating organizations

(1) In general

Each State agency shall follow the procedures established by the Secretary for the termination of participation of institutions under the program.

(2) Fair hearing

The procedures described in paragraph (1) shall include provision for a fair hearing and prompt determination for any service institution aggrieved by any action of the State agency that affects—

(A) the participation of the service institution in the program; or

(B) the claim of the service institution for reimbursement under this section.

(3) List of disqualified institutions and individuals

(A) In general

The Secretary shall maintain a list of service institutions and individuals that have been terminated or otherwise disqualified from participation in the program under the procedures established pursuant to paragraph (1).

(B) Availability

The Secretary shall make the list available to States for use in approving or renewing applications by service institutions for participation in the program.

(r) Authorization of appropriations

For the period beginning October 1, 1977, and ending September 30, 2015, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(June 4, 1946, ch. 281, §13, as added Pub. L. 90–302, §3, May 8, 1968, 82 Stat. 117; amended Pub. L. 91–248, §6(c), (d), May 14, 1970, 84 Stat. 210; Pub. L. 92–32, §7, June 30, 1971, 85 Stat. 86; Pub. L. 92–433, §§1, 2, Sept. 26, 1972, 86 Stat. 724; Pub. L. 94–20, May 2, 1975, 89 Stat. 82; Pub. L. 94–105, §13, Oct. 7, 1975, 89 Stat. 515; Pub. L. 95–166, §2, Nov. 10, 1977, 91 Stat. 1325; Pub. L. 95–627, §§5(d), 7(b), 10(d)(2), Nov. 10, 1978, 92 Stat. 3620, 3622, 3624; Pub. L. 96–499, title II, §206, Dec. 5, 1980, 94 Stat. 2601; Pub. L. 97–35, title VIII, §§809, 817(b), Aug. 13, 1981, 95 Stat. 527, 532; Pub. L. 99–500, title III, §311, Oct. 18, 1986, 100 Stat. 1783–360, and Pub. L. 99–591, title III, §311, Oct. 30, 1986, 100 Stat. 3341–363; Pub. L. 99–661, div. D, title I, §4101, Nov. 14, 1986, 100 Stat. 4071; Pub. L. 100–435, title II, §213, Sept. 19, 1988, 102 Stat. 1658; Pub. L. 101–147, title I, §102(a), title III, §307, Nov. 10, 1989, 103 Stat. 879, 915; Pub. L. 103–448, title I, §§105(b), 114(a)–(g), Nov. 2, 1994, 108 Stat. 4702, 4712, 4713; Pub. L. 104–193, title VII, §706(a)–(l), Aug. 22, 1996, 110 Stat. 2291–2293; Pub. L. 105–336, title I, §§105(a)–(e)(1), 107(j)(2)(A), (3)(B), Oct. 31, 1998, 112 Stat. 3148, 3149, 3152, 3153; Pub. L. 108–134, §5(1), Nov.

22, 2003, 117 Stat. 1389; Pub. L. 108–211, §5(a), Mar. 31, 2004, 118 Stat. 566; Pub. L. 108–265, title I, §116(a)–(e), June 30, 2004, 118 Stat. 748–750; Pub. L. 108–447, div. A, title VII, §788(b), Dec. 8, 2004, 118 Stat. 2851; Pub. L. 110–161, div. A, title VII, §738(a), Dec. 26, 2007, 121 Stat. 1880; Pub. L. 111–296, title I, §§111–113, title III, §§321, 322, title IV, §§404, 441(a)(5), Dec. 13, 2010, 124 Stat. 3203, 3204, 3247, 3259, 3261; Pub. L. 117–328, div. HH, title IV, §502(b), Dec. 29, 2022, 136 Stat. 5988.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1), (5), (8) and (b)(1)(D), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

Section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010, referred to in subsec. (a)(13)(B), (F)(ii), is section 749(g) of Pub. L. 111–80, Oct. 21, 2009, 123 Stat. 2132, which is not classified to the Code.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2022—Subsec. (a)(13). Pub. L. 117–328, §502(b)(1), added par. (13).

Subsec. (n). Pub. L. 117–328, §502(b)(2), designated existing provisions as par. (1) and inserted heading, substituted "of its intent to administer the program and shall submit for approval by April 1, 2023," for "by January 1 of each year of its intent to administer the program and shall submit for approval by February 15", redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), and added pars. (1)(G) and (2).

2010—Pub. L. 111–296, §441(a)(5)(A), substituted "Summer food service program for children" for "Summer food service programs for children in service institutions" in section catchline.

Subsec. (a). Pub. L. 111–296, §441(a)(5)(A), inserted subsec. heading, added par. (1), and struck out former par. (1) which authorized the Secretary to carry out a program to initiate and maintain nonprofit food service programs for children in service institutions and provided definitions for this section.

Subsec. (a)(2). Pub. L. 111–296, §441(a)(5)(B)(i), inserted par. heading, designated existing provisions as subpar. (B) and inserted subpar. heading, inserted cl. (i) designation and heading before first sentence and cl. (ii) designation and heading before second sentence, and added subpar. (A).

Subsec. (a)(3). Pub. L. 111–296, §441(a)(5)(B)(ii), inserted par. heading and realigned margins of subpars. (A) to (D).

Subsec. (a)(4). Pub. L. 111–296, §441(a)(5)(B)(iii), inserted par. heading, designated introductory provisions of par. (4) as introductory provisions of subpar. (A) and inserted subpar. heading, redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (A) and realigned margins, and designated concluding provisions as subpar. (B) and inserted heading.

Subsec. (a)(5). Pub. L. 111–296, §441(a)(5)(B)(iv), inserted heading.

Subsec. (a)(6). Pub. L. 111–296, §441(a)(5)(B)(v), inserted heading.

Subsec. (a)(7). Pub. L. 111–296, §111, added par. (7) and struck out former par. (7) which defined "private nonprofit organizations" and made them eligible for the program under the same terms and conditions as other service institutions.

Subsec. (a)(11). Pub. L. 111–296, §112, added par. (11).

Subsec. (a)(12). Pub. L. 111–296, §113, added par. (12).

Subsec. (b)(3). Pub. L. 111–296, §321, added par. (3) and struck out former par. (3) which read as follows: "Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection."

Subsec. (q). Pub. L. 111–296, §322(2), added subsec. (q). Former subsec. (q) redesignated (r).

Subsec. (r). Pub. L. 111–296, §404, substituted "September 30, 2015" for "September 30, 2009".

Pub. L. 111–296, §322(1), redesignated subsec. (q) as (r).

2007—Subsec. (b)(1). Pub. L. 110–161, §738(a)(1)(A), (B), redesignated subpars. (B) to (D) as (A) and (C), respectively, and struck out former subpar. (A) which read as follows:

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs)."

Subsec. (b)(1)(A). Pub. L. 110–161, §738(a)(1)(C), which directed the amendment of subpar.(A), as redesignated by Pub. L. 110–161, §738(a)(1)(B), by striking "(B)" and all that followed through "shall not exceed" and inserting "(A) IN GENERAL.—Subject to subparagraph (B) and in addition to amounts made available under paragraph (3), payments to service institutions shall be" was executed by substituting the language to be inserted for "(A) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed" to reflect the probable intent of Congress and the redesignation of subpar. (B) as (A). See note above.

Subsec. (b)(1)(B). Pub. L. 110–161, §738(a)(1)(D), substituted "subparagraph (A)" for "subparagraph (B)".

Subsec. (b)(1)(C). Pub. L. 110–161, §738(a)(1)(E), substituted "(A) and (B)" for "(A), (B), and (C)".

Subsec. (b)(3). Pub. L. 110–161, §738(a)(2), struck out "full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable" after "administrative costs shall equal the".

2004—Subsec. (a)(8), (9). Pub. L. 108–265, §116(a), (c), added pars. (8) and (9).

Subsec. (a)(10). Pub. L. 108–265, §116(d), added par. (10).

Subsec. (a)(10)(C). Pub. L. 108–447, §788(b)(1), substituted "2006" for "2005".

Subsec. (a)(10)(D)(i). Pub. L. 108–447, §788(b)(2)(A), substituted "2008" for "2007".

Subsec. (a)(10)(D)(ii). Pub. L. 108–447, §788(b)(2)(B), substituted "2009" for "2008".

Subsec. (b)(1)(D). Pub. L. 108–265, §116(b), added subpar. (D).

Subsec. (q). Pub. L. 108–265, §116(e), substituted "September 30, 2009" for "June 30, 2004".

Pub. L. 108–211 substituted "June 30, 2004" for "March 31, 2004".

2003—Subsec. (q). Pub. L. 108–134 substituted "the period beginning October 1, 1977, and ending March 31, 2004" for "the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 2003".

1998—Subsec. (a)(1)(D)(i). Pub. L. 105–336, §107(j)(3)(B)(i), substituted "to have a disability" for "to be mentally or physically handicapped".

Subsec. (a)(1)(D)(ii). Pub. L. 105–336, §107(j)(3)(B)(ii), substituted "individuals who have a disability" for "the mentally or physically handicapped".

Subsec. (a)(3)(C). Pub. L. 105–336, §107(j)(2)(A), inserted "or" at end of cl. (i), redesignated cl. (iii) as (ii), and struck out former cl. (ii) which read as follows: "conduct a regularly scheduled food service primarily for homeless children; or".

Subsec. (a)(7)(B)(i). Pub. L. 105–336, §105(a), added cl. (i) and struck out former cl. (i) which read as follows:

"(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or

"(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);".

Subsec. (a)(7)(B)(ii) to (vii). Pub. L. 105–336, §105(b)(1), redesignated cls. (iv) to (vii) as (ii) to (v), respectively, and struck out former cls. (ii) and (iii) which read as follows:

"(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university) or a school participating in the school lunch program under this chapter;

"(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;".

Subsec. (f)(7). Pub. L. 105–336, §105(c), in first sentence, struck out "attending a site on school premises operated directly by the authority" after "permit a child".

Subsec. (l)(1). Pub. L. 105–336, §105(b)(2)(A), in first sentence, struck out "(other than private nonprofit organizations eligible under subsection (a)(7) of this section)" after "Service institutions" and substituted "with food service management companies" for "only with food service management companies registered with the

State in which they operate" and struck out at end "The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare."

Subsec. (l)(2). Pub. L. 105–336, §105(b)(2)(B), substituted "may" for "shall" after "Each State" and struck out at end "For the purposes of this section, registration shall include, at a minimum—

"(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

"(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

"(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

"(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years."

Subsec. (l)(3) to (5). Pub. L. 105–336, §105(b)(2)(C), (D), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies, for the purpose of making such information available to the States."

Subsec. (n)(2). Pub. L. 105–336, §105(e)(1), amended Pub. L. 104–193, §706(j)(1). See 1996 Amendment note below.

Subsec. (q). Pub. L. 105–336, §105(d), substituted "2003" for "1998".

1996—Subsec. (a)(1). Pub. L. 104–193, §706(a)(1)(A), substituted "initiate and maintain nonprofit food service programs" for "initiate, maintain, and expand nonprofit food service programs" in first sentence.

Subsec. (a)(1)(E). Pub. L. 104–193, §706(a)(1)(B), struck out "the Trust Territory of the Pacific Islands," before "and the Northern Mariana Islands".

Subsec. (a)(7)(A). Pub. L. 104–193, §706(a)(2), substituted "Private nonprofit organizations" for "Except as provided in subparagraph (C), private nonprofit organizations".

Subsec. (b). Pub. L. 104–193, §706(b), inserted heading.

Subsec. (b)(1). Pub. L. 104–193, §706(b), added par. (1) and struck out former par. (1) which read as follows: "Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection."

Subsec. (b)(2). Pub. L. 104–193, §706(c), substituted "3 meals, or 2 meals and 1 supplement," for "four meals" in first sentence and struck out at end "The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements."

Subsec. (c)(2). Pub. L. 104–193, §706(d)(3), (4), struck out ", and such higher education institutions," before "shall be eligible to participate" and substituted "on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program" for "without application".

Pub. L. 104–193, §706(d)(1), (2), designated subpar. (B) as par. (2) and struck out subpars. (A), relating to eligibility of institutions operating National Youth Sports Program for meal and supplement reimbursements, and (C) to (E), relating to reimbursement rates, nutritional requirements and meal patterns, and issuance of regulations, respectively.

Subsec. (e)(1). Pub. L. 104–193, §706(e), substituted "each service institution. The State" for "each service institution: *Provided*, That (A) the State", inserted "(excluding a school)" after "program payment to any service institution", and substituted "responsibilities. No advance program payment" for "responsibilities, and (B) no advance program payment".

Subsec. (f). Pub. L. 104–193, §706(f)(5), redesignated pars. (4) to (7) as (3) to (6), respectively.

Pub. L. 104–193, §706(f)(1)–(4), redesignated first to seventh sentences as pars. (1) to (7), respectively, struck out par. (3), substituted "paragraph (1)" for "the first sentence" in par. (4), and substituted "conformance with standards set by local health authorities" for "that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality" in par. (6)(B). Prior to repeal, par. (3) read as follows: "The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements."

Subsec. (f)(7). Pub. L. 104–193, §706(g), added par. (7).

Subsec. (m). Pub. L. 104–193, §706(h), substituted "be available at any reasonable time for inspection and audit" for "at all times be available for inspection and audit" in second sentence.

Subsec. (n)(2). Pub. L. 104–193, §706(j)(1), as amended by Pub. L. 105–336, §105(e)(1), struck out ", including the State's methods for assessing need" after "needy children".

Pub. L. 104–193, §706(i), struck out ", and its plans and schedule for informing service institutions of the availability of the program" before semicolon.

Subsec. (n)(3). Pub. L. 104–193, §706(j)(2), (4), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used;".

Subsec. (n)(4). Pub. L. 104–193, §706(j)(4), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Pub. L. 104–193, §706(j)(3), struck out "and schedule" after "State's plans".

Subsec. (n)(5) to (7). Pub. L. 104–193, §706(j)(4), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

Subsec. (p). Pub. L. 104–193, §706(l), redesignated subsec. (q) as (p) and struck out former subsec. (p) which read as follows: "During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of this section of private nonprofit organizations for the program established under this section."

Subsec. (q). Pub. L. 104–193, §706(l)(2), redesignated subsec. (r) as (q). Former subsec. (q) redesignated (p).

Subsec. (q)(2). Pub. L. 104–193, §706(k)(1), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs."

Subsec. (q)(3). Pub. L. 104–193, §706(k)(3), redesignated par. (3) as (2).

Pub. L. 104–193, §706(k)(2), substituted "paragraph (1)" for "paragraphs (1) and (2) of this subsection".

Subsec. (q)(4). Pub. L. 104–193, §706(k)(1), struck out par. (4) which read as follows: "For the purposes of this subsection, the term 'private nonprofit organization' has the meaning given such term in subsection (a)(7)(B) of this section."

Subsec. (r). Pub. L. 104–193, §706(l)(2), redesignated subsec. (r) as (q).

1994—Subsec. (a)(4)(A) to (F). Pub. L. 103–448, §114(a), added subpars. (A) to (D) and struck out former subpars. (A) to (F) which read as follows:

"(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

"(B) service institutions that prepare meals at their own facilities or operate only one site;

"(C) service institutions that use local school food facilities for the preparation of meals;

"(D) other service institutions that have demonstrated ability for successful program operation;

"(E) service institutions that plan to integrate the program with Federal, State, or local employment programs; and

"(F) private nonprofit organizations eligible under paragraph (7)."

Subsec. (a)(7)(C). Pub. L. 103–448, §114(b), struck out subpar. (C) which read as follows:

"(C)(i) Except as provided in clause (ii), no private nonprofit organization (other than organizations eligible under paragraph (1)) may participate in the program in an area where a school food authority or a local, municipal, or county government participated in the program before such organization applied to participate until the expiration of the 1-year period beginning on the date that such school food authority or local, municipal, or county government terminated its participation in the program.

"(ii) Clause (i) shall not apply if the appropriate State agency or regional office of the Department of Agriculture (whichever administers the program in the area concerned), after consultation with the school food authority or local, municipal, or county government concerned, determines that such school food authority or local, municipal, or county government would have discontinued its participation in the program regardless of whether a private nonprofit organization was available to participate in the program in such area."

Subsec. (c)(1). Pub. L. 103–448, §114(c), inserted before period at end "or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause".

Subsec. (f). Pub. L. 103–448, §105(b), inserted after first sentence "The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection. The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements." and substituted "Meals described in the first sentence shall be served" for "Such meals shall be served".

Subsec. (l)(3). Pub. L. 103–448, §114(d), substituted "that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies," for "and their program record".

Subsec. (n)(5). Pub. L. 103–448, §114(e)(1), (2), redesignated cl. (7) as (5) and struck out former cl. (5) which read as follows: "the State's schedule for application by service institutions;".

Subsec. (n)(6). Pub. L. 103–448, §114(e)(1)–(3), redesignated cl. (9) as (6), inserted "and" at end, and struck out former cl. (6) which read as follows: "the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities;".

Subsec. (n)(7). Pub. L. 103–448, §114(e)(2), redesignated cl. (11) as (7). Former cl. (7) redesignated (5).

Subsec. (n)(8). Pub. L. 103–448, §114(e)(1), struck out cl. (8) which read as follows: "the State's plan and schedule for registering food service management companies;".

Subsec. (n)(9). Pub. L. 103–448, §114(e)(2), redesignated cl. (9) as (6).

Subsec. (n)(10). Pub. L. 103–448, §114(e)(1), struck out cl. (10) which read as follows: "the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments;".

Subsec. (n)(11). Pub. L. 103–448, §114(e)(2), redesignated cl. (11) as (7).

Subsec. (n)(12). Pub. L. 103–448, §114(e)(4), struck out cl. (12) which read as follows: "the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement."

Subsec. (q)(2). Pub. L. 103–448, §114(f)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "Application forms or other printed materials provided by the Secretary or the States to persons who intend to apply to participate as private nonprofit organizations shall contain a warning in bold lettering explaining, at a minimum—

"(A) the criminal provisions and penalties established by subsection (o) of this section; and

"(B) the procedures for termination of participation in the program as established by regulations."

Subsec. (q)(3). Pub. L. 103–448, §114(f)(2), (3), redesignated par. (4) as (3) and substituted "paragraphs (1) and (2)" for "paragraphs (1) and (3)". Former par. (3) redesignated (2).

Subsec. (q)(4), (5). Pub. L. 103–448, §114(f)(2), redesignated pars. (4) and (5) as (3) and (4), respectively.

Subsec. (r). Pub. L. 103–448, §114(g), substituted "1998" for "1994".

1989—Subsec. (a)(3)(C). Pub. L. 101–147, §102(a)(1)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and".

Subsec. (a)(4)(F). Pub. L. 101–147, §102(a)(1)(B), added subpar. (F).

Subsec. (a)(7)(A). Pub. L. 101–147, §102(a)(1)(C)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "Not later than May 1, 1989, the Secretary shall institute Statewide demonstration projects in five States in which private nonprofit organizations, as defined in subparagraph (B) (other than organizations already eligible under subsection (a)(1) of this section), shall be eligible for the program under the same terms and conditions as other service institutions."

Subsec. (a)(7)(B)(i). Pub. L. 101–147, §102(a)(1)(C)(ii)(I), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "serve no more than 2,500 children per day and operate at not more than 5 sites;".

Subsec. (a)(7)(B)(ii). Pub. L. 101–147, §102(a)(1)(C)(ii)(II), inserted "or a school participating in the school lunch program under this chapter" after "university)".

Subsec. (a)(7)(B)(v). Pub. L. 101–147, §102(a)(1)(C)(ii)(III), inserted "or families" after "children".

Subsec. (a)(7)(C). Pub. L. 101–147, §102(a)(1)(C)(iii), added subpar. (C).

Subsec. (c). Pub. L. 101–147, §102(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 101–147, §307(1), substituted "July 1 of each year" for "July 1, of each year".

Subsec. (f). Pub. L. 101–147, §307(2), substituted "prescribe" for "prescribed" before "model meal specifications".

Subsec. (g). Pub. L. 101–147, §307(3), struck out ": *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively" after "February 1 of each fiscal year".

Subsec. (h). Pub. L. 101–147, §307(4), made technical amendments to references to sections 612c, 1431, and 1446a–1 of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (l)(1). Pub. L. 101–147, §102(a)(3), inserted "(other than private nonprofit organizations eligible under subsection (a)(7) of this section)" after "Service institutions".

Subsec. (p). Pub. L. 101–147, §102(a)(4), (5), added subsec. (p) and redesignated former subsec. (p) as (r).

Subsec. (q). Pub. L. 101–147, §102(a)(5), added subsec. (q).

Subsec. (r). Pub. L. 101–147, §102(a)(6), substituted "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994," for "For the fiscal years beginning October 1, 1979, and ending September 30, 1989,".

Pub. L. 101–147, §102(a)(4), redesignated former subsec. (p) as (r).

1988—Subsec. (a)(1)(B). Pub. L. 100–435, §213(a), inserted reference to public or private nonprofit higher education institutions participating in National Youth Sports Program.

Subsec. (a)(7). Pub. L. 100–435, §213(b), added par. (7).

1986—Subsec. (p). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended subsec. (p) identically, substituting "1989" for "1984".

1981—Subsec. (a). Pub. L. 97–35, §809, in par. (1)(B) substituted "public or private nonprofit school food authorities, local, municipal, or county governments," for "nonresidential public or private nonprofit institutions" and in par. (1)(C) substituted "50" for "331/3", and added par. (6).

Subsec. (i). Pub. L. 97–35, §817(b), struck out subsec. (i) which related to administration of program by Secretary in event of nonadministration by State.

1980—Subsec. (b)(2). Pub. L. 96–499, §206(1), restricted service institutions to serving only two meals per day unless such institutions were a camp or an institution serving meals primarily to migrant children.

Subsec. (p). Pub. L. 96–499, §206(2), substituted "September 30, 1984" for "September 30, 1980".

1978—Subsec. (a)(1)(D)(ii). Pub. L. 95–627, §10(d)(2), inserted "or nonprofit private" after "in a public".

Subsec. (b)(1). Pub. L. 95–627, §5(d), inserted "for All Urban Consumers" after "Consumer Price Index".

Subsec. (k)(1). Pub. L. 95–627, §7(b), substituted "$100,000" for "$50,000" in cl. (B), "$250,000" for "$100,000" in cl. (C), and "2½ percent" for "2 percent" in cl. (D).

1977—Subsec. (a). Pub. L. 95–166, in revising subsec. (a), among other changes: reenacted par. (1); inserted cl. (A) definition of "program"; reenacted as cl. (B) definition of "service institutions", inserting development of "school vacation" programs; reenacted as cl. (C) definition of "areas in which poor economic conditions exist" definition of "poor economic conditions" of former par. (3), substituting "as determined by information" for "as shown by information" and "served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program" for "served to children attending schools located in the area of summer food sites, or from other applicable sources" and striking out reference to information provided from model city target areas; inserted cl. (D) definition of "children"; reenacted as cl. (E) definition of "State" last sentence of former par. (3), extending term to include the Northern Mariana Islands; enacted par. (2), which incorporated part of former par. (1) which had read "To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools."; enacted par. (3), which incorporated part of former par. (2) which had read "Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance."; and added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 95–166 incorporated existing provisions in part in text designated par. (1); substituted "Payments" for "Disbursements" increased payments for cost of lunch and supper, breakfast, and each meal supplement to 85.75 from 75.5, to 47.75 from 42, and to 22.50 from 19.75 cents respectively; substituted provision for adjustment of rates each January 1 based on the Consumer Price Index for twelve-month period ending November 30 for prior such provision for adjustment each March 1 based on the

Index for year ending January 31; exclude from cost of food service operations administrative costs; and authorized adjustments, as appropriate, in the maximum reimbursement levels.

Subsec. (b)(2). Pub. L. 95–166 added par. (2) which incorporated in part existing provision which formerly stated that no institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

Subsec. (b)(3). Pub. L. 95–166 added par. (3) which supersedes part of existing provisions prescribing administrative costs of lunch and supper, breakfast, and meal supplement not to exceed 6, 3, and 1.5 cents respectively.

Subsec. (b)(4). Pub. L. 95–166 added par. (4).

Subsec. (c). Pub. L. 95–166 substituted "Payments" for "Disbursements" and "except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar" for "except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section".

Subsec. (d). Pub. L. 95–166, in revising text, substituted provision for advance program payment to States through letters of credit forwarded no later than April 15, May 15, and July 1, of each year for prior provision for forwarding advance payments no later than June 1, July 1, and August 1 of each year; inserted computation of payment amount provision; struck out prior provision for an amount no less than (1) the total payment made to the State for meals served for the calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the month, whichever is the greater, now covered in subsec. (e)(2) of this section; substituted provision for forwarding payments to States operating a program in months other than May through September by the first day of the month prior to the month in which the program is conducted for prior provision for receipt of advance payments not later than the first day of each month involved where institutions operate programs during nonsummer vacations during a continuous school year calendar; reenacted provision for payments within sixty days of receipt of valid claims; and struck out provision declaring that any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day, covered in subsec. (e)(2) of this section.

Subsec. (e). Pub. L. 95–166 added subsec. (e) which in incorporating in part provisions of former subsec. (d), substituted in par. (1) July 15 and August 15 for July 1 and August 1 and reenacted provision for payment not later than the first day of each month of operation where service institutions operate under a continuous school calendar, and in par. (2) substituted provision for computation of amount which is the greatest of the amount described in cls. (A), (B), and (C) for prior provision for such computation which is the greater of (1) the total payment made to the State for meals served for the calendar month of the preceding calendar year (covered in cl. (A)) or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the month (covered in cl. (C)). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 95–166 redesignated former subsec. (e) as (f), substituted in first sentence "receiving funds" for "to which funds are disbursed", and inserted provisions respecting: charging ineligible children for meals served in camps, model specifications and standards for quality assurance, meal preparation contract requirements, and inspection and testing. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95–166 redesignated former subsec. (f) as (g), required publication of proposed regulations by November 1, instead of January 1, final regulations by January 1, instead of March 1, and guidelines, applications, and handbooks by February 1, instead of March 1, of each fiscal year, inserted proviso, substituted provision for payment of startup costs limited to 20 percent of administrative funds provided for in the administrative budget for prior limitation to 10 per centum of Federal funds provided the service institutions for meals served under this section during the preceding summer, and substituted provision for subtraction of startup costs from amounts otherwise payable for administrative costs made to the service institutions for prior provision for such reduction from payments made for meals served under subsec. (b) of this section. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95–166 redesignated former subsec. (g) as (h), struck out "participating" before "service institution" and ", either nationally or in the institution area, or foods donated by the Secretary" after "abundance", and substituted provision for donation of available or purchased food to States, for distribution to service institutions that can use commodities efficiently and effectively, as determined by the Secretary for prior provision for donation by the Secretary of available or purchased foods, irrespective of amount of appropriated funds, to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding program. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95–166 redesignated former subsec. (h) as (i), authorized Secretary's administration of the program when the State is unable for any reason to disburse the funds otherwise payable or does not operate the program as required by this section, prior provision only requiring direct disbursements when the State educational agency was not permitted by law or was otherwise unable to disburse the funds, and required State notification of the Secretary of its intention not to administer the program. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 95–166 redesignated former subsec. (i) as (j). Former subsec. (j) redesignated (p).

Subsec. (k). Pub. L. 95–166 added subsec. (k) and struck out former subsec. (k) which required Secretary to pay administrative costs of each State in an amount equal to 2 per centum of funds distributed to the State and prescribing minimum sum of $10,000 each fiscal year, except where distribution of funds to the State totals less than $50,000 for the fiscal year.

Subsec. (l). Pub. L. 95–166 added subsec. (l) and struck out former subsec. (l) which provided that nothing in this section should be construed to preclude a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

Subsec. (m). Pub. L. 95–166 struck out ", State educational agencies," after "States".

Subsecs. (n), (o). Pub. L. 95–166 added subsecs. (n) and (o).

Subsec. (p). Pub. L. 95–166 redesignated former subsec. (j) as (p) and made authorization applicable to fiscal years beginning Oct. 1, 1977, and ending Sept. 30, 1980.

1975—Subsec. (a). Pub. L. 94–105 substituted provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1977, for provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1975.

Subsec. (a)(1). Pub. L. 94–20, §1(a), inserted "and for the period July 1, 1975, through September 30, 1975," before "to enable".

Subsec. (b). Pub. L. 94–105 substituted provisions for payment to service institutions of the full cost of obtaining, preparing and serving food and administrative costs, with maximum rates for each kind of meal and its related administrative cost and adjustment of the rates each March 1 on the basis of changes in the series for food away from home of the Consumer Price Index for provisions apportioning among the states the appropriated sums, with a maximum basic grant of $50,000, and reserving 2 per centum of the appropriated sums for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Subsec. (c). Pub. L. 94–105 substituted provisions for disbursement to service institutions only for meals served during May through Sept. except for institutions with programs for children on school vacation at any time under a continuous school calendar for provisions for the disbursement of funds by the State educational agency to service institutions on a nondiscriminatory basis for the cost of obtaining agricultural commodities and other foods, purchase and rental of equipment and authorizing financial assistance not to exceed 3 per centum of the operating costs in cases of severe need.

Subsec. (d). Pub. L. 94–105 substituted provisions relating to the advance payment to States for meals served in that month and deductions in the next month for advances for which valid claims have not been established within 180 days for provisions for the disbursement of funds directly to service institutions in states where the State educational agency is forbidden by law to disburse funds to such institutions.

Subsec. (e). Pub. L. 94–105 substituted provisions for free meals consisting of a combination of foods and meeting minimum nutritional standards for provisions making available for the first three months of the next fiscal year any funds unobligated at the end of the prior fiscal year.

Subsec. (f). Pub. L. 94–105 substituted provisions directing the Secretary to publish proposed and final regulations, guidelines, and handbooks and authorizing startup costs for meals served during the preceding summer for provisions for free or reduced cost meals with minimum nutritional standards and prohibiting segregation, discrimination or overt identification practices with regard to any child because of his inability to pay.

Subsec. (g). Pub. L. 94–105 substituted provisions directing the utilization of foods donated or designated as in abundance by the Secretary and directing the donation of food available under section 1431, 612c and 1446a–1 of title 7 irrespective of the amount of funds appropriated under this section for provisions directing further apportionment among the States if any State cannot utilize all funds apportioned to it or additional funds are made available.

Subsec. (h). Pub. L. 94–105 substituted provisions authorizing the Secretary to disburse funds directly to service institutions in States where the educational agency is not permitted by law or is otherwise unable to disburse the funds for provisions requiring certification by the Secretary to the Secretary of the Treasury of amounts to be paid, directing the utilization of donated foods or foods designated as abundant, permitting donation of food available under sections 1431, 612c or 1446a–1 of title 7 irrespective of funds appropriated,

mandating that value of assistance to children under this section not be considered income, that expenditures of State and local funds not be diminished as a result of federal funding, authorizing appropriations for administrative expenses and requiring States and State educational agencies and service institutions to keep and make available for inspection such accounts and records as may be necessary.

Subsec. (i). Pub. L. 94–105 substituted provision that the amount of State and local funds spent for food programs not be diminished as a result of funds received under this program for provisions authorizing the Secretary of Agriculture to utilize during May 15 to Sept. 15, 1972 not to exceed $25,000 of funds available under section 612c of Title 7 to carry out the purposes of this chapter, such funds to be reimbursed out of any supplemental appropriation.

Subsec. (j). Pub. L. 94–105 substituted provision authorizing to be appropriated such sums as may be necessary for the Secretary's administrative expenses, for provisions adjusting the reimbursement rate for meals served during May through Sept. 1975 to the nearest quarter cent to reflect changes since the period of May through Sept. 1974 in the cost of operating special summer food programs.

Pub. L. 94–20, §1(b), added subsec. (j).

Subsec. (k). Pub. L. 94–105 substituted provisions directing the Secretary to pay each State for administrative costs an amount equal to 2 per centum of funds distributed under subsec. (b), with no State to receive less than $10,000 unless funds distributed to such State total less than $50,000 for provisions directing the Secretary to issue regulations no later than ten days following May 2, 1975 pertaining to operations of the program during the months of May through Sept. 1975, with proviso that such regulations shall in no way differ from current regulations except for changes necessary to implement this chapter.

Pub. L. 94–20, §1(b), added subsec. (k).

Subsecs. (l), (m). Pub. L. 94–105 added subsecs. (l) and (m).

1972—Subsec. (a)(1). Pub. L. 92–433, §2(a), substituted authorization of appropriation of such sums as are necessary for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of $32,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973.

Subsec. (a)(2). Pub. L. 92–433, §2(b), inserted provisions authorizing special summer programs to utilize existing food service facilities of public and nonprofit private schools to the maximum extent feasible.

Subsec. (i). Pub. L. 92–433, §1, added subsec. (i).

1971—Subsec. (a)(1). Pub. L. 92–32, §7(a), authorized appropriations of $32,000,000 for fiscal years ending June 30, 1972, and 1973, as were authorized for fiscal years ending June 30, 1969, 1970, and 1971, and substituted in first sentence "program" for "pilot program".

Subsec. (c)(2). Pub. L. 92–32, §7(b), provided that non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to equipment and services.

1970—Subsec. (f). Pub. L. 91–248 provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general and provided that there be no overt identification of those children who receive free and reduced price meals.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–161, div. A, title VII, §738(c), Dec. 26, 2007, 121 Stat. 1880, provided that: "The amendments made by this section [amending this section and section 1769 of this title] take effect on January 1 of the first full calendar year following the date of enactment of this Act [Dec. 26, 2007]."

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 116(a)–(c), (e) of Pub. L. 108–265 effective June 30, 2004, and amendment by section 116(d) of Pub. L. 108–265 effective Oct. 1, 2005, see section 502(a), (b)(5) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–336, title I, §105(e)(2), Oct. 31, 1998, 112 Stat. 3149, provided that: "The amendment made by paragraph (1) [amending this section] takes effect on January 1, 1997."

Pub. L. 105–336, title I, §107(j)(4), Oct. 31, 1998, 112 Stat. 3153, provided that: "The amendments made

by paragraphs (1) and (2) [amending this section and sections 1766 and 1769f of this title and repealing section 1766b of this title] take effect on July 1, 1999."

Amendment by sections 105(a)–(d) and 107(j)(3)(B) of Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–193, title VII, §706(m), Aug. 22, 1996, 110 Stat. 2293, provided that: "The amendments made by subsection (b) [amending this section] shall become effective on January 1, 1997."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title I, §102(b)(2)(A), Nov. 10, 1989, 103 Stat. 881, provided that: "Subparagraphs (A), (B), (C), and (D)(i) of section 13(c)(2) of the [Richard B. Russell] National School Lunch Act [subpars. (A), (B), (C), (D)(i) of subsec. (c)(2) of this section] (as added by subsection (a)(2)(B) of this section) shall be effective as of October 1, 1989."

Pub. L. 101–147, title I, §102(b)(3), Nov. 10, 1989, 103 Stat. 882, provided that: "The amendments made by subsection (a)(6) [amending this section] shall be effective as of October 1, 1989."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 5(d) of Pub. L. 95–627 effective July 1, 1979, and amendment by sections 7(b) and 10(d)(2) of Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94–105, §13, Oct. 7, 1975, 89 Stat. 515, provided that the amendment made by that section is effective Oct. 1, 1975.

REGULATIONS

Pub. L. 101–147, title I, §102(b)(1), Nov. 10, 1989, 103 Stat. 881, provided that: "Not later than February 1, 1990, the Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (3), (4), and (5) of subsection (a) [amending this section]. Notwithstanding the provisions of section 553 of title 5, United States Code, the Secretary of Agriculture may issue such regulations without providing notice or an opportunity for public comment."

Pub. L. 101–147, title I, §102(b)(2)(B), Nov. 10, 1989, 103 Stat. 882, provided that: "Not later than February 1, 1990, the Secretary of Agriculture shall—

> "(i) issue final regulations to implement subparagraph (D)(ii) of section 13(c)(2) of the [Richard B. Russell] National School Lunch Act [subpar. (D)(ii) of subsec. (c)(2) of this section] (as added by subsection (a)(2)(B) of this section); and
>
> "(ii) issue final regulations under subparagraph (E) of such section."

ALL-DAY EDUCATIONAL AND RECREATIONAL ACTIVITIES; SOURCES OF FUNDS

Pub. L. 103–448, title I, §114(h), Nov. 2, 1994, 108 Stat. 4713, directed Secretary of Agriculture, not later than 180 days after Nov. 2, 1994, in consultation with heads of other Federal agencies, to identify sources of Federal funds that might be available from other Federal agencies for service institutions under the summer food service program for children established under this section to carry out all-day educational and recreational activities for children at feeding sites under the program, and notify the service institutions of the sources.

[1] *So in original. Probably should be preceded by "section".*

§1762. Summer electronic benefits transfer for children program

(a) Program established

The Secretary shall establish a program under which States and covered Indian Tribal organizations electing to participate in such program shall, beginning with summer 2024 and annually for each summer thereafter, issue to each eligible household summer electronic benefit transfer benefits (referred to in this section as "summer EBT benefits")—

(1) in accordance with this section; and

(2) for the purpose of providing nutrition assistance through electronic benefit transfer or methods described in clauses (ii) and (iii) of subsection (b)(2)(B) during the summer months for each eligible child, to ensure continued access to food when school is not in session for the summer.

(b) Summer EBT benefits requirements

(1) Purchase options

(A) Benefits issued by states

Summer EBT benefits issued pursuant to subsection (a) by a State may only be used by the eligible household that receives such summer EBT benefits to purchase food (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)) from retail food stores that have been approved for participation in the supplemental nutrition assistance program established under such Act [7 U.S.C. 2011 et seq.] and in accordance with section 7(b) of such Act (7 U.S.C. 2016(b)) or in the nutrition assistance program in American Samoa, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

(B) Benefits issued by covered Indian Tribal organizations

Summer EBT benefits issued pursuant to subsection (a) by a covered Indian Tribal organization may only be used by the eligible household that receives such summer EBT benefits to purchase supplemental foods from vendors that have been approved for participation in the special supplemental nutrition program for women, infants, and children under section 1786 of this title.

(2) Amount

Summer EBT benefits issued pursuant to subsection (a)—

(A) shall be—

(i) for calendar year 2024, in an amount equal to $40, which may be proportionately higher consistent with the adjustments established under section 1760(f) of this title for each eligible child in the eligible household per month during the summer operational period; and

(ii) for calendar year 2025 and each year thereafter, in an amount equal to the unrounded benefit amount from the prior year, adjusted to the nearest lower dollar increment to reflect changes to the cost of the diet described in section 3(u) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(u)) for the 12-month period ending on November 30 of the preceding calendar year and rounded to the nearest lower dollar increment; and

(B) may be issued—

(i) in the form of an EBT card;

(ii) through other electronic methods, as determined by the Secretary; or

(iii) in the case of a State that does not issue nutrition assistance program benefits electronically, using the same methods by which that State issues benefits under the nutrition assistance program of that State.

(3) Enforcement

Summer EBT benefits issued pursuant to subsection (a) shall—

(A) be subject to sections 12, 14, and 15 of the Food and Nutrition Act of 2008 (7 U.S.C. 2021, 2023, 2024) and subsections (n), (o), and (p) of section 1786 of this title, as applicable; and

(B) to the maximum extent practicable, incorporate technology tools consistent with industry standards that track or prevent theft of benefits, cloning, or other fraudulent activities.

(4) Timing

(A) In general

Except as provided in subparagraph (B), summer EBT benefits issued pursuant to subsection (a) may only be issued for the purpose of purchasing food during the summer months, with appropriate issuance and expungement timelines as determined by the Secretary (but with an expungement timeline not to exceed 4 months).

(B) Continuous school calendar

In the case of children who are under a continuous school calendar, the Secretary shall establish alternative plans for the period during which summer EBT benefits may be issued pursuant to subsection (a) and used.

(c) Enrollment in program

(1) State requirements

States that elect to participate in the program under this section shall—

(A) with respect to summer, automatically enroll each eligible child who is directly certified, is an identified student (as defined in section 1759a(a)(1)(F)(i) of this title), or is otherwise determined by a school food authority to be eligible to receive free or reduced price meals in the instructional year immediately preceding the summer or during the summer operational period in the program under this section, without further application from households;

(B) make an application available for children who do not meet the criteria described in subparagraph (A) and make eligibility determinations using the eligibility criteria for free or reduced price lunches under this chapter;

(C) establish procedures to carry out the enrollment described in subparagraph (A);

(D) establish procedures for expunging summer EBT benefits from the account of a household, consistent with the requirements under subsection (b)(4); and

(E) allow eligible households to opt out of participation in the program under this section and establish procedures for opting out of such participation.

(2) Covered Indian Tribal organization requirements

Covered Indian Tribal organizations participating in the program under this section shall, to the maximum extent practicable, meet the requirements under paragraph (1).

(d) Administrative expenses

The Secretary shall pay to each State agency and covered Indian Tribal organization an amount equal to 50 percent of the administrative expenses incurred by the State agency or covered Indian Tribal organization in operating the program under this section, including the administrative expenses of local educational agencies and other agencies in each State or covered Indian Tribal organization relating to the operation of the program under this section.

(e) Summer EBT authority

Beginning in summer 2024, the Secretary shall not allow States to use the authority in section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2132), to provide access to food through electronic benefit transfer benefits to children during the summer months when schools are not in regular session.

(f) Issuance of interim final regulations

Not later than 1 year after December 29, 2022, the Secretary shall promulgate regulations (which shall include interim final regulations) to carry out this section, including provisions that—

(1) incorporate best practices and lessons learned from demonstration projects under—

(A) section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2132); and

(B) the pandemic EBT program under section 1101 of the Families First Coronavirus Response Act (7 U.S.C. 2011 note; Public Law 116–127);

(2) ensure timely and fair service to applicants for and recipients of benefits under this section;

(3) establish quality assurance and program integrity procedures to ensure that States and local educational agencies have adequate processes—

(A) to correctly determine the eligibility of children for benefits under this section; and

(B) to reliably enroll and issue benefits to eligible children; and

(4) allow States and covered Indian Tribal organizations to streamline program administration, including by—

(A) automatically enrolling each eligible child who is able to be directly certified; and

(B) establishing a single summer operational period.

(g) Administrative and management plan

Beginning in 2024, each State desiring to participate in the program under this section shall comply with the requirements under section 1761(n) of this title.

(h) Definitions

In this section:

(1) Covered Indian Tribal organization

The term "covered Indian Tribal organization" means an Indian Tribal organization that participates in the special supplemental nutrition program for women, infants, and children established under section 1786 of this title.

(2) Eligible child

The term "eligible child" means, with respect to a summer, a child who—

(A) was, at the end of the instructional year immediately preceding such summer or during the summer operational period—

(i) certified to receive free or reduced price lunch under the school lunch program under this chapter;

(ii) certified to receive free or reduced price breakfast under the school breakfast program under section 1773 of this title; or

(iii) able to be directly certified;

(B) was, at the end of the instructional year immediately preceding such summer—

(i) enrolled in a school described in subparagraph (B), (C), (D), (E), or (F) of section 1759a(a)(1) of this title; and

(ii)(I) an identified student (as defined in section 1759a(a)(1)(F)(i) of this title); or

(II) a child who otherwise met the requirements to receive free or reduced price meals, as determined through an application process using the eligibility criteria for free or reduced price meals under this chapter; or

(C) has been determined to be eligible for the program under this section in accordance with subsection (c)(1)(B).

(3) Eligible household

The term "eligible household" means a household that includes at least 1 eligible child.

(4) Supplemental foods

The term "supplemental foods"—

(A) means foods—

(i) containing nutrients determined by nutritional research to be lacking in the diets of children; and

(ii) that promote the health of the population served by the program under this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as determined by the Secretary; and

(B) includes foods not described in subparagraph (A) substituted by State agencies, with the approval of the Secretary, that—

(i) provide the nutritional equivalent of foods described in such subparagraph; and

(ii) allow for different cultural eating patterns than foods described in such subparagraph.

(June 4, 1946, ch. 281, §13A, as added Pub. L. 117–328, div. HH, title IV, §502(c), Dec. 29, 2022, 136 Stat. 5990.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (b)(1)(A), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010, referred to in subsecs. (e) and (f)(1)(A), is section 749(g) of Pub. L. 111–80, Oct. 21, 2009, 123 Stat. 2132, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 1762, act June 4, 1946, ch. 281, §13A, as added Mar. 12, 1970, Pub. L. 91–207, 84 Stat. 51, related to emergency assistance to provide nutritious meals to needy children in schools, prior to repeal by Pub. L. 101–147, title III, §308, Nov. 10, 1989, 103 Stat. 915.

STATUTORY NOTES AND RELATED SUBSIDIARIES

NO DUPLICATION OF SUMMER BENEFITS

Pub. L. 117–328, div. HH, title IV, §502(e), Dec. 29, 2022, 136 Stat. 5994, provided that: "A State may not provide to a household summer EBT benefits (as described in section 13A(a) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1762(a)]) under that section and benefits under section 1101(i) of the Families First Coronavirus Response Act (7 U.S.C. 2011 note; Public Law 116–127) for the same period."

§1762a. Commodity distribution program

(a) Use of funds for purchase of agricultural commodities and products for donation

Notwithstanding any other provision of law, the Secretary shall—

(1) use funds available to carry out the provisions of section 612c of title 7 which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products), for donation to maintain the annually programmed level of assistance for programs carried on under this chapter, the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.]; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 1431 of title 7, for such donation.

(b) Nutrition quality and content information

(1) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

(2) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

(B) otherwise provide nutritional content information regarding the commodities provided to the schools.

(c) Authorization of appropriations for purchase of products or for cash payments in lieu of donations

The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4) [1] of the Older Americans Act of 1965 or for cash payments in lieu of such donations under section 311(b)(1) [1] of such Act. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) Assistance procedures; cost and benefits, review; technical assistance; report to Congress; food quality standards contracting procedures

In providing assistance under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(e) Consultation with school representatives

Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(f) Commodity only schools

Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 1755(c) of this title and the national average payment established under section 1753 of this title. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title, and shall represent the four basic food groups, including a serving of fluid milk or a nondairy beverage that meets the nutritional standards described in section 1758(a)(2)(B) of this title.

(g) Extension of alternative means of assistance

(1) As used in this subsection, the term "eligible school district" has the same meaning given such

term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

(h) Notice of irradiated food products

(1) In general

The Secretary shall develop a policy and establish procedures for the purchase and distribution of irradiated food products in school meals programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) Minimum requirements

The policy and procedures shall ensure, at a minimum, that—

(A) irradiated food products are made available only at the request of States and school food authorities;

(B) reimbursements to schools for irradiated food products are equal to reimbursements to schools for food products that are not irradiated;

(C) States and school food authorities are provided factual information on the science and evidence regarding irradiation technology, including—

(i) notice that irradiation is not a substitute for safe food handling techniques; and

(ii) any other similar information determined by the Secretary to be necessary to promote food safety in school meals programs;

(D) States and school food authorities are provided model procedures for providing to school food authorities, parents, and students—

(i) factual information on the science and evidence regarding irradiation technology; and

(ii) any other similar information determined by the Secretary to be necessary to promote food safety in school meals;

(E) irradiated food products distributed to the Federal school meals program under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) are labeled with a symbol or other printed notice that—

(i) indicates that the product was irradiated; and

(ii) is prominently displayed in a clear and understandable format on the container;

(F) irradiated food products are not commingled in containers with food products that are not irradiated; and

(G) schools that offer irradiated food products are encouraged to offer alternatives to irradiated food products as part of the meal plan used by the schools.

(June 4, 1946, ch. 281, §14, as added Pub. L. 93–326, §2, June 30, 1974, 88 Stat. 286; amended Pub. L. 94–105, §10, Oct. 7, 1975, 89 Stat. 515; Pub. L. 95–166, §6, Nov. 10, 1977, 91 Stat. 1334; Pub. L. 95–627, §12(b), Nov. 10, 1978, 92 Stat. 3625; Pub. L. 96–499, title II, §202(c), Dec. 5, 1980, 94 Stat. 2600; Pub. L. 97–35, title VIII, §§813(a), 819(j), Aug. 13, 1981, 95 Stat. 530, 533; Pub. L. 98–459, title VIII, §801(a), Oct. 9, 1984, 98 Stat. 1792; Pub. L. 99–500, title III, §§312, 363, Oct. 18, 1986, 100 Stat. 1783–360, 1783–368, and Pub. L. 99–591, title III, §§312, 363, Oct. 30, 1986, 100 Stat. 3341–363, 3341–371; Pub. L. 99–661, div. D, title I, §4102, title IV, §4403, Nov. 14, 1986, 100 Stat. 4071, 4079; Pub. L. 100–356, §2, June 28, 1988, 102 Stat. 669; Pub. L. 101–147, title I, §103(a)–(b)(2)(A), (c), Nov. 10, 1989, 103 Stat. 882; Pub. L. 103–448, title I, §115, Nov. 2, 1994, 108 Stat. 4713; Pub. L. 104–193, title VII, §707, Aug. 22, 1996, 110 Stat. 2293; Pub. L. 105–336, title I, §§101(b), 106, Oct. 31, 1998, 112 Stat. 3144, 3149; Pub. L. 108–134, §4, Nov. 22, 2003, 117

Stat. 1389; Pub. L. 108–211, §4, Mar. 31, 2004, 118 Stat. 566; Pub. L. 108–265, title I, §§117, 118, June 30, 2004, 118 Stat. 752; Pub. L. 111–296, title IV, §441(a)(6), Dec. 13, 2010, 124 Stat. 3264; Pub. L. 119–69, §2(b)(1), Jan. 14, 2026, 139 Stat. 1998.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1), (d), and (h)(1), (2)(E), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Older Americans Act of 1965, referred to in subsecs. (a)(1) and (c), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218. Title III of the Older Americans Act of 1965 is classified generally to subchapter III (§3021 et seq.) of chapter 35 of this title. Section 311 of the Act, which is classified to section 3030a of this title, was amended by Pub. L. 106–501, title III, §309, Nov. 13, 2000, 114 Stat. 2246, and, as so amended, new subsecs. (a) and (b) were added, former subsec. (a)(4) was redesignated (c)(4) and repealed, and former subsec. (b)(1) was redesignated (d)(1). For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

Section 1581 of the Food Security Act, referred to in subsec. (g), is section 1581 of Pub. L. 99–198, title XV, Dec. 23, 1985, 99 Stat. 1594, which is not classified to the Code.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2026—Subsec. (f). Pub. L. 119–69 inserted "or a nondairy beverage that meets the nutritional standards described in section 1758(a)(2)(B) of this title" after "milk".

2010—Subsec. (d). Pub. L. 111–296 struck out concluding provisions which read as follows: "Within eighteen months after November 10, 1977, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this chapter and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account."

2004—Subsec. (a). Pub. L. 108–265, §117, struck out ", during the period beginning July 1, 1974, and ending June 30, 2004," before "shall—" in introductory provisions.

Pub. L. 108–211 substituted "June 30, 2004" for "March 31, 2004" in introductory provisions.

Subsec. (h). Pub. L. 108–265, §118, added subsec. (h).

2003—Subsec. (a). Pub. L. 108–134 substituted "March 31, 2004" for "September 30, 2003" in introductory provisions.

1998—Subsec. (a). Pub. L. 105–336, §106, substituted "2003" for "1998" in introductory provisions.

Subsec. (f). Pub. L. 105–336, §101(b), substituted "1755(c)" for "1755(e)".

1996—Subsec. (b). Pub. L. 104–193, §707(a), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products."

Subsec. (e). Pub. L. 104–193, §707(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program."

Subsec. (g)(3). Pub. L. 104–193, §707(c), struck out par. (3) relating to cash compensation for losses due to changed methodology of study during 1982–1983 school year.

1994—Subsec. (a). Pub. L. 103–448, §115(1), substituted "1998" for "1994" in introductory provisions.

Subsec. (b). Pub. L. 103–448, §115(2), designated existing provisions as par. (1) and added pars. (2) and (3).

1989—Subsec. (a). Pub. L. 101–147, §103(a), substituted "1994" for "1989".

Subsec. (g). Pub. L. 101–147, §103(b)(1), (2)(A), amended subsec. (g), as amended identically by Pub. L. 99–500 and 99–591, §363, and Pub. L. 99–661, §4403, and as further amended by Pub. L. 100–356, §2, to read as if only the amendment by Pub. L. 99–661 was enacted, and further amended subsec. (g) identically to the amendments that were made by section 2(a) and (b) of Pub. L. 100–356, resulting in changing text by striking out only the language that was inserted by section 2(c) of Pub. L. 100–356 at the end of par. (3)(A), "The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after June 28, 1988.", see 1986 and 1988 Amendment notes below.

Subsec. (g)(3)(A). Pub. L. 101–147, §103(c), substituted last four sentences for former last two sentences which read as follows: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this chapter for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 1755(e) of this title; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988."

1988—Subsec. (g)(3)(A). Pub. L. 100–356, §2(c), inserted at end "The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after June 28, 1988."

Pub. L. 100–356, §2(a), inserted at end "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this chapter for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 1755(e) of this title; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988."

Subsec. (g)(3)(B). Pub. L. 100–356, §2(b), substituted "such sums as may be necessary" for "$50,000".

1986—Subsec. (a). Pub. L. 99–500 and Pub. L. 99–591, §312, and Pub. L. 99–661, §4102, amended subsec. (a) identically, substituting "1989" for "1984".

Subsec. (g). Pub. L. 99–500 and Pub. L. 99–591, §363, and Pub. L. 99–661, §4403, amended section identically, adding subsec. (g).

1984—Subsec. (c). Pub. L. 98–459 substituted "(b)(1)" for "(c)(1)".

1981—Subsec. (a)(1). Pub. L. 97–35, §819(j)(1), substituted "III" for "VII".

Subsec. (c). Pub. L. 97–35, §819(j)(2), substituted references to section 311(a)(4) and (c)(1) of the Older Americans Act of 1965, for references to section 3045f(a)(4) and (d)(4) of this title.

Subsec. (f). Pub. L. 97–35, §813(a), added subsec. (f).

1980—Subsec. (a). Pub. L. 96–499 substituted "September 30, 1984" for "September 30, 1982".

1978—Subsec. (a)(1). Pub. L. 95–627 inserted "(which may include domestic seafood commodities and their products)" after "under such section".

1977—Subsec. (a). Pub. L. 95–166, §6(1), extended termination date for termination of commodity distribution program to Sept. 30, 1982, from Sept. 30, 1977.

Subsecs. (c) to (e). Pub. L. 95–166, §6(2), added subsecs. (c) to (e).

1975—Pub. L. 94–105 designated existing provisions as subsec. (a), substituted "September 30, 1977" for "June 30, 1975", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a

note under section 1755 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title I, §103(b)(2)(B), Nov. 10, 1989, 103 Stat. 882, provided that: "The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on June 28, 1988."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 813(a) of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, and amendment by section 819(j) of Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4), (5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

STUDY OF EFFECT OF COMBINING FEDERALLY DONATED AND FEDERALLY INSPECTED MEAT OR POULTRY

Pub. L. 103–448, title III, §304, Nov. 2, 1994, 108 Stat. 4750, directed Comptroller General of the United States to conduct study on incidence and effect of States restricting or prohibiting legally contracted commercial entity from physically combining federally donated and inspected meat or poultry from another State and to submit report to Congress not later than Sept. 1, 1996.

[1] *See References in Text note below.*

§1763. Repealed. Pub. L. 101–147, title I, §104, Nov. 10, 1989, 103 Stat. 883

Section, act June 4, 1946, ch. 281, §15, formerly §14, as added May 14, 1970, Pub. L. 91–248, §9, 84 Stat. 213; amended Nov. 7, 1973, Pub. L. 93–150, §8, 87 Stat. 564; renumbered §15, June 30, 1974, Pub. L. 93–326, §2, 88 Stat. 286; Nov. 10, 1977, Pub. L. 95–166, §16, 91 Stat. 1344; Aug. 13, 1981, Pub. L. 97–35, title VIII, §819(i), 95 Stat. 533, established National Advisory Council on Child Nutrition.

§1764. Repealed. Pub. L. 94–105, §22, Oct. 7, 1975, 89 Stat. 528

Section, act June 4, 1946, ch. 281, §15, as added June 30, 1971, Pub. L. 92–32, §1, 85 Stat. 85, authorized use, during fiscal 1971, of not to exceed $35,000,000 from section 612c of Title 7, and not to exceed $100,000,000 during fiscal 1972 to carry out provisions of this chapter, with unexpended funds to remain available in accordance with last sentence of section 1752 of this title.

§1765. Election to receive cash payments

(a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 1755(c) of this title.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural

commodities and other foods for their food service programs.

(June 4, 1946, ch. 281, §16, as added Pub. L. 94–105, §12, Oct. 7, 1975, 89 Stat. 515; amended Pub. L. 101–147, title III, §309, Nov. 10, 1989, 103 Stat. 915; Pub. L. 105–336, title I, §101(b), Oct. 31, 1998, 112 Stat. 3144.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–336 substituted "1755(c)" for "1755(e)".
1989—Pub. L. 101–147 inserted "Election to receive cash payments" as section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

§1766. Child and adult care food program

(a) Program purpose, grant authority and institution eligibility

(1) In general

(A) Program purpose

(i) Findings

Congress finds that—

(I) eating habits and other wellness-related behavior habits are established early in life; and

(II) good nutrition and wellness are important contributors to the overall health of young children and essential to cognitive development.

(ii) Purpose

The purpose of the program authorized by this section is to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children, and the health and wellness of older adults and chronically impaired disabled persons.

(B) Grant authority

The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care.

(2) Definition of institution

In this section, the term "institution" means—

(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

(B) any other private organization providing nonresidential child care or day care outside

school hours for school children, if—

(i) at least 25 percent of the children served by the organization meet the income eligibility criteria established under section 1758(b) of this title for free or reduced price meals; or

(ii) the organization receives compensation from amounts granted to the States under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) (but only if the organization receives compensation under that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);

(C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));

(D) any other private organization acting as a sponsoring organization for, and that is part of the same legal entity as, one or more organizations that are—

(i) described in subparagraph (B); or

(ii) proprietary title XIX or title XX centers (as defined in subsection (o)(2));

(E) any public or private nonprofit organization acting as a sponsoring organization for one or more family or group day care homes; and

(F) any emergency shelter (as defined in subsection (t)).

(3) Age limit

Except as provided in subsection (r), reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with disabilities).

(4) Additional guidelines

The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.

(5) Licensing

In order to be eligible, an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—

(A)(i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

(ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

(B) if Federal, State, or local licensing or approval is not available—

(i) meet any alternate approval standards established by the appropriate State or local governmental agency; or

(ii) meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for the institution, meet State or local health and safety standards.

(6) Eligibility criteria

No institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child and adult care food program, or any other program under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et

seq.], or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program, for a period of time specified by the Secretary;

(C)(i) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and

(ii) in the case of a sponsoring organization, the organization shall employ an appropriate number of monitoring personnel based on the number and characteristics of child care centers and family or group day care homes sponsored by the organization, as approved by the State (in accordance with regulations promulgated by the Secretary), to ensure effective oversight of the operations of the child care centers and family or group day care homes;

(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited;

(E) in the case of a sponsoring organization, the organization has in effect a policy that restricts other employment by employees that interferes with the responsibilities and duties of the employees of the organization with respect to the program; and

(F) in the case of a sponsoring organization that applies for initial participation in the program on or after June 20, 2000, and that operates in a State that requires such institutions to be bonded under State law, regulation, or policy, the institution is bonded in accordance with such law, regulation, or policy.

(b) Limitations on cash assistance

For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966 [42 U.S.C. 1779].

(c) Formula for computation of payments; national average payment rate

(1) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 1753 and 1759a of this title as appropriate (as adjusted pursuant to section 1759a(a) of this title).

(2) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 [42 U.S.C. 1773(b)] (as adjusted pursuant to section 1759a(a) of this title).

(3) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 1759a(a) of this title).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 1758 of this title.

(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B)).

(6) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).[1]

(d) Institution approval and applications

(1) Institution approval

(A) Administrative capability

Subject to subparagraph (B) and except as provided in subparagraph (C), the State agency shall approve an institution that meets the requirements of this section for participation in the child and adult care food program if the State agency determines that the institution—

(i) is financially viable;

(ii) is administratively capable of operating the program (including whether the sponsoring organization has business experience and management plans appropriate to operate the program) described in the application of the institution; and

(iii) has internal controls in effect to ensure program accountability.

(B) Approval of private institutions

(i) In general

In addition to the requirements established by subparagraph (A) and subject to clause (ii), the State agency shall approve a private institution that meets the requirements of this section for participation in the child and adult care food program only if—

(I) the State agency conducts a satisfactory visit to the institution before approving the participation of the institution in the program; and

(II) the institution—

(aa) has tax exempt status under title 26;

(bb) is operating a Federal program requiring nonprofit status to participate in the program; or

(cc) is described in subsection (a)(2)(B).

(ii) Exception for family or group day care homes

Clause (i) shall not apply to a family or group day care home.

(C) Exception for certain sponsoring organizations

(i) In general

The State agency may approve an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program only if the State agency determines that—

(I) the institution meets the requirements established by subparagraphs (A) and (B); and

(II) the participation of the institution will help to ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(ii) Criteria for selection

The State agency shall establish criteria for approving an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program for the purpose of determining if the participation of the institution will help ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(D) Notification to applicants

Not later than 30 days after the date on which an applicant institution files a completed

application with the State agency, the State agency shall notify the applicant institution whether the institution has been approved or disapproved to participate in the child and adult care food program.

(E) Permanent operating agreements

(i) In general

Subject to clauses (ii) and (iii), to participate in the child and adult care food program, an institution that meets the conditions of eligibility described in this subsection shall be required to enter into a permanent agreement with the applicable State agency.

(ii) Amendments

A permanent agreement described in clause (i) may be amended as necessary to ensure that the institution is in compliance with all requirements established in this section or by the Secretary.

(iii) Termination

A permanent agreement described in clause (i)—

(I) may be terminated for convenience by the institution or State agency that is a party to the permanent agreement; and

(II) shall be terminated—

(aa) for cause by the applicable State agency in accordance with paragraph (5); or

(bb) on termination of participation of the institution in the child and adult care food program.

(2) Program applications

(A) In general

The Secretary shall develop a policy under which each institution providing child care that participates in the program under this section shall—

(i) submit to the State agency an initial application to participate in the program that meets all requirements established by the Secretary by regulation;

(ii) annually confirm to the State agency that the institution, and any facilities of the institution in which the program is operated by a sponsoring organization, is in compliance with subsection (a)(5); and

(iii) annually submit to the State agency any additional information necessary to confirm that the institution is in compliance with all other requirements to participate in the program, as established in this chapter and by the Secretary by regulation.

(B) Required reviews of sponsored facilities

(i) In general

The Secretary shall develop a policy under which each sponsoring organization participating in the program under this section shall conduct—

(I) periodic unannounced site visits at not less than 3-year intervals to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) at least 1 scheduled site visit each year to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations.

(ii) Varied timing

Sponsoring organizations shall vary the timing of unannounced reviews under clause (i)(I) in a manner that makes the reviews unpredictable to sponsored facilities.

(C) Required reviews of institutions

The Secretary shall develop a policy under which each State agency shall conduct—

(i) at least 1 scheduled site visit at not less than 3-year intervals to each institution under

the State agency participating in the program under this section—

(I) to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) to improve program operations; and

(ii) more frequent reviews of any institution that—

(I) sponsors a significant share of the facilities participating in the program;

(II) conducts activities other than the program authorized under this section;

(III) has serious management problems, as identified in a prior review, or is at risk of having serious management problems; or

(IV) meets such other criteria as are defined by the Secretary.

(D) Detection and deterrence of erroneous payments and false claims

(i) In general

The Secretary may develop a policy to detect and deter, and recover erroneous payments to, and false claims submitted by, institutions, sponsored child and adult care centers, and family or group day care homes participating in the program under this section.

(ii) Block claims

(I) Definition of block claim

In this clause, the term "block claim" has the meaning given the term in section 226.2 of title 7, Code of Federal Regulations (or successor regulations).

(II) Program edit checks

The Secretary may not require any State agency, sponsoring organization, or other institution to perform edit checks or on-site reviews relating to the detection of block claims by any child care facility.

(III) Allowance

Notwithstanding subclause (II), the Secretary may require any State agency, sponsoring organization, or other institution to collect, store, and transmit to the appropriate entity information necessary to develop any other policy developed under clause (i).

(3) Program information

(A) In general

On enrollment of a child in a sponsored child care center or family or group day care home participating in the program, the center or home (or its sponsoring organization) shall provide to the child's parents or guardians—

(i) information that describes the program and its benefits; and

(ii) the name and telephone number of the sponsoring organization of the center or home and the State agency involved in the operation of the program.

(B) Form

The information described in subparagraph (A) shall be in a form and, to the maximum extent practicable, language easily understandable by the child's parents or guardians.

(4) Allowable administrative expenses for sponsoring organizations

In consultation with State agencies and sponsoring organizations, the Secretary shall develop, and provide for the dissemination to State agencies and sponsoring organizations of, a list of allowable reimbursable administrative expenses for sponsoring organizations under the program.

(5) Termination or suspension of participating organizations

(A) In general

The Secretary shall establish procedures for the termination of participation by institutions and family or group day care homes under the program.

(B) Standards

Procedures established pursuant to subparagraph (A) shall include standards for terminating the participation of an institution or family or group day care home that—

(i) engages in unlawful practices, falsifies information provided to the State agency, or conceals a criminal background; or

(ii) substantially fails to fulfill the terms of its agreement with the State agency.

(C) Corrective action

Procedures established pursuant to subparagraph (A)—

(i) shall require an entity described in subparagraph (B) to undertake corrective action; and

(ii) may require the immediate suspension of operation of the program by an entity described in subparagraph (B), without the opportunity for corrective action, if the State agency determines that there is imminent threat to the health or safety of a participant at the entity or the entity engages in any activity that poses a threat to public health or safety.

(D) Hearing

(i) In general

Except as provided in clause (ii), an institution or family or group day care home shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to terminate participation by the institution or family or group day care home under the program.

(ii) Exception for false or fraudulent claims

(I) In general

If a State agency determines that an institution has knowingly submitted a false or fraudulent claim for reimbursement, the State agency may suspend the participation of the institution in the program in accordance with this clause.

(II) Requirement for review

Prior to any determination to suspend participation of an institution under subclause (I), the State agency shall provide for an independent review of the proposed suspension in accordance with subclause (III).

(III) Review procedure

The review shall—

(aa) be conducted by an independent and impartial official other than, and not accountable to, any person involved in the determination to suspend the institution;

(bb) provide the State agency and the institution the right to submit written documentation relating to the suspension, including State agency documentation of the alleged false or fraudulent claim for reimbursement and the response of the institution to the documentation;

(cc) require the reviewing official to determine, based on the review, whether the State agency has established, based on a preponderance of the evidence, that the institution has knowingly submitted a false or fraudulent claim for reimbursement;

(dd) require the suspension to be in effect for not more than 120 calendar days after the institution has received notification of a determination of suspension in accordance with this clause; and

(ee) require the State agency during the suspension to ensure that payments continue to be made to sponsored centers and family and group day care homes meeting the requirements of the program.

(IV) Hearing

A State agency shall provide an institution that has been suspended from participation in the program under this clause an opportunity for a fair hearing on the suspension conducted in accordance with subsection (e)(1).

(E) List of disqualified institutions and individuals

(i) In general

The Secretary shall maintain a list of institutions, sponsored family or group day care homes, and individuals that have been terminated or otherwise disqualified from participation in the program.

(ii) Availability

The Secretary shall make the list available to State agencies for use in approving or renewing applications by institutions, sponsored family or group day care homes, and individuals for participation in the program.

(e) Hearings

(1) In general

Except as provided in paragraph (4), each State agency shall provide, in accordance with regulations promulgated by the Secretary, an opportunity for a fair hearing and a prompt determination to any institution aggrieved by any action of the State agency that affects—

(A) the participation of the institution in the program authorized by this section; or

(B) the claim of the institution for reimbursement under this section.

(2) Reimbursement

In accordance with paragraph (3), a State agency that fails to meet timeframes for providing an opportunity for a fair hearing and a prompt determination to any institution under paragraph (1) in accordance with regulations promulgated by the Secretary, shall pay, from non-Federal sources, all valid claims for reimbursement to the institution and the facilities of the institution during the period beginning on the day after the end of any regulatory deadline for providing the opportunity and making the determination and ending on the date on which a hearing determination is made.

(3) Notice to State agency

The Secretary shall provide written notice to a State agency at least 30 days prior to imposing any liability for reimbursement under paragraph (2).

(4) Federal audit determination

A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

(5) Secretarial hearing

If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

(f) State disbursements to institutions

(1) IN GENERAL.—

(A) REQUIREMENT.—Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(B) FRAUD OR ABUSE.—

(i) IN GENERAL.—The State may recover funds disbursed under subparagraph (A) to an institution if the State determines that the institution has engaged in fraud or abuse with respect to the program or has submitted an invalid claim for reimbursement.

(ii) PAYMENT.—Amounts recovered under clause (i)—

(I) may be paid by the institution to the State over a period of one or more years; and
(II) shall not be paid from funds used to provide meals and supplements.

(iii) HEARING.—An institution shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to recover funds under this subparagraph.

(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), 2 meals and 1 supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.

(C) LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), a sponsoring organization of a day care center may reserve not more than 15 percent of the funds provided under paragraph (1) for the administrative expenses of the organization.

(ii) WAIVER.—A State may waive the requirement in clause (i) with respect to a sponsoring organization if the organization provides justification to the State that the organization requires funds in excess of 15 percent of the funds provided under paragraph (1) to pay the administrative expenses of the organization.

(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) REIMBURSEMENT FACTOR.—

(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term "tier I family or group day care home" means—

(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title;

(bb) a family or group day care home that is located in an area served by a school enrolling students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 1758 of this title and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a

requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title.

(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title.

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(III) INFORMATION AND DETERMINATIONS.—

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating

in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 1758 of this title to be a child who is a member of a household whose income meets the income eligibility guidelines under section 1758 of this title.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

(dd) TRANSMISSION OF INCOME INFORMATION BY SPONSORED FAMILY OR GROUP DAY CARE HOMES.—If a family or group day care home elects to be provided reimbursement factors described in subclause (II), the family or group day care home may assist in the transmission of necessary household income information to the family or group day care home sponsoring organization in accordance with the policy described in item (ee).

(ee) POLICY.—The Secretary shall develop a policy under which a sponsored family or group day care home described in item (dd) may, under terms and conditions specified by the Secretary and with the written consent of the parents or guardians of a child in a family or group day care home participating in the program, assist in the transmission of the income information of the family to the family or group day care home sponsoring organization.

(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 1758 of this title, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

(cc) Such other simplified procedures as the Secretary may prescribe.

(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.

(B) ADMINISTRATIVE FUNDS.—

(i) IN GENERAL.—In addition to reimbursement factors described in subparagraph (A), a family or group day care home sponsoring organization shall receive reimbursement for the administrative expenses of the sponsoring organization in an amount that is not less than the product obtained each month by multiplying—

(I) the number of family and group day care homes of the sponsoring organization submitting a claim for reimbursement during the month; by

(II) the appropriate administrative rate determined by the Secretary.

(ii) ANNUAL ADJUSTMENT.—The administrative reimbursement levels specified in

clause (i) shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available.

(iii) CARRYOVER FUNDS.—The Secretary shall develop procedures under which not more than 10 percent of the amount made available to sponsoring organizations under this section for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year.

(C)(i) Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to assist unlicensed family or group day care homes in becoming licensed.

(D) LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Subject to clause (ii), a State agency shall limit the ability of a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year.

(ii) GOOD CAUSE.—The State agency may permit or require a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year for good cause (as determined by the State agency), including circumstances in which the sponsoring organization of the family or group day care home ceases to participate in the child and adult care food program.

(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

(ii) SCHOOL DATA.—

(I) IN GENERAL.—A State agency administering the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal

year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 5 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

(4) By the first day of each month of operation, the State may provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g) Nutritional requirements for meals and snacks served in institutions and family or group day care homes

(1) Definition of dietary guidelines

In this subsection, the term "Dietary Guidelines" means the Dietary Guidelines for Americans published under section 5341 of title 7.

(2) Nutritional requirements

(A) In general

Except as provided in subparagraph (C), reimbursable meals and snacks served by institutions, family or group day care homes, and sponsored centers participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

(B) Conformity with the dietary guidelines and authoritative science

(i) In general

Not less frequently than once every 10 years, the Secretary shall review and, as appropriate, update requirements for meals served under the program under this section to ensure that the meals—

(I) are consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program authorized under this section, as indicated by the most recent relevant nutrition science and appropriate authoritative scientific agency and organization recommendations.

(ii) Cost review

The review required under clause (i) shall include a review of the cost to child care centers and group or family day care homes resulting from updated requirements for meals and snacks served under the program under this section.

(iii) Regulations

Not later than 18 months after the completion of the review of the meal pattern under

clause (i), the Secretary shall promulgate proposed regulations to update the meal patterns for meals and snacks served under the program under this section.

(C) Exceptions

(i) Special dietary needs

The minimum nutritional requirements prescribed under subparagraph (A) shall not prohibit institutions, family or group day care homes, and sponsored centers from substituting foods to accommodate the medical or other special dietary needs of individual participants.

(ii) Exempt institutions

The Secretary may elect to waive all or part of the requirements of this subsection for emergency shelters participating in the program under this section.

(3) Meal service

Institutions, family or group day care homes, and sponsored centers shall ensure that reimbursable meal service contributes to the development and socialization of enrolled children by providing that food is not used as a punishment or reward.

(4) Fluid milk

(A) In general

If an institution, family or group day care home, or sponsored center provides fluid milk as part of a reimbursable meal or supplement, the institution, family or group day care home, or sponsored center shall provide the milk in accordance with the most recent version of the Dietary Guidelines.

(B) Milk substitutes

In the case of children who cannot consume fluid milk due to medical or other special dietary needs other than a disability, an institution, family or group day care home, or sponsored center may substitute for the fluid milk required in meals served, a nondairy beverage that—

(i) is nutritionally equivalent to fluid milk; and

(ii) meets nutritional standards established by the Secretary, including, among other requirements established by the Secretary, fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk.

(C) Approval

(i) In general

A substitution authorized under subparagraph (B) may be made—

(I) at the discretion of and on approval by the participating day care institution; and

(II) if the substitution is requested by written statement of a medical authority, or by the parent or legal guardian of the child, that identifies the medical or other special dietary need that restricts the diet of the child.

(ii) Exception

An institution, family or group day care home, or sponsored center that elects to make a substitution authorized under this paragraph shall not be required to provide beverages other than beverages the State has identified as acceptable substitutes.

(D) Excess expenses borne by institution

A participating institution, family or group day care home, or sponsored center shall be responsible for any expenses that—

(i) are incurred by the institution, family or group day care home, or sponsored center to provide substitutions under this paragraph; and

(ii) are in excess of expenses covered under reimbursements under this chapter.

(5) Nondiscrimination policy

No physical segregation or other discrimination against any person shall be made because of the

inability of the person to pay, nor shall there be any overt identification of any such person by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(6) Use of abundant and donated foods

To the maximum extent practicable, each institution shall use in its food service foods that are—

(A) designated from time to time by the Secretary as being in abundance, either nationally or in the food service area; or

(B) donated by the Secretary.

(h) Donation of agricultural commodities by Secretary; measurement of value; annual readjustment of assistance; cash in lieu of commodities; Department of Defense child care feeding program

(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 1755(c) of this title for the school year concerned.

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act [7 U.S.C. 1431], to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

(i) Audits

(1) Disregards

(A) In general

Subject to subparagraph (B), in conducting management evaluations, reviews, or audits under this section, the Secretary or a State agency may disregard any overpayment to an institution for a fiscal year if the total overpayment to the institution for the fiscal year does not exceed an amount that is consistent with the disregards allowed in other programs under this chapter and recognizes the cost of collecting small claims, as determined by the Secretary.

(B) Criminal or fraud violations

In carrying out this paragraph, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.

(2) Funding

(A) In general

The Secretary shall make available for each fiscal year to each State agency administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount of up to 1.5 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

(B) Additional funding

(i) In general

Subject to clause (ii), for fiscal year 2016 and each fiscal year thereafter, the Secretary may increase the amount of funds made available to any State agency under subparagraph (A), if the State agency demonstrates that the State agency can effectively use the funds to improve program management under criteria established by the Secretary.

(ii) Limitation

The total amount of funds made available to any State agency under this paragraph shall not exceed 2 percent of the funds used by each State agency in the program under this section, during the second preceding fiscal year.

(j) Agreements

(1) In general

The Secretary shall issue regulations directing States to develop and provide for the use of a standard form of agreement between each sponsoring organization and the family or group day care homes or sponsored day care centers participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

(2) Duration

An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.

(k) Training and technical assistance

A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

(l) Non-diminishment of State and local funds

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(m) Accounts and records

States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Authorization of appropriations

There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

(o) Participation of older persons and chronically impaired disabled persons

(1) For purposes of this section, adult day care centers shall be considered eligible institutions for

reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately 1/3 of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.

(2) For purposes of this subsection—

(A) the term "adult day care center" means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term "proprietary title XIX or title XX center" means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act [42 U.S.C. 1396 et seq., 1397 et seq.] and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consulation [2] with the Assistant Secretary for Aging, shall establish, within 6 months of October 1, 1988, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965 [42 U.S.C. 3030e et seq.], for the same meal served.

(4) For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act [42 U.S.C. 1381 et seq., 1396 et seq.].

(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

(p) Repealed. Pub. L. 111–296, title IV, §441(a)(7), Dec. 13, 2010, 124 Stat. 3264

(q) Management support

(1) Technical and training assistance

In addition to the training and technical assistance that is provided to State agencies under other

provisions of this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

(2) Technical and training assistance for identification and prevention of fraud and abuse

As part of training and technical assistance provided under paragraph (1), the Secretary shall provide training on a continuous basis to State agencies, and shall ensure that such training is provided to sponsoring organizations, for the identification and prevention of fraud and abuse under the program and to improve management of the program.

(r) Program for at-risk school children

(1) Definition of at-risk school child

In this subsection, the term "at-risk school child" means a school child who—

(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 1760(d)(1)(A) of this title; and

(B) participates in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) Participation in child and adult care food program

An institution may participate in the program authorized under this section only if the institution provides meals or supplements under a program—

(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

(B) with an educational or enrichment purpose.

(3) Administration

Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

(4) Meal and supplement reimbursement

(A) Limitations

An institution may claim reimbursement under this subsection only for one meal per child per day and one supplement per child per day served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year.

(B) Rates

(i) Meals

A meal shall be reimbursed under this subsection at the rate established for free meals under subsection (c).

(ii) Supplements

A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

(C) No charge

A meal or supplement claimed for reimbursement under this subsection shall be served without charge.

(5) Limitation

An institution participating in the program under this subsection may not claim reimbursement for meals and snacks that are served under section 1769(h) of this title on the same day.

(6) Handbook

(A) In general

Not later than 180 days after December 13, 2010, the Secretary shall—

(i) issue guidelines for afterschool meals for at-risk school children; and

(ii) publish a handbook reflecting those guidelines.

(B) Review

Each year after the issuance of guidelines under subparagraph (A), the Secretary shall—

(i) review the guidelines; and

(ii) issue a revised handbook reflecting changes made to the guidelines.

(s) Information concerning the special supplemental nutrition program for women, infants, and children

(1) In general

The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) Requirements for State agencies

Each State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

(A) receives materials that include—

(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

(ii) the maximum State income eligibility standards, according to family size, for the program; and

(iii) information concerning how benefits under the program may be obtained;

(B) receives periodic updates of the information described in subparagraph (A); and

(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.

(t) Participation by emergency shelters

(1) Definition of emergency shelter

In this subsection, the term "emergency shelter" means—

(A) an emergency shelter (as defined in section 11351 of this title); or

(B) a site operated by the shelter.

(2) Administration

Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

(3) Licensing requirements

The licensing requirements contained in subsection (a)(5) shall not apply to an emergency shelter.

(4) Health and safety standards

To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State or local health and safety standards.

(5) Meal or supplement reimbursement

(A) Limitations

An emergency shelter may claim reimbursement under this subsection—

(i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—

(I) not more than 18 years of age; or

(II) children with disabilities; and

(ii) for not more than 3 meals, or 2 meals and a supplement, per child per day.

(B) Rate

A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

(C) No charge

A meal or supplement claimed for reimbursement shall be served without charge.

(u) Promoting health and wellness in child care

(1) Physical activity and electronic media use

The Secretary shall encourage participating child care centers and family or group day care homes—

(A) to provide to all children under the supervision of the participating child care centers and family or group day care homes daily opportunities for structured and unstructured age-appropriate physical activity; and

(B) to limit among children under the supervision of the participating child care centers and family or group day care homes the use of electronic media to an appropriate level.

(2) Water consumption

Participating child care centers and family or group day care homes shall make available to children, as nutritionally appropriate, potable water as an acceptable fluid for consumption throughout the day, including at meal times.

(3) Technical assistance and guidance

(A) In general

The Secretary shall provide technical assistance to institutions participating in the program under this section to assist participating child care centers and family or group day care homes in complying with the nutritional requirements and wellness recommendations prescribed by the Secretary in accordance with this subsection and subsection (g).

(B) Guidance

Not later than January 1, 2012, the Secretary shall issue guidance to States and institutions to encourage participating child care centers and family or group day care homes serving meals and snacks under this section to—

(i) include foods that are recommended for increased serving consumption in amounts recommended by the most recent Dietary Guidelines for Americans published under section 5341 of title 7, including fresh, canned, dried, or frozen fruits and vegetables, whole grain products, lean meat products, and low-fat and non-fat dairy products; and

(ii) reduce sedentary activities and provide opportunities for regular physical activity in quantities recommended by the most recent Dietary Guidelines for Americans described in clause (i).

(C) Nutrition

Technical assistance relating to the nutritional requirements of this subsection and subsection (g) shall include—

(i) nutrition education, including education that emphasizes the relationship between nutrition, physical activity, and health;

(ii) menu planning;

(iii) interpretation of nutrition labels; and

(iv) food preparation and purchasing guidance to produce meals and snacks that are—

(I) consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program under this section, as recommended by authoritative scientific organizations.

(D) Physical activity

Technical assistance relating to the physical activity requirements of this subsection shall include—

(i) education on the importance of regular physical activity to overall health and well being; and

(ii) sharing of best practices for physical activity plans in child care centers and homes as recommended by authoritative scientific organizations.

(E) Electronic media use

Technical assistance relating to the electronic media use requirements of this subsection shall include—

(i) education on the benefits of limiting exposure to electronic media by children; and

(ii) sharing of best practices for the development of daily activity plans that limit use of electronic media.

(F) Minimum assistance

At a minimum, the technical assistance required under this paragraph shall include a handbook, developed by the Secretary in coordination with the Secretary for Health and Human Services, that includes recommendations, guidelines, and best practices for participating institutions and family or group day care homes that are consistent with the nutrition, physical activity, and wellness requirements and recommendations of this subsection.

(G) Additional assistance

In addition to the requirements of this paragraph, the Secretary shall develop and provide such appropriate training and education materials, guidance, and technical assistance as the Secretary considers to be necessary to comply with the nutritional and wellness requirements of this subsection and subsection (g).

(H) Funding

(i) In general

On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to provide technical assistance under this subsection $10,000,000, to remain available until expended.

(ii) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under clause (i), without further appropriation.

(June 4, 1946, ch. 281, §17, as added Pub. L. 94–105, §16, Oct. 7, 1975, 89 Stat. 522; amended Pub. L. 95–166, §§3, 19(d), Nov. 10, 1977, 91 Stat. 1332, 1345; Pub. L. 95–627, §2, Nov. 10, 1978, 92 Stat. 3603; Pub. L. 96–499, title II, §§207(a), 208(b), (c), Dec. 5, 1980, 94 Stat. 2602; Pub. L. 97–35, title VIII, §§810, 817(c), 819(k), Aug. 13, 1981, 95 Stat. 528, 532, 534; Pub. L. 99–500, title III, §§361, 372(a), Oct. 18, 1986, 100 Stat. 1783–367, 1783–369, and Pub. L. 99–591, title III, §§361, 372(a), Oct. 30, 1986, 100 Stat. 3341–370, 3341–372; Pub. L. 99–661, div. D, title IV, §4401, title V, §4502(a), Nov. 14, 1986, 100 Stat. 4079, 4080; Pub. L. 100–175, title IV, §401, Nov. 29, 1987, 101 Stat. 972; Pub. L. 100–435, title II, §§211, 214, Sept. 19, 1988, 102 Stat. 1657, 1659; Pub. L. 100–460, title VI, §641, Oct. 1, 1988, 102 Stat. 2265; Pub. L. 101–147, title I, §§105(a), (b), 131(b), title II, §204(a), title III, §§310, 312(2), Nov. 10, 1989, 103 Stat. 883, 907, 909, 915, 916; Pub. L. 102–342, title II, §§202, 203, Aug. 14, 1992, 106 Stat. 913; Pub. L. 102–375, title VIII, §811(a), Sept. 30, 1992, 106 Stat. 1295; Pub. L. 103–171, §3(b)(4), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 103–448, title I, §§105(c), 109(b), 116, Nov. 2, 1994, 108 Stat. 4702, 4705, 4714; Pub. L. 104–193,

title VII, §708(a)–(j), Aug. 22, 1996, 110 Stat. 2293–2299; Pub. L. 105–336, title I, §§101(b), 107(a)–(j)(1), (2)(B), (3)(C), Oct. 31, 1998, 112 Stat. 3144, 3149–3153; Pub. L. 106–224, title II, §243(a), (b)(1)–(4)(A), (5), (c)–(g)(1), (h), (i), June 20, 2000, 114 Stat. 413–420; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 106–472, title III, §307(c), Nov. 9, 2000, 114 Stat. 2073; Pub. L. 106–554, §1(a)(4) [div. B, title I, §101(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–214; Pub. L. 107–76, title VII, §§743, 771, Nov. 28, 2001, 115 Stat. 738, 745; Pub. L. 108–7, div. A, title VII, §735, Feb. 20, 2003, 117 Stat. 43; Pub. L. 108–134, §2, Nov. 22, 2003, 117 Stat. 1389; Pub. L. 108–211, §2, Mar. 31, 2004, 118 Stat. 566; Pub. L. 108–265, title I, §119(a)–(h), June 30, 2004, 118 Stat. 753–755; Pub. L. 110–134, §29(c)(2), Dec. 12, 2007, 121 Stat. 1449; Pub. L. 110–161, div. A, title VII, §744, Dec. 26, 2007, 121 Stat. 1881; Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(Z), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(Z), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 111–8, div. A, title VII, §735, Mar. 11, 2009, 123 Stat. 559; Pub. L. 111–80, title VII, §730, Oct. 21, 2009, 123 Stat. 2125; Pub. L. 111–296, title I, §§121, 122, title II, §221, title III, §§331–335, title IV, §441(a)(7), (8), Dec. 13, 2010, 124 Stat. 3205, 3224, 3248–3252, 3264.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(2)(B)(ii) and (o)(2)(B), (5)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI, XIX, and XX of the Act are classified generally to subchapters XVI (§1381 et seq.), XIX (§1396 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Child Nutrition Act of 1966, referred to in subsecs. (a)(6)(B), (f)(3)(A)(ii)(I)(bb), (E)(ii)(I), (q)(1), and (r)(1)(B), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Head Start Act, referred to in subsec. (c)(5), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

Part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(6), means part B of chapter 1 of title I of Pub. L. 89–10 which was classified generally to part B (§2741 et seq.) of division 1 of subchapter I of chapter 47 of Title 20, Education, prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

The Agricultural Act of 1949, referred to in subsec. (h)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified principally to chapter 35A (§1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

The Older Americans Act of 1965, referred to in subsec. (o)(3)(B), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218. Part C of title III of the Older Americans Act of 1965 is classified generally to part C (§3030e et seq.) of subchapter III of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (o)(5)(A), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

October 1, 1988, referred to in subsec. (o)(3)(A) [formerly (p)(3)(A)], was in the original "enactment", which was translated as meaning the date of enactment of Pub. L. 100–460, which amended subsec. (p)(3)(A) generally, to reflect the probable intent of Congress.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–296, §221(1), substituted "Program purpose, grant authority and institution eligibility" for "Grant authority and institution eligibility" in heading.

Subsec. (a)(1). Pub. L. 111–296, §221(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care."

Subsec. (d)(1)(E). Pub. L. 111–296, §331(a), added subpar. (E).

Subsec. (d)(2). Pub. L. 111–296, §331(b), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows:

"(2)(A) The Secretary shall develop a policy that—

"(i) allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 3-year intervals;

"(ii)(I) requires periodic unannounced site visits at not less than 3-year intervals to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program;

"(II) requires at least one scheduled site visit each year to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

"(III) requires at least one scheduled site visit at not less than 3-year intervals to sponsoring organizations and nonsponsored child care centers to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

"(iii) requires periodic site visits to private institutions that the State agency determines have a high probability of program abuse.

"(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(5) of this section."

Subsec. (e). Pub. L. 111–296, §332, inserted subsec. heading, added pars. (1) to (3), redesignated former pars. (2) and (3) as (4) and (5), respectively, and inserted par. headings, and struck out former par. (1) which read as follows: "Except as provided in paragraph (2), the State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section."

Subsec. (f)(3)(A)(ii)(I)(bb). Pub. L. 111–296, §121, struck out "elementary" after "school enrolling".

Subsec. (f)(3)(A)(iii)(III)(dd), (ee). Pub. L. 111–296, §333, added items (dd) and (ee).

Subsec. (f)(3)(B). Pub. L. 111–296, §334, added subpar. (B) and struck out former subpar. (B) which read as follows: "Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available."

Subsec. (g). Pub. L. 111–296, §221(2), added subsec. (g) and struck out former subsec. (g) which related to meals served by participating institutions and compliance assistance.

Subsec. (i)(2). Pub. L. 111–296, §335, added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent) of the funds used by each State in the program under this section, during the second preceding fiscal year."

Subsec. (j)(1). Pub. L. 111–296, §331(c), substituted "Secretary shall" for "Secretary may", struck out "family or group day care" after "agreement between each", and inserted "or sponsored day care centers" after "day care homes".

Subsec. (p). Pub. L. 111–296, §441(a)(7), struck out subsec. (p) which related to rural area eligibility determination for day care homes.

Subsec. (q)(3). Pub. L. 111–296, §441(a)(8), struck out par. (3). Text read as follows: "For each of fiscal years 2005 and 2006, the Secretary shall reserve to carry out paragraph (1) $1,000,000 of the amounts made available to carry out this section."

Subsec. (r)(5), (6). Pub. L. 111–296, §122, added pars. (5) and (6) and struck out former par. (5). Prior to amendment, text read as follows: "The Secretary shall limit reimbursement under this subsection for meals served under a program to institutions located in the District of Columbia and thirteen States, of which eleven States shall be Connecticut, Nevada, Wisconsin, Vermont, Maryland, West Virginia, Illinois, Pennsylvania, Missouri, Delaware, and Michigan and two States shall be approved by the Secretary through a competitive application process."

Subsec. (u). Pub. L. 111–296, §221(3), added subsec. (u).

2009—Subsec. (r)(5). Pub. L. 111–80 substituted "the District of Columbia and thirteen" for "ten" and "eleven" for "eight" and inserted "Connecticut, Nevada, Wisconsin," before "Vermont,".

Pub. L. 111–8 substituted "located in ten" for "located in eight" and "of which eight" for "of which six" and inserted "Vermont, Maryland," before "West Virginia,".

2008—Subsec. (o)(5)(A). Pub. L. 110–246, §4002(b)(1)(B), (2)(Z), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

2007—Subsec. (c)(5). Pub. L. 110–134 substituted "the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B))" for "the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))".

Subsec. (r)(5). Pub. L. 110–161 substituted "eight" for "seven" and "six" for "five" and inserted "West Virginia," before "Illinois, Pennsylvania,".

2004—Subsec. (a)(2)(B)(i). Pub. L. 108–265, §119(a)(1), struck out "during the period beginning on December 21, 2000, and ending on June 30, 2004," before "at least".

Pub. L. 108–211 substituted "June 30, 2004" for "March 31, 2004".

Subsec. (a)(6)(B). Pub. L. 108–265, §119(h)(1), inserted "and adult" after "child".

Subsec. (f)(3)(E)(iii). Pub. L. 108–265, §119(b), substituted "5 years" for "3 years".

Subsec. (i). Pub. L. 108–265, §119(c), inserted subsec. heading, designated existing provisions as par. (2), inserted par. heading, and added par. (1).

Subsec. (j). Pub. L. 108–265, §119(d), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (p). Pub. L. 108–265, §119(e), added subsec. (p).

Pub. L. 108–265, §119(a)(2), struck out subsec. (p), which related to demonstration projects for qualification under this section of private for-profit organizations providing nonresidential day care services.

Subsec. (q)(3). Pub. L. 108–265, §119(f), substituted "2005 and 2006" for "1999 through 2003".

Subsec. (t)(3). Pub. L. 108–265, §119(h)(2), substituted "subsection (a)(5)" for "subsection (a)(1)".

Subsec. (t)(5)(A)(i). Pub. L. 108–265, §119(g), in subcl. (I), substituted "18" for "12" and inserted "or" at end, redesignated subcl. (III) as (II), and struck out former subcl. (II) which read as follows: "children of migrant workers, if the children are not more than 15 years of age; or".

2003—Subsec. (a)(2)(B)(i). Pub. L. 108–134 substituted "March 31, 2004" for "September 30, 2003".

Pub. L. 108–7 substituted "2003" for "2002".

2001—Subsec. (a)(2)(B)(i). Pub. L. 107–76, §743, substituted "2002" for "2001".

Subsec. (r)(5). Pub. L. 107–76, §771, substituted "located in seven" for "located in six" and "of which five" for "of which four" and inserted "Illinois," before "Pennsylvania".

2000—Pub. L. 106–472, §307(c)(1)(A), made technical amendment to section catchline.

Subsec. (a). Pub. L. 106–224, §243(a)(1)–(7), inserted subsec. (a) heading, inserted par. (1) designation and heading before "The Secretary may carry", substituted par. (2) for "For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for children with disabilities; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act (but only if such organization receives compensation under such title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less). In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, public or nonprofit private organizations that sponsor family or group day care homes, and emergency shelters (as provided in subsection (t) of this section).", inserted par. (3) designation and heading before "Except as provided in subsection (r)", inserted par. (4) designation and heading before "The Secretary may establish separate guidelines", inserted par. (5) designation and heading after "school children outside of school hours.", substituted "In order to be eligible," for "For purposes of determining eligibility—", struck out former par. (1) designation before "an institution (except a school or family", substituted "standards." for "standards; and", and substituted par. (6) designation and heading for former par. (2) designation and "No institution" for "no institution".

Subsec. (a)(2)(B). Pub. L. 106–554 substituted "children, if—" for "children for which", added cl. (i), and designated remaining provisions as cl. (ii).

Subsec. (a)(6)(B). Pub. L. 106–224, §243(a)(8)(A), inserted ", or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program" before ", for a period".

Subsec. (a)(6)(C). Pub. L. 106–224, §243(a)(8)(B), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(6)(C)(ii). Pub. L. 106–472, §307(c)(1)(B), struck out "and" at end.

Subsec. (a)(6)(D). Pub. L. 106–224, §243(a)(8)(C), substituted a semicolon for the period at end.

Subsec. (a)(6)(E), (F). Pub. L. 106–224, §243(a)(8)(D), added subpars. (E) and (F).

Subsec. (d). Pub. L. 106–224, §243(b)(1), inserted subsec. heading.

Subsec. (d)(1). Pub. L. 106–224, §243(b)(1), added par. (1) and struck out former par. (1), which had provided that any eligible public institution would be approved upon its request, that any eligible private institution would be approved if it had been visited by a State agency and had either tax exempt status or had been operating a Federal program requiring nonprofit status, and set forth provisions relating to tax exempt certification of family or group day care homes, authorizing temporary participation for an institution moving toward compliance, and requiring notice of approval or disapproval of application within 30 days after filing.

Subsec. (d)(2)(A)(ii), (iii). Pub. L. 106–224, §243(b)(2), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (d)(2)(B). Pub. L. 106–224, §243(b)(3), substituted "subsection (a)(5)" for "subsection (a)(1)".

Subsec. (d)(3). Pub. L. 106–224, §243(b)(4)(A), added par. (3).

Subsec. (d)(4). Pub. L. 106–224, §243(b)(5), added par. (4).

Subsec. (d)(5). Pub. L. 106–224, §243(c), added par. (5).

Subsec. (d)(5)(D). Pub. L. 106–472, §307(c)(2), designated existing provisions as cl. (i), inserted cl. (i) heading, substituted "Except as provided in cl. (ii), an institution" for "An institution", and added cl. (ii).

Subsec. (f). Pub. L. 106–224, §243(d)(1), inserted heading.

Subsec. (f)(1). Pub. L. 106–224, §243(d), inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (f)(2)(C). Pub. L. 106–224, §243(e), added subpar. (C).

Subsec. (f)(3)(D). Pub. L. 106–224, §243(f), added subpar. (D) and struck out former subpar. (D), which required the Secretary to reserve $5,000,000 of the amount made available for fiscal year 1997 for grants to States to provide assistance to family or group day care homes and set forth provisions relating to allocation and retention of funds and additional payments.

Subsec. (p)(1). Pub. L. 106–224, §243(g)(1)(A), substituted "State-wide demonstration projects in three States" for "2 statewide demonstration projects" in first sentence of introductory provisions.

Subsec. (p)(3). Pub. L. 106–224, §243(g)(1)(B)(i), inserted "in" after "subsection" in introductory provisions.

Subsec. (p)(3)(C). Pub. L. 106–224, §243(g)(1)(B)(ii)–(iv), added subpar. (C).

Subsec. (p)(3)(C)(iii). Pub. L. 106–472, §307(c)(3)(A), substituted "all low-income families" for "all families".

Subsec. (p)(3)(C)(iv). Pub. L. 106–472, §307(c)(3)(B), substituted "reported for fiscal year 1998" for "made".

Subsec. (q)(2), (3). Pub. L. 106–224, §243(h), added par. (2) and redesignated former par. (2) as (3).

Subsec. (r)(2). Pub. L. 106–224, §243(i)(1), inserted "meals or" before "supplements" in introductory provisions.

Subsec. (r)(4). Pub. L. 106–224, §243(i)(2)(A), substituted "Meal and supplement" for "Supplement" in par. heading.

Subsec. (r)(4)(A). Pub. L. 106–224, §243(i)(2)(B), substituted "only for one meal per child per day and one supplement per child per day" for "only for—", struck out "(i) a supplement" before "served under", substituted a period for "; and", and struck out cl. (ii) which read as follows: "one supplement per child per day."

Subsec. (r)(4)(B). Pub. L. 106–224, §243(i)(2)(C), in par. heading, substituted "Rates" for "Rate", added cl. (i), designated existing provisions as cl. (ii), and inserted cl. (ii) heading.

Subsec. (r)(4)(C). Pub. L. 106–224, §243(i)(2)(D), inserted "meal or" before "supplement".

Subsec. (r)(5). Pub. L. 106–224, §243(i)(3), added par. (5).

Subsec. (t)(1)(A). Pub. L. 106–400 made technical amendment to reference in original act which appears in text as reference to section 11351 of this title.

1998—Subsec. (a). Pub. L. 105–336, §107(j)(3)(C), substituted "children with disabilities" for "children with handicaps" in two places in introductory provisions.

Pub. L. 105–336, §107(j)(2)(B), in third sentence of introductory provisions, substituted "public" for "and public" and inserted, ", and emergency shelters (as provided in subsection (t) of this section)" before period at end.

Pub. L. 105–336, §107(a)(1), in fourth sentence of introductory provisions, substituted "Except as provided

in subsection (r) of this section, reimbursement" for "Reimbursement".

Subsec. (a)(1). Pub. L. 105–336, §107(a)(2), added par. (1) and struck out former par. (1) which read as follows: "no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; and".

Subsec. (c)(6). Pub. L. 105–336, §107(b), struck out "(A)" before "A child" and struck out subpar. (B) which read as follows: "Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997."

Subsec. (d)(1). Pub. L. 105–336, §107(c)(1), (d), inserted "has been visited by a State agency prior to approval and it" after "if it" in second sentence, inserted "An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution." after third sentence, and struck out at end "If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application."

Subsec. (d)(2)(A). Pub. L. 105–336, §107(c)(2), substituted "policy that—" for "policy that", inserted "(i)" before "allows institutions", substituted "; and" for period at end, and added cl. (ii).

Subsec. (h)(1)(B). Pub. L. 105–336, §101(b), substituted "1755(c)" for "1755(e)".

Subsec. (i). Pub. L. 105–336, §107(e), substituted "1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent)" for "2 percent".

Subsec. (p)(4), (5). Pub. L. 105–336, §107(f), struck out pars. (4) and (5) which read as follows:

"(4) Such project shall—

"(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

"(B) terminate on September 30, 1998.

"(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1998, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts."

Subsec. (q). Pub. L. 105–336, §107(g), added subsec. (q).

Subsec. (r). Pub. L. 105–336, §107(h), added subsec. (r).

Subsec. (s). Pub. L. 105–336, §107(i), added subsec. (s).

Subsec. (t). Pub. L. 105–336, §107(j)(1), added subsec. (t).

1996—Subsec. (a). Pub. L. 104–193, §708(a), substituted "initiate and maintain nonprofit food service programs" for "initiate, maintain, and expand nonprofit food service programs" in first sentence.

Subsec. (a)(2)(D). Pub. L. 104–193, §708(b), added subpar. (D).

Subsec. (c)(1) to (3). Pub. L. 104–193, §708(e)(4), inserted "except as provided in subsection (f)(3)," after "For purposes of this section,".

Subsec. (d)(1). Pub. L. 104–193, §708(c), struck out ", and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application" before period at end.

Subsec. (f)(2)(B). Pub. L. 104–193, §708(d), substituted "2 meals and 1 supplement" for "two meals and two supplements or three meals and one supplement".

Subsec. (f)(3). Pub. L. 104–193, §708(e)(1), inserted heading.

Subsec. (f)(3)(A). Pub. L. 104–193, §708(e)(1), added heading and text of subpar. (A) and struck out former subpar. (A) which read as follows: "Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the eligibility standards for free or reduced price meals under section 1758 of this title. The reimbursement factor in effect as of August 13, 1981, shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect changes in the Consumer Price Index for food

away from home for the most recent 12-month period for which such data are available. The reimbursement factor under this subparagraph shall be rounded to the nearest one-fourth cent."

Subsec. (f)(3)(B). Pub. L. 104–193, §708(f)(1)(A), struck out at end "The maximum allowable levels for administrative expense payments, as in effect as of August 13, 1981, shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes."

Subsec. (f)(3)(C)(ii). Pub. L. 104–193, §708(f)(1)(B), substituted "assist unlicensed family or group day care homes in becoming" for "conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become".

Subsec. (f)(3)(D). Pub. L. 104–193, §708(e)(2), added subpar. (D).

Subsec. (f)(3)(E). Pub. L. 104–193, §708(e)(3), added subpar. (E).

Subsec. (f)(4). Pub. L. 104–193, §708(f)(2), substituted "State may provide" for "State shall provide" in first sentence.

Subsec. (g)(1)(A). Pub. L. 104–193, §708(g)(1), struck out at end "Such meals shall be served free to needy children."

Subsec. (g)(1)(B). Pub. L. 104–193, §708(g)(2), struck out at end "The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements."

Subsec. (k). Pub. L. 104–193, §708(h), added heading and text of subsec. (k) and struck out former subsec. (k) consisting of pars. (1) to (3) which related to training and technical assistance, monitoring, research, and demonstration projects.

Subsec. (m). Pub. L. 104–193, §708(i), substituted "available at any reasonable time" for "available at all times".

Subsec. (q). Pub. L. 104–193, §708(j), struck out subsec. (q) which related to provision of information concerning special supplemental nutrition program for women, infants, and children.

1994—Subsec. (c)(5). Pub. L. 103–448, §109(b), added par. (5).

Subsec. (c)(6). Pub. L. 103–448, §116(a), added par. (6).

Subsec. (d)(2)(A). Pub. L. 103–448, §116(b), substituted "3-year intervals" for "2-year intervals".

Subsec. (f)(3)(C). Pub. L. 103–448, §116(c), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (g)(1). Pub. L. 103–448, §105(c), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k)(4). Pub. L. 103–448, §116(d), added par. (4).

Subsec. (p). Pub. L. 103–448, §116(e), substituted "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less," for "25 percent of the children served by such organization" in par. (1)(A), "1998" for "1992" in par. (4)(B), and "1998" for "1994" in par. (5).

Subsec. (q). Pub. L. 103–448, §116(f), added subsec. (q).

1993—Subsec. (o)(3)(A). Pub. L. 103–171 substituted "Assistant Secretary for Aging" for "Commissioner of Aging".

1992—Subsec. (a). Pub. L. 102–342, §202, substituted "of its enrolled children or 25 percent of its licensed capacity, whichever is less" for "of the children for which the organization provides such nonresidential day care services".

Subsec. (o)(2)(A)(i). Pub. L. 102–375 inserted ", or a group living arrangement," after "homes".

Subsec. (p)(5). Pub. L. 102–342, §203, added par. (5).

1989—Pub. L. 101–147, §105(a), substituted "Child and adult care food program" for "Child care food program" in section catchline.

Subsec. (a). Pub. L. 101–147, §310(a)(1), substituted "children with handicaps" for "handicapped children" wherever appearing.

Subsec. (c). Pub. L. 101–147, §312(2), substituted "reduced price" for "reduced-price" wherever appearing.

Subsec. (d). Pub. L. 101–147, §204(a), designated existing provisions as par. (1), redesignated cls. (1) and (2) as (A) and (B), respectively, and added par. (2).

Subsec. (d)(1). Pub. L. 101–147, §310(a)(2), substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (e). Pub. L. 101–147, §310(b), amended subsec. (e), as identically amended by Pub. L. 99–500 and 99–591, §361, and Pub. L. 99–661, §4401, to read as if only the amendment by Pub. L. 99–661 was enacted,

resulting in no change in text, see 1986 Amendment note below.

Subsec. (f)(1). Pub. L. 101–147, §310(a)(3)(A), substituted "day care" for "day-care".

Subsec. (f)(2)(B). Pub. L. 101–147, §310(a)(3)(B), struck out second period at end.

Subsec. (f)(3)(A). Pub. L. 101–147, §312(2), substituted "reduced price" for "reduced-price".

Subsec. (f)(3)(C). Pub. L. 101–147, §105(b)(1), inserted before period at end of first sentence "and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas", inserted "and expansion funds" after "start-up funds" in second, fourth, and fifth sentences and after "Start-up funds" in third sentence, and inserted after first sentence "Institutions that have received start-up funds may also apply at a later date for expansion funds."

Subsec. (h)(1). Pub. L. 101–147, §131(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 1755(e) of this title. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities."

Subsec. (k). Pub. L. 101–147, §310(a)(4), redesignated subsec. (l) as (k) and struck out former subsec. (k) which related to study and report on maximum administrative payments reflecting costs of institutions.

Subsec. (l). Pub. L. 101–147, §310(a)(4), redesignated subsec. (m) as (l). Former subsec. (l) redesignated (k).

Pub. L. 101–147, §105(b)(2), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (m), (n). Pub. L. 101–147, §310(a)(4), redesignated subsecs. (n) and (o) as (m) and (n), respectively. Former subsec. (m) redesignated (l).

Subsec. (o). Pub. L. 101–147, §312(2), substituted "reduced price" for "reduced-price" in par. (4).

Pub. L. 101–147, §310(a)(4), redesignated subsec. (p) as (o). Former subsec. (o) redesignated (n).

Subsec. (p). Pub. L. 101–147, §310(a)(4), redesignated subsec. (q) as (p). Former subsec. (p) redesignated (o).

Pub. L. 101–147, §105(b)(3)(A), inserted at end of par. (1) "Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately 1/3 of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants."

Pub. L. 101–147, §105(b)(3)(B), added par. (6).

Subsec. (q). Pub. L. 101–147, §310(a)(4), redesignated subsec. (q) as (p).

Pub. L. 101–147, §105(b)(4), added subsec. (q).

1988—Subsec. (f)(2)(B). Pub. L. 100–435, §211, inserted provisions relating to reimbursement to institutions maintaining a child care setting for eight or more hours per day.

Subsec. (h). Pub. L. 100–435, §214, designated existing provisions as par. (1) and added par. (2).

Subsec. (p)(3)(A). Pub. L. 100–460, §641(c), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection."

Subsec. (p)(4). Pub. L. 100–460, §641(a), added par. (4).

Subsec. (p)(5). Pub. L. 100–460, §641(b), added par. (5).

1987—Subsec. (p). Pub. L. 100–175 added subsec. (p).

1986—Subsec. (a)(1). Pub. L. 99–500 and Pub. L. 99–591, §372(a), and Pub. L. 99–661, §4502(a), amended par. (1) identically, substituting "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (e). Pub. L. 99–500 and Pub. L. 99–591, §361, and Pub. L. 99–661, §4401, amended subsec. (e) identically, designating existing provisions as par. (1), substituting "Except as provided in paragraph (2), the" for "The", and adding pars. (2) and (3).

1981—Subsec. (a). Pub. L. 97–35, §810(a), inserted provisions respecting 25 percent requirement for children receiving nonresidential day care services, and reimbursement for meals and supplements.

Subsec. (b). Pub. L. 97–35, §810(b), substituted provisions respecting applicability of subsec. (f), for

provisions respecting applicability of subsec. (c).

Subsec. (c). Pub. L. 97–35, §810(c), substituted provisions respecting applicability, determinations, etc., for national average payment rates for free lunches and suppers, etc., for provisions respecting formula for computation of payments, and applicability of national average payment rates.

Subsec. (f)(1). Pub. L. 97–35, §819(k), struck out authorization respecting financing the cost of meals.

Subsec. (f)(2) to (5). Pub. L. 97–35, §810(d), in par. (2) substituted provisions setting forth formula for disbursements for meals for provisions setting forth maximum per meal rates of reimbursements, struck out par. (3) which related to election rights of institutions other than family or group day care home sponsoring organizations, redesignated par. (4) as (3) and, as so redesignated, substantially revised and restructured provisions, and redesignated par. (5) as (4).

Subsec. (g). Pub. L. 97–35, §810(e), struck out par. (2) which related to prohibitions respecting meals served by institutions, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (i). Pub. L. 97–35, §§810(f), 817(c)(2), struck out subsec. (i) which related to information required from State plans. Former subsec. (j) redesignated (i).

Subsecs. (j) to (l). Pub. L. 97–35, §§810(g), 817(c)(2), redesignated subsecs. (k), (l), and (o) as (j), (k), and (l), respectively, and in subsec. (l), as so redesignated, struck out provision respecting availability of funds from food service equipment program. Former subsecs. (j) to (l) redesignated (i) to (k), respectively.

Subsec. (m). Pub. L. 97–35, §817(c), struck out subsec. (m) which related to withholding of funds. Subsec. (p) redesignated (m).

Subsec. (n). Pub. L. 97–35, §§810(f), 817(c)(2), struck out subsec. (n) which related to appropriations, etc., for equipment assistance. Subsec. (q) redesignated (n).

Subsecs. (o) to (r). Pub. L. 97–35, §817(c)(2), redesignated subsecs. (o) to (r) as (l) to (o), respectively.

1980—Subsec. (a). Pub. L. 96–499, §207(a), included in definition of "institution" any private organization providing nonresidential day care services for which compensation was received from amounts granted to the States under title XX of the Social Security Act.

Subsec. (c). Pub. L. 96–499, §208(b), inserted provision in pars. (1), (2), and (3) that the average payment rates for supplements served in such institutions was to be three cents lower than the adjusted rates prescribed by the Secretary in accordance with the adjustment formulas contained in such pars. (1), (2), and (3).

Subsec. (n)(1). Pub. L. 96–499, §208(c), substituted "$4,000,000" for "$6,000,000".

1978—Subsec. (a). Pub. L. 95–627 excepted family or group day care homes from licensing requirements, set out guidelines for institutions providing care for children outside of school hours, and set out criteria for determining eligibility under this section.

Subsec. (b). Pub. L. 95–627 substituted provisions limiting the aggregate amount of cash assistance to a State under this section for provisions setting out a formula for computation of payments under this section and adjustments to such payments. See subsec. (c) of this section.

Subsec. (c). Pub. L. 95–627 substituted provisions relating to the formula for the computation of payments under this section and the prescription of a national average payment rate for provisions relating to the maintenance of national nutritional standards and the prohibition of discrimination and identification of children unable to pay under the program.

Subsec. (d). Pub. L. 95–627 substituted provisions stating requirements for approval for participation in the program and requiring written notification of such approval or disapproval for provisions relating to State disbursements to participating institutions.

Subsec. (e). Pub. L. 95–627 substituted provisions relating to fair hearings for provisions relating to donations of agricultural commodities and cash in lieu of commodities. See subsec. (h) of this section.

Subsec. (f). Pub. L. 95–627 substituted provisions relating to disbursements to participating institutions by the State for provisions calling for direct disbursements to participating institutions by the Secretary and prescribing conditions therefor.

Subsec. (g). Pub. L. 95–627 substituted provisions relating to meals served at participating institutions and the necessary nutritional content thereof for provisions prohibiting the diminution of expenditures by State and local sources by reason of the availability of Federal funds.

Subsec. (h). Pub. L. 95–627 substituted provisions relating to donations of agricultural land commodities and cash in lieu of commodities for provisions authorizing appropriations to meet the administrative expenditures of the Secretary.

Subsec. (i). Pub. L. 95–627 substituted provisions relating to information required from State plans for provisions requiring adequate accounts and general record-keeping by States, State educational agencies, and participating institutions.

Subsec. (j). Pub. L. 95–627 substituted provisions relating to the availability of Federal funds to the States for audits of participating institutions for provisions relating to food service equipment assistance and the

apportionment of unused funds.

Subsec. (k). Pub. L. 95–627 substituted provisions relating to the use of a standard form of agreement and the issuance of regulations pertaining to such use for provisions relating to the issuance of rules and regulations to carry out this section by the Secretary.

Subsecs. (l) to (r). Pub. L. 95–627 added subsecs. (l) to (r).

1977—Subsec. (e). Pub. L. 95–166, §19(d), substituted in last sentence "school year" for "fiscal year" in three instances.

Subsec. (j)(1). Pub. L. 95–166, §3, substituted "food service equipment assistance" for "nonfood assistance".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(Z) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 119(a), (b), (d)–(f), (h) of Pub. L. 108–265 effective June 30, 2004, and amendment by section 119(c), (g) of Pub. L. 108–265 effective Oct. 1, 2004, see section 502(a), (b)(2) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–224, title II, §243(b)(4)(B), June 20, 2000, 114 Stat. 417, provided that: "In the case of a child that is enrolled in a sponsored child care center or family or group day care home participating in the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) before the date of the enactment of this Act [June 20, 2000], the center or home shall provide information to the child's parents or guardians pursuant to section 17(d)(3) of that Act [42 U.S.C. 1766(d)(3)], as added by subparagraph (A), not later than 90 days after the date of the enactment of this Act."

Pub. L. 106–224, title II, §243(g)(2), June 20, 2000, 114 Stat. 419, provided that: "The Secretary may carry out demonstration projects in the State described in section 17(p)(3)(C) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1766(p)(3)(C)], as added by paragraph (1)(B)(iv), beginning not earlier than October 1, 2001."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 107(j)(1), (2)(B) of Pub. L. 105–336 effective July 1, 1999, see section 107(j)(4) of Pub. L. 105–336, set out as a note under section 1761 of this title.

Amendment by sections 101(b) and 107(a)–(i), (j)(3)(C) of Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–193, title VII, §708(k)(1), (2), Aug. 22, 1996, 110 Stat. 2299, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall become effective on the date of enactment of this Act [Aug. 22, 1996].

"(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1) and (4) of subsection (e) [amending this section] shall become effective on July 1, 1997."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 105(c) and 116 of Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

Amendment by section 109(b) of Pub. L. 103–448 effective Sept. 25, 1995, see section 109(c) of Pub. L. 103–448, set out as a note under section 1758 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–375, title VIII, §811(b), Sept. 30, 1992, 106 Stat. 1295, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if the amendment had been included in the Older Americans Act Amendments of 1987 [Pub. L. 100–375]."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 131(b) of Pub. L. 101–147 effective July 1, 1989, see section 131(c) of Pub. L. 101–147, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 211 of Pub. L. 100–435 to be effective and implemented on July 1, 1989, and amendment by section 214 of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(4) of Pub. L. 100–435, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, see section 701(a) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 810(a), (f), (g), 817(c), and 819(k) of Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(3), (4) of Pub. L. 97–35, set out as a note under section 1753 of this title. For effective dates of amendments by section 810(b)–(e) of Pub. L. 97–35, see section 820(a)(1)(B)–(D), (3), (4), (6) of Pub. L. 97–35.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–499, title II, §207(b), Dec. 5, 1980, 94 Stat. 2602, provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply with respect to all fiscal years beginning on or after October 1, 1980."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

REGULATIONS

Pub. L. 104–193, title VII, §708(k)(3), Aug. 22, 1996, 110 Stat. 2300, provided that:

"(A) INTERIM REGULATIONS.—Not later than January 1, 1997, the Secretary of Agriculture shall issue interim regulations to implement—

"(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e) [amending this section]; and

"(ii) section 17(f)(3)(C) of the [Richard B. Russell] National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

"(B) FINAL REGULATIONS.—Not later than July 1, 1997, the Secretary of Agriculture shall issue final regulations to implement the provisions of law referred to in subparagraph (A)."

Pub. L. 101–147, title II, §204(b), Nov. 10, 1989, 103 Stat. 910, provided that: "Not later than July 1, 1990, the Secretary shall issue final regulations to implement the amendments made by subsection (a) [amending this section]."

CHILD AND ADULT CARE FOOD PROGRAM

Pub. L. 117–158, §3, June 25, 2022, 136 Stat. 1311, provided that:

"(a) IN GENERAL.—

"(1) TEMPORARY ADDITIONAL REIMBURSEMENT FOR 2022-2023 SCHOOL YEAR.—Each meal and supplement served under the program authorized by section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) shall receive additional reimbursement in the amount of 10 cents.

"(2) LIMITATION.—The additional reimbursement amount authorized under paragraph (1) shall only be available for the school year beginning July 2022.

"(b) TIER DETERMINATIONS FOR 2022-2023 SCHOOL YEAR.—For the school year beginning July

2022, a tier II family or group day care home described in subsection (f)(3)(A)(iii) of section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) shall be considered a tier I family or group day care home for purposes of the program authorized under that section.

"(c) APPROPRIATIONS.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as are necessary to carry out this section."

MEALS AND SUPPLEMENTS REIMBURSEMENTS FOR INDIVIDUALS WHO HAVE NOT ATTAINED THE AGE OF 25

Pub. L. 117–2, title I, §1107, Mar. 11, 2021, 135 Stat. 18, provided that:

"(a) PROGRAM FOR AT-RISK SCHOOL CHILDREN.—Beginning on the date of enactment of this section [Mar. 11, 2021], notwithstanding paragraph (1)(A) of section 17(r) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)), during the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d), the Secretary shall reimburse institutions that are emergency shelters under such section 17(r) (42 U.S.C. 1766(r)) for meals and supplements served to individuals who, at the time of such service—

"(1) have not attained the age of 25; and

"(2) are receiving assistance, including non-residential assistance, from such emergency shelter.

"(b) PARTICIPATION BY EMERGENCY SHELTERS.—Beginning on the date of enactment of this section, notwithstanding paragraph (5)(A) of section 17(t) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(t)), during the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d), the Secretary shall reimburse emergency shelters under such section 17(t) (42 U.S.C. 1766(t)) for meals and supplements served to individuals who, at the time of such service have not attained the age of 25.

"(c) DEFINITIONS.—In this section:

"(1) EMERGENCY SHELTER.—The term 'emergency shelter' has the meaning given the term under section 17(t)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(t)(1)).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture."

INTERAGENCY COORDINATION TO PROMOTE HEALTH AND WELLNESS IN CHILD CARE LICENSING

Pub. L. 111–296, title II, §222, Dec. 13, 2010, 124 Stat. 3228, provided that: "The Secretary [of Agriculture] shall coordinate with the Secretary of Health and Human Services to encourage State licensing agencies to include nutrition and wellness standards within State licensing standards that ensure, to the maximum extent practicable, that licensed child care centers and family or group day care homes—

"(1) provide to all children under the supervision of the child care centers and family or group day care homes daily opportunities for age-appropriate physical activity;

"(2) limit among children under the supervision of the child care centers and family or group day care homes the use of electronic media and the quantity of time spent in sedentary activity to an appropriate level;

"(3) serve meals and snacks that are consistent with the requirements of the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); and

"(4) promote such other nutrition and wellness goals as the Secretaries determine to be necessary."

REDUCING PAPERWORK AND IMPROVING PROGRAM ADMINISTRATION

Pub. L. 111–296, title III, §336, Dec. 13, 2010, 124 Stat. 3252, provided that:

"(a) DEFINITION OF PROGRAM.—In this section, the term 'program' means the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

"(b) ESTABLISHMENT.—The Secretary [of Agriculture], in conjunction with States and participating institutions, shall continue to examine the feasibility of reducing unnecessary or duplicative paperwork resulting from regulations and recordkeeping requirements for State agencies, institutions, family and group day care homes, and sponsored centers participating in the program.

"(c) DUTIES.—At a minimum, the examination shall include—

"(1) review and evaluation of the recommendations, guidance, and regulatory priorities developed and issued to comply with section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; Public Law 108–265); and

"(2) examination of additional paperwork and administrative requirements that have been established since February 23, 2007, that could be reduced or simplified.

"(d) ADDITIONAL DUTIES.—The Secretary, in conjunction with States and institutions participating in

the program, may also examine any aspect of administration of the program.

"(e) REPORT.—Not later than 4 years after the date of enactment of this Act [Dec. 13, 2010], the Secretary shall submit to Congress a report that describes the actions that have been taken to carry out this section, including—

"(1) actions taken to address administrative and paperwork burdens identified as a result of compliance with section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; Public Law 108–265);

"(2) administrative and paperwork burdens identified as a result of compliance with section 119(i) of that Act for which no regulatory action or policy guidance has been taken;

"(3) additional steps that the Secretary is taking or plans to take to address any administrative and paperwork burdens identified under subsection (c)(2) and paragraph (2), including—

"(A) new or updated regulations, policy, guidance, or technical assistance; and

"(B) a timeframe for the completion of those steps; and

"(4) recommendations to Congress for modifications to existing statutory authorities needed to address identified administrative and paperwork burdens."

RECOVERY AND REALLOCATION OF AUDIT FUNDS

Pub. L. 109–97, title VII, §769, Nov. 10, 2005, 119 Stat. 2159, provided that: "Hereafter, notwithstanding any other provision of law, funds made available to States administering the Child and Adult Care Food Program, for the purpose of conducting audits of participating institutions, funds identified by the Secretary as having been unused during the initial fiscal year of availability may be recovered and reallocated by the Secretary: *Provided*, That States may use the reallocated funds until expended for the purpose of conducting audits of participating institutions."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–447, div. A, title VII, §796, Dec. 8, 2004, 118 Stat. 2852.

PAPERWORK REDUCTION

Pub. L. 108–265, title I, §119(i), June 30, 2004, 118 Stat. 755, provided that: "The Secretary of Agriculture, in conjunction with States and participating institutions, shall examine the feasibility of reducing paperwork resulting from regulations and recordkeeping requirements for State agencies, family child care homes, child care centers, and sponsoring organizations participating in the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766)."

EARLY CHILD NUTRITION EDUCATION

Pub. L. 108–265, title I, §119(j), June 30, 2004, 118 Stat. 755, provided that:

"(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (6), for a period of 4 successive years, the Secretary of Agriculture shall award to 1 or more entities with expertise in designing and implementing health education programs for limited-English-proficient individuals 1 or more grants to enhance obesity prevention activities for child care centers and sponsoring organizations providing services to limited-English-proficient individuals through the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) in each of 4 States selected by the Secretary in accordance with paragraph (2).

"(2) STATES.—The Secretary shall provide grants under this subsection in States that have experienced a growth in the limited-English-proficient population of the States of at least 100 percent between the years 1990 and 2000, as measured by the census.

"(3) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

"(A) developing an interactive and comprehensive tool kit for use by lay health educators and training activities;

"(B) conducting training and providing ongoing technical assistance for lay health educators; and

"(C) establishing collaborations with child care centers and sponsoring organizations participating in the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) to—

"(i) identify limited-English-proficient children and families; and

"(ii) enhance the capacity of the child care centers and sponsoring organizations to use appropriate obesity prevention strategies.

"(4) EVALUATION.—Each grant recipient shall identify an institution of higher education to conduct an independent evaluation of the effectiveness of the grant.

"(5) REPORT.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on

Health, Education, Labor, and Pensions, of the Senate a report that includes—

"(A) the evaluation completed by the institution of higher education under paragraph (4);

"(B) the effectiveness of lay health educators in reducing childhood obesity; and

"(C) any recommendations of the Secretary concerning the grants.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $250,000 for each of fiscal years 2005 through 2009."

STUDY OF IMPACT OF AMENDMENTS BY PUB. L. 104–193 ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING

Pub. L. 104–193, title VII, §708(l), Aug. 22, 1996, 110 Stat. 2300, directed Secretary of Agriculture, in conjunction with Secretary of Health and Human Services, to conduct study and report to Congress not later than 2 years after Aug. 22, 1996, on impact of the amendments made by section 708 of Pub. L. 104–193, amending this section, on the number of family day care homes and day care home sponsoring organizations participating in the child and adult care food program established under this section, the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary, the rate of growth of such numbers, the nutritional adequacy and quality of meals served in family day care homes, and the proportion of low-income children participating in the program prior to such amendments to this section and the proportion of low-income children participating in the program after such amendments to this section, and further required each State agency participating in the child and adult care food program under this section to submit to the Secretary of Agriculture data necessary to carry out this study.

IMPLEMENTATION OF 1989 AMENDMENTS

Pub. L. 101–147, title I, §105(d), Nov. 10, 1989, 103 Stat. 885, provided that:

"(1) EXPANSION; DEMONSTRATION PROJECT.—The Secretary of Agriculture shall implement the amendments made by subsections (b)(1) and (b)(2) [amending this section] not later than July 1, 1990.

"(2) DIETARY REQUIREMENTS FOR ADULT DAY CARE FOOD PROGRAM.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b)(3) [amending this section]."

FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT

Pub. L. 100–435, title V, §503, Sept. 19, 1988, 102 Stat. 1672, as amended by Pub. L. 101–147, title I, §105(c)(1), Nov. 10, 1989, 103 Stat. 885, directed Secretary of Agriculture to conduct a demonstration project to begin 30 days after Sept. 19, 1988, but in no event earlier than Oct. 1, 1988, in one State (selected by the Secretary) regarding the Child Care Food Program authorized under 42 U.S.C. 1766 in which day care institutions and family or group day care sponsoring organizations shall receive a reimbursement (in addition to that received under 42 U.S.C. 1766(d) and (f)) for providing one additional meal or supplement for children that are maintained in a day care institution or in a family or group day care home setting for eight or more hours per day, directed Secretary to submit a preliminary report to Congress not later than Aug. 1, 1989, and a final report after the conclusion of such project, with project to terminate Sept. 30, 1990.

REVIEW AND REVISION OF NUTRITION REQUIREMENTS FOR MEALS SERVED UNDER BREAKFAST PROGRAM; PROMULGATION OF REGULATIONS

Pub. L. 99–500, title III, §330(b), Oct. 18, 1986, 100 Stat. 1783–363, Pub. L. 99–591, title III, §330(b), Oct. 30, 1986, 100 Stat. 3341–366, and Pub. L. 99–661, div. D, title II, §4210(b), Nov. 14, 1986, 100 Stat. 4074, directed Secretary of Agriculture to review and revise nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and this section to improve nutritional quality of meals, taking into consideration both findings of National Evaluation of School Nutrition Programs and need to provide increased flexibility in meal planning to local food authorities, and to promulgate regulations to implement revisions not later than 180 days after Oct. 18, 1986.

ADJUSTMENTS IN NATIONAL AVERAGE PAYMENT RATE FOR SUPPLEMENTS DURING FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96–499, title II, §208(a), Dec. 5, 1980, 94 Stat. 2602, related to adjustments required under the former pars. (1) through (3) of subsec. (c) of this section applicable in determining the national average payment rate for supplements during the fiscal year ending Sept. 30, 1981.

[1] *See References in Text note below.*

[2] *So in original. Probably should be "consultation".*

§1766a. Meal supplements for children in afterschool care

(a) General authority

(1) Grants to States

The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements under a program organized primarily to provide care for children in afterschool care in eligible elementary and secondary schools.

(2) Eligible schools

For the purposes of this section, the term "eligible elementary and secondary schools" means schools that—

(A) operate school lunch programs under this chapter;

(B) sponsor afterschool care programs; and

(C) operate afterschool programs with an educational or enrichment purpose.

(b) Eligible children

Reimbursement may be provided under this section only for supplements served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 1760(d)(1)(A) of this title.

(c) Reimbursement

(1) At-risk school children

In the case of an eligible child who is participating in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a supplement provided under this section to the child shall be—

(A) reimbursed at the rate at which free supplements are reimbursed under section 1766(c)(3) of this title; and

(B) served without charge.

(2) Other school children

In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 1766(c)(3) of this title (as adjusted pursuant to section 1759a(a)(3) of this title).

(d) Contents of supplements

The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this chapter shall apply to the content of meal supplements served under programs operated with assistance under this section.

(June 4, 1946, ch. 281, §17A, as added Pub. L. 101–147, title I, §106(a), Nov. 10, 1989, 103 Stat. 885; amended Pub. L. 105–336, title I, §108, Oct. 31, 1998, 112 Stat. 3153.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (c)(1), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–336, §108(a)(1), substituted "supplements under a program organized primarily to provide care for" for "supplements to".

Subsec. (a)(2)(C). Pub. L. 105–336, §108(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "are participating in the child care food program under section 1766 of this title on May 15, 1989."

Subsec. (b). Pub. L. 105–336, §108(b), substituted "served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 1760(d)(1)(A) of this title." for "served to children—

"(1) who are not more than 12 years of age; or

"(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age."

Subsec. (c). Pub. L. 105–336, §108(c), added par. (1), designated existing provisions as par. (2), inserted heading, and substituted "In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for the purposes" for "For the purposes".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

REGULATIONS

Pub. L. 101–147, title I, §106(b), Nov. 10, 1989, 103 Stat. 886, provided that: "Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the [Richard B. Russell] National School Lunch Act [this section] (as added by subsection (a) of this section)."

§1766b. Repealed. Pub. L. 105–336, title I, §107(j)(2)(C)(i), Oct. 31, 1998, 112 Stat. 3153

Section, act June 4, 1946, ch. 281, §17B, as added Pub. L. 103–448, title I, §117(a)(1), Nov. 2, 1994, 108 Stat. 4715, related to homeless children nutrition program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1999, see section 107(j)(4) of Pub. L. 105–336, set out as an Effective Date of 1998 Amendment note under section 1761 of this title.

§§1767, 1768. Repealed. Pub. L. 99–500, title III, §371(a)(1), Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, §371(a)(1), Oct. 30, 1986, 100 Stat. 3341–371; Pub. L. 99–661, div. D, title V, §4501(a)(1), Nov. 14, 1986, 100 Stat. 4080

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section 1767, act June 4, 1946, ch. 281, §18, as added Oct. 7, 1975, Pub. L. 94–105, §19, 89 Stat. 526, authorized nutrition program staff study.

Section 1768, act June 4, 1946, ch. 281, §19, as added Oct. 7, 1975, Pub. L. 94–105, §20, 89 Stat. 527, authorized appropriations to assist Trust Territory of Pacific Islands.

§1769. Pilot projects

(a) Repealed. Pub. L. 111–296, title IV, §441(a)(9), Dec. 13, 2010, 124 Stat. 3264

(b) Extension of eligibility of certain school districts to receive cash or commodity letters of credit assistance for school lunch programs

(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987. The Secretary, directly or through contract, shall administer the project under this subsection.

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

(c) Alternative counting and claiming procedures

(1) The Secretary may conduct pilot projects to test alternative counting and claiming procedures.

(2) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

(d) to (f) Repealed. Pub. L. 111–296, title IV, §441(a)(11)–(13), Dec. 13, 2010, 124 Stat. 3264

(g) Access to local foods: Patrick Leahy Farm to School Program

(1) Definition of eligible school

In this subsection, the term "eligible school" means a school or institution that participates in a program under this chapter or the school breakfast program established under section 1773 of this title.

(2) Program

The Secretary shall carry out a program to assist eligible schools, State and local agencies, Indian tribal organizations, agricultural producers or groups of agricultural producers, and nonprofit entities through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools.

(3) Grants

(A) In general

The Secretary shall award competitive grants under this subsection to be used for—

(i) training;
(ii) supporting operations;
(iii) planning;
(iv) purchasing equipment;
(v) developing school gardens;
(vi) developing partnerships; and
(vii) implementing farm to school programs.

(B) Regional balance

In making awards under this subsection, the Secretary shall, to the maximum extent practicable, ensure—

(i) geographical diversity; and
(ii) equitable treatment of urban, rural, and tribal communities.

(C) Maximum amount

The total amount provided to a grant recipient under this subsection shall not exceed $100,000.

(4) Federal share

(A) In general

The Federal share of costs for a project funded through a grant awarded under this subsection

shall not exceed 75 percent of the total cost of the project.

(B) Federal matching

As a condition of receiving a grant under this subsection, a grant recipient shall provide matching support in the form of cash or in-kind contributions, including facilities, equipment, or services provided by State and local governments, nonprofit organizations, and private sources.

(5) Criteria for selection

To the maximum extent practicable, in providing assistance under this subsection, the Secretary shall give the highest priority to funding projects that, as determined by the Secretary—

(A) make local food products available on the menu of the eligible school;

(B) serve a high proportion of children who are eligible for free or reduced price lunches;

(C) incorporate experiential nutrition education activities in curriculum planning that encourage the participation of school children in farm and garden-based agricultural education activities;

(D) demonstrate collaboration between eligible schools, nongovernmental and community-based organizations, agricultural producer groups, and other community partners;

(E) include adequate and participatory evaluation plans;

(F) demonstrate the potential for long-term program sustainability; and

(G) meet any other criteria that the Secretary determines appropriate.

(6) Evaluation

As a condition of receiving a grant under this subsection, each grant recipient shall agree to cooperate in an evaluation by the Secretary of the program carried out using grant funds.

(7) Technical assistance

The Secretary shall provide technical assistance and information to assist eligible schools, State and local agencies, Indian tribal organizations, and nonprofit entities—

(A) to facilitate the coordination and sharing of information and resources in the Department that may be applicable to the farm to school program;

(B) to collect and share information on best practices; and

(C) to disseminate research and data on existing farm to school programs and the potential for programs in underserved areas.

(8) Funding

(A) In general

On October 1, 2012, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $5,000,000, to remain available until expended.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(9) Authorization of appropriations

In addition to the amounts made available under paragraph (8), there are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.

(h) Pilot program for high-poverty schools

(1) In general

(A) Definitions

In this paragraph:

(i) Eligible program

The term "eligible program" means—

(I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or

(II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.

(ii) Eligible school

The term "eligible school" means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this chapter.

(B) Establishment

The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—

(i) be planted, cared for, and harvested by students at the eligible schools; and

(ii) teach the students participating in the community gardens about agriculture production practices and diet.

(C) Priority States

Of the States in which grantees under this paragraph are located—

(i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;

(ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and

(iii) at least 1 State shall be a State that is not described in clause (i) or (ii).

(D) Use of produce

Produce from a community garden provided a grant under this paragraph may be—

(i) used to supplement food provided at the eligible school;

(ii) distributed to students to bring home to the families of the students; or

(iii) donated to a local food bank or senior center nutrition program.

(E) No cost-sharing requirement

A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.

(F) Evaluation

A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation carried out by the Secretary.

(2) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2004 through 2015.

(i) Year-round services for eligible entities

(1) In general

A service institution that is described in section 1761(a)(6) of this title (excluding a public school), or a private nonprofit organization described in section 1761(a)(7) of this title, and that is located in the State of California may be reimbursed—

(A) for up to 2 meals during each day of operation served—

(i) during the months of May through September;

(ii) in the case of a service institution that operates a food service program for children on school vacation, at anytime under a continuous school calendar; and

(iii) in the case of a service institution that provides meal service at a nonschool site to children who are not in school for a period during the school year due to a natural disaster, building repair, court order, or similar case, at anytime during such a period; and

(B) for a snack served during each day of operation after school hours, weekends, and school holidays during the regular school calendar.

(2) Payments

The service institution shall be reimbursed consistent with section 1761(b)(1) of this title.

(3) Administration

To receive reimbursement under this subsection, a service institution shall comply with section 1761 of this title, other than subsections (b)(2) and (c)(1) of that section.

(4) Evaluation

Not later than September 30, 2007, the State agency shall submit to the Secretary a report on the effect of this subsection on participation in the summer food service program for children established under section 1761 of this title.

(5) Funding

The Secretary shall provide to the State of California such sums as are necessary to carry out this subsection for each of fiscal years 2011 through 2015.

(j) Free lunch and breakfast eligibility

(1) In general

Subject to the availability of funds under paragraph (4), the Secretary shall expand the service of free lunches and breakfasts provided at schools participating in the school lunch program under this chapter or the school breakfast program under section 1773 of this title in all or part of 5 States selected by the Secretary (of which at least 1 shall be a largely rural State with a significant Native American population).

(2) Income eligibility

The income guidelines for determining eligibility for free lunches or breakfasts under this subsection shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 1758(b)(1)(B) of this title.

(3) Evaluation

(A) In general

Not later than 3 years after the implementation of this subsection, the Secretary shall conduct an evaluation to assess the impact of the changed income eligibility guidelines by comparing the school food authorities operating under this subsection to school food authorities not operating under this subsection.

(B) Impact assessment

(i) Children

The evaluation shall assess the impact of this subsection separately on—

(I) children in households with incomes less than 130 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 1758(b)(1)(B) of this title; and

(II) children in households with incomes greater than 130 percent and not greater than 185 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 1758(b)(1)(B) of this title.

(ii) Factors

The evaluation shall assess the impact of this subsection on—

(I) certification and participation rates in the school lunch and breakfast programs;

(II) rates of lunch- and breakfast-skipping;
(III) academic achievement;
(IV) the allocation of funds authorized in title I of the Elementary and Secondary Education Act [20 U.S.C. 6301 et seq.] to local educational agencies and public schools; and
(V) other factors determined by the Secretary.

(C) Cost assessment

The evaluation shall assess the increased costs associated with providing additional free, reduced price, or paid meals in the school food authorities operating under this subsection.

(D) Report

On completion of the evaluation, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation under this paragraph.

(4) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(k) Organic food pilot program

(1) Establishment

The Secretary shall establish an organic food pilot program (referred to in this subsection as the "pilot program") under which the Secretary shall provide grants on a competitive basis to school food authorities selected under paragraph (3).

(2) Use of funds

(A) In general

The Secretary shall use funds provided under this section—
(i) to enter into competitively awarded contracts or cooperative agreements with school food authorities selected under paragraph (3); or
(ii) to make grants to school food authority applicants selected under paragraph (3).

(B) School food authority uses of funds

A school food authority that receives a grant under this section shall use the grant funds to establish a pilot program that increases the quantity of organic foods provided to schoolchildren under the school lunch program established under this chapter.

(3) Application

(A) In general

A school food authority seeking a contract, grant, or cooperative agreement under this subsection shall submit to the Secretary an application in such form, containing such information, and at such time as the Secretary shall prescribe.

(B) Criteria

In selecting contract, grant, or cooperative agreement recipients, the Secretary shall consider—
(i) the poverty line (as defined in section 9902(2) of this title, including any revision required by that section)) [1] applicable to a family of the size involved of the households in the district served by the school food authority, giving preference to school food authority applicants in which not less than 50 percent of the households in the district are at or below the Federal poverty line;
(ii) the commitment of each school food authority applicant—
(I) to improve the nutritional value of school meals;

(II) to carry out innovative programs that improve the health and wellness of schoolchildren; and

(III) to evaluate the outcome of the pilot program; and

(iii) any other criteria the Secretary determines to be appropriate.

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $10,000,000 for fiscal years 2011 through 2015.

(June 4, 1946, ch. 281, §18, formerly §20, as added Pub. L. 95–166, §10(2), Nov. 10, 1977, 91 Stat. 1336; amended Pub. L. 95–627, §11, Nov. 10, 1978, 92 Stat. 3624; renumbered §18 and amended Pub. L. 99–500, title III, §§327, 371(c)(1), Oct. 18, 1986, 100 Stat. 1783–362, 1783–368, and Pub. L. 99–591, title III, §§327, 371(c)(1), Oct. 30, 1986, 100 Stat. 3341–365, 3341–372; renumbered §18 and amended Pub. L. 99–661, div. D, title II, §4207, title V, §4501(c)(1), Nov. 14, 1986, 100 Stat. 4073, 4080; Pub. L. 100–237, §5, Jan. 8, 1988, 101 Stat. 1739; Pub. L. 101–147, title I, §107, title II, §205(a), title III, §311, Nov. 10, 1989, 103 Stat. 886, 910, 916; Pub. L. 102–342, title I, §101(a), title III, §301, Aug. 14, 1992, 106 Stat. 911, 913; Pub. L. 102–512, title I, §102, Oct. 24, 1992, 106 Stat. 3363; Pub. L. 103–448, title I, §§117(a)(2)(A), (b), 118, Nov. 2, 1994, 108 Stat. 4717, 4719; Pub. L. 104–193, title VII, §709, Aug. 22, 1996, 110 Stat. 2301; Pub. L. 105–336, title I, §109(a)–(c)(1), Oct. 31, 1998, 112 Stat. 3154–3156; Pub. L. 106–554, §1(a)(4) [div. B, title I, §102(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–215; Pub. L. 107–171, title IV, §4305(a), May 13, 2002, 116 Stat. 332; Pub. L. 108–30, §1, May 29, 2003, 117 Stat. 774; Pub. L. 108–134, §5(2), Nov. 22, 2003, 117 Stat. 1390; Pub. L. 108–211, §5(b), Mar. 31, 2004, 118 Stat. 567; Pub. L. 108–265, title I, §§116(f), 120–124, June 30, 2004, 118 Stat. 750, 756–760; Pub. L. 109–97, title VII, §777(a), Nov. 10, 2005, 119 Stat. 2161; Pub. L. 110–161, div. A, title VII, §738(b), Dec. 26, 2007, 121 Stat. 1880; Pub. L. 110–234, title IV, §§4303, 4304(b), May 22, 2008, 122 Stat. 1126, 1131; Pub. L. 110–246, §4(a), title IV, §§4303, 4304(b), June 18, 2008, 122 Stat. 1664, 1887, 1892; Pub. L. 111–80, title VII, §749(d), Oct. 21, 2009, 123 Stat. 2132; Pub. L. 111–296, title II, §§210, 243, title IV, §§405, 441(a)(9)–(13), Dec. 13, 2010, 124 Stat. 3223, 3236, 3259, 3264; Pub. L. 117–328, div. A, title VII, §777, Dec. 29, 2022, 136 Stat. 4510.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (j)(3)(B)(ii)(IV), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 18 of act June 4, 1946, which was classified to section 1767 of this title, was repealed.

AMENDMENTS

2022—Subsec. (g). Pub. L. 117–328 substituted "Access to local foods: Patrick Leahy Farm to School Program" for "Access to local foods: farm to school program" in heading.

2010—Subsec. (a). Pub. L. 111–296, §441(a)(9), struck out subsec. (a) which related to pilot projects for administration of child nutrition programs by contract or direct disbursement.

Subsec. (c). Pub. L. 111–296, §441(a)(10), redesignated pars. (3) and (4) as (1) and (2), respectively, in par. (1), substituted "The Secretary may conduct" for "In addition to the pilot projects described in this subsection, the Secretary may conduct other", and struck out former pars. (1) and (2) which related to certain pilot

programs.

Subsecs. (d) to (f). Pub. L. 111–296, §441(a)(11)–(13), struck out subsecs. (d) to (f) which related to fortified fluid milk, breakfast pilot projects, and summer food service residential camp eligibility, respectively.

Subsecs. (g), (h). Pub. L. 111–296, §243(2), (3), added subsec. (g), redesignated pars. (3) and (4) of former subsec. (g) as pars. (1) and (2), respectively, of subsec. (h), inserted subsec. heading, substituted "In general" for "Pilot program for high-poverty schools" in heading of subsec. (h)(1), "carried out by the Secretary" for "in accordance with paragraph (1)(H)" in subsec. (h)(1)(F), and "2015" for " 2009" in subsec. (h)(2), and struck out heading "Access to local foods and school gardens" of former subsec. (g), and pars. (1) and (2) of former subsec. (g) which related to grants and technical assistance by the Secretary to schools and non-profit entities for various projects and administration of such grants and technical assistance. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 111–296, §243(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(5). Pub. L. 111–296, §405, substituted "2011 through 2015" for "2005 through 2010".

Subsec. (j). Pub. L. 111–296, §243(1), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 111–296, §210, added subsec. (j).

Subsec. (k). Pub. L. 111–296, §243(1), redesignated subsec. (j) as (k).

2009—Subsec. (h)(5). Pub. L. 111–80 substituted "2010" for "2009".

2008—Subsecs. (f), (g). Pub. L. 110–246, §4304(b), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f) which related to fresh fruit and vegetable program.

Subsec. (h). Pub. L. 110–246, §4304(b), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 110–246, §4303, in par. (1)(C) inserted "promotes healthy food education in the school curriculum and" before "incorporates", added pars. (2) and (3), and redesignated former par. (2) as (4).

Subsecs. (i), (j). Pub. L. 110–246, §4304(b), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

2007—Subsecs. (f) to (k). Pub. L. 110–161 redesignated subsecs. (g) to (k) as (f) to (j), respectively, and struck out former subsec. (f) which related to simplified summer food programs.

2005—Subsec. (f)(1)(B). Pub. L. 109–97, §777(a)(1), substituted "June 2005" for "April 2004" in introductory provisions.

Subsec. (f)(1)(B)(ii). Pub. L. 109–97, §777(a)(2), substituted "75" for "66.67" in introductory provisions.

2004—Subsec. (f). Pub. L. 108–265, §116(f)(5)(A), substituted "Simplified summer food programs" for "Summer food pilot projects" in heading.

Subsec. (f)(1). Pub. L. 108–265, §116(f)(1), added par. (1) and struck out heading and text of former par. (1), which defined "eligible State" using formula based on data available in July 2000.

Subsec. (f)(2). Pub. L. 108–265, §116(f)(5)(B), substituted "Programs" for "Pilot projects" in heading and "food program" for "food pilot project" in text.

Pub. L. 108–265, §116(f)(2), substituted "The" for "During the period beginning October 1, 2000, and ending June 30, 2004, the".

Pub. L. 108–211 substituted "June 30, 2004" for "March 31, 2004".

Subsec. (f)(3)(A), (B). Pub. L. 108–265, §116(f)(5)(C), substituted "program" for "pilot project".

Pub. L. 108–265, §116(f)(3), struck out "(other than a service institution described in section 1761(a)(7) of this title)" after "service institution".

Subsec. (f)(5). Pub. L. 108–265, §116(f)(5)(D), substituted "programs" for "pilot projects" in heading and "the program" for "the pilot project" in text wherever appearing.

Subsec. (f)(6). Pub. L. 108–265, §116(f)(4), added par. (6) and struck out heading and text of former par. (6), which related to interim and final reports on pilot projects carried out under this subsec.

Subsec. (g). Pub. L. 108–265, §120, added subsec. (g) and struck out heading and text of former subsec. (g), which related to fruit and vegetable pilot program.

Subsecs. (h) to (k). Pub. L. 108–265, §§121–124, added subsecs. (h) to (k).

2003—Subsec. (f)(2). Pub. L. 108–134 substituted "beginning October 1, 2000, and ending March 31, 2004" for "of fiscal years 2001 through 2003".

Subsec. (g)(4). Pub. L. 108–30 inserted before period at end ", to remain available until the close of the school year beginning July 2003".

2002—Subsec. (g). Pub. L. 107–171 added subsec (g).

2000—Subsec. (f). Pub. L. 106–554 added subsec. (f).

1998—Subsec. (c). Pub. L. 105–336, §109(a), (c)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to demonstration program for prevention of boarder babies.

Subsec. (d). Pub. L. 105–336, §109(c)(1), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 105–336, §109(a), (c)(1), redesignated subsec. (i) as (e) and struck out former subsec. (e) which related to demonstration program to provide meals and supplements outside of school hours.

Subsec. (f). Pub. L. 105–336, §109(c)(1), redesignated subsec. (f) as (d).

Subsec. (g). Pub. L. 105–336, §109(a), struck out subsec. (g) which related to increased choices of fruits, vegetables, legumes, cereals, and grain-based products.

Subsec. (h). Pub. L. 105–336, §109(a), struck out subsec. (h) which related to increased choices of lowfat dairy products and lean meat and poultry products.

Subsec. (i). Pub. L. 105–336, §109(b), (c)(1), amended subsec. (i) generally and redesignated it as subsec. (e). Prior to amendment, subsec. (i) related to reduced paperwork and application requirements and increased participation pilots.

1996—Subsec. (d)(3) to (5). Pub. L. 104–193, §709(a), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which related to pilot program for schools with universal free lunch programs to use certain methods to determine number of free, reduced price, and paid meals to be provided.

Subsec. (e)(1). Pub. L. 104–193, §709(b)(1), designated subpar. (A) as par. (1), substituted "Secretary may establish" for "Secretary shall establish", and struck out subpar. (B) which read as follows: "The amount of a grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 1766 of this title."

Subsec. (e)(5). Pub. L. 104–193, §709(b)(2), added heading and text of par. (5) and struck out former par. (5) which read as follows:

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 1766 of this title, $325,000 for fiscal year 1995, $475,000 for each of fiscal years 1996 and 1997, and $525,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants."

1994—Subsec. (b)(1). Pub. L. 103–448, §118(a), struck out ", and ending September 30, 1994" after "beginning July 1, 1987".

Subsec. (c). Pub. L. 103–448, §117(a)(2)(A), (b), added subsec. (c) and struck out former subsec. (c), which related to provision of food service to homeless children under age 6 in emergency shelters.

Subsecs. (e) to (i). Pub. L. 103–448, §118(b)–(f), added subsecs. (e) to (i).

1992—Subsec. (b)(1). Pub. L. 102–342, §301, substituted "September 30, 1994" for "September 30, 1992".

Subsec. (c)(2). Pub. L. 102–342, §101(a)(1), inserted "State, city, local, or county governments, other public entities, or" before "private nonprofit".

Subsec. (c)(2)(B)(i). Pub. L. 102–512 substituted "Each private nonprofit organization" for "Each such organization".

Subsec. (c)(3)(A). Pub. L. 102–342, §101(a)(2), inserted at end "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants."

Subsec. (c)(5)(A). Pub. L. 102–342, §101(a)(1), (3), substituted "not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994," for "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserted "State, city, local, or county governments, other public entities, or" before "private nonprofit".

Subsec. (c)(7). Pub. L. 102–342, §101(a)(4), added par. (7).

1989—Subsec. (a). Pub. L. 101–147, §311(2), struck out "(42 U.S.C. 1771 et seq.)" after "Child Nutrition Act of 1966" and "(42 U.S.C. 1774)" after "section 5 of the Child Nutrition Act of 1966".

Pub. L. 101–147, §311(1), redesignated subsec. (d) as (a) and struck out former subsec. (a) which set forth statement of purpose of section and requirements for types of projects.

Subsec. (b). Pub. L. 101–147, §311(1), redesignated subsec. (e) as (b) and struck out former subsec. (b) which provided for a study on effect of cash payments in lieu of commodities.

Subsec. (c). Pub. L. 101–147, §311(1), redesignated subsec. (f) as (c) and struck out former subsec. (c) which related to report due not later than 18 months after Nov. 10, 1977.

Subsec. (d). Pub. L. 101–147, §311(1), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 101–147, §311(1), redesignated subsec. (e) as (b).

Subsec. (e)(1). Pub. L. 101–147, §107(1)(A), substituted "beginning July 1, 1987, and ending September

30, 1992" for "for the duration beginning July 1, 1987, and ending December 31, 1990" and inserted at end "The Secretary, directly or through contract, shall administer the project under this subsection."

Subsec. (f). Pub. L. 101–147, §311(1), redesignated subsec. (f) as (c).

Pub. L. 101–147, §107(2), added subsec. (f).

Subsec. (g). Pub. L. 101–147, §311(1), redesignated subsec. (g) as (d).

Pub. L. 101–147, §205(a), added subsec. (g).

1988—Subsec. (e). Pub. L. 100–237 added subsec. (e).

1986—Subsec. (c). Pub. L. 99–500 and Pub. L. 99–591, §327(b), and Pub. L. 99–661, §4207(b), which directed the identical amendment of subsec. (c) by striking out "except for the pilot projects conducted under subsection (d) of this section," were executed by striking out ", except for the pilot projects conducted under subsection (d) of this section" after "under this section" in introductory provisions, as the probable intent of Congress.

Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, §327(a), and Pub. L. 99–661, §4207(a), amended section identically, adding subsec. (d) and striking out former subsec. (d) which related to free lunches without regard to family income and to reimbursement of school food authorities.

1978—Subsec. (c). Pub. L. 95–627, §11(1), inserted provision excluding pilot projects conducted under subsec. (d) of this section.

Subsec. (d). Pub. L. 95–627, §11(2), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4303 and 4304(b) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–161 effective on Jan. 1 of the first full calendar year following Dec. 26, 2007, see section 738(c) of Pub. L. 110–161, set out as a note under section 1761 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–97, title VII, §777(b), Nov. 10, 2005, 119 Stat. 2161, provided that: "The amendments made by subsection (a) [amending this section] take effect on January 1, 2006."

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 116(f)(1), (3) of Pub. L. 108–265 effective Jan. 1, 2005, and amendment by sections 116(f)(2), (4), (5) and 120 to 124 of Pub. L. 108–265 effective June 30, 2004, see section 502(a), (b)(3) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title IV, §4305(b), May 13, 2002, 116 Stat. 332, provided that: "The amendment made by this section [amending this section] takes effect on the date of enactment of this Act [May 13, 2002]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–512, title I, §104, Oct. 24, 1992, 106 Stat. 3364, provided that: "This title [amending this

section and section 1776 of this title and enacting provisions set out as a note under section 1771 of this title] and the amendments made by this title shall become effective on September 30, 1992."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

FUNDING FOR PILOT PROJECTS TO AWARD GRANTS FOR TRIBAL SCHOOL LUNCH PROGRAMS

Pub. L. 118–42, div. B, title VII, §758, Mar. 9, 2024, 138 Stat. 114, provided that:

"(a) For an additional amount for the Office of the Secretary, $2,000,000, to remain available until expended, for the Secretary of Agriculture to carry out no more than 10 pilot projects, under the terms and conditions determined by the Secretary for a period not to exceed 2 years, that award grants to an Indian tribe; a tribal organization approved by an Indian tribe; a tribal educational agency; a consortium of Indian tribes; or a partnership between an Indian tribe and either a State educational agency, a local educational agency, a tribal educational agency, or the Bureau of Indian Education to operate and implement the school lunch program as authorized by [section 18 of] the Richard B. Russell National School Lunch Act (42 U.S.C. 1769), the summer food service program as established under section 13 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1761], the child and adult care food program as established by section 17 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1766], or the school breakfast program established by [section 4 of] the Child Nutrition Act of 1966 (42 U.S.C. 1773) in either a Bureau-funded school (as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)); a school (as defined in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)) on or near an Indian reservation; or an early child care and education facility: *Provided*, That to carry out this pilot program each grant awarded shall be no less than $10,000 and no more than $100,000 for each school year and shall not increase state administrative costs or the amount of benefits provided in any program: *Provided further*, That the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(b) Notwithstanding any other provision of law, a pilot project grant recipient shall be reimbursed for meals served under the school lunch program, the summer food service program, and the child and adult care food program as if the recipient were a State under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.]; and under the school breakfast program as if the recipient were a State educational agency.

"(c) Not later than 1 year after the conclusion of the pilot program, the Secretary shall submit to Congress a report on the outcomes of the pilot program."

OTHER DEMONSTRATION PROJECTS FOR FEEDING HOMELESS CHILDREN

Pub. L. 102–342, title I, §101(b), Aug. 14, 1992, 106 Stat. 911, as amended by Pub. L. 105–336, title I, §109(c)(2), Oct. 31, 1998, 112 Stat. 3157, provided that: "The Secretary of Agriculture may conduct demonstration projects to identify effective means of providing food assistance to homeless children residing in temporary shelters."

ALTERNATIVE COUNTING AND CLAIMING PROCEDURES; PROMULGATION OF REGULATIONS

Pub. L. 101–147, title II, §205(b), Nov. 10, 1989, 103 Stat. 911, provided that not later than July 1, 1990, Secretary of Agriculture was to issue final regulations to implement subsec. (g) of this section.

[1] *So in original.*

§1769a. Fresh fruit and vegetable program

(a) In general

For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free fresh fruits and vegetables available in elementary schools (referred to in this section as the "program").

(b) Program

A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.

(c) Funding to States

(1) Minimum grant

Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.

(2) Additional funding

Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 1753 of this title based on the proportion that—

(A) the population of the State; bears to

(B) the population of the United States.

(d) Selection of schools

(1) In general

Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—

(A) ensure that each school chosen to participate in the program is a school—

(i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this chapter; and

(ii) that submits an application in accordance with subparagraph (D);

(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this chapter;

(C) ensure that each school selected is an elementary school (as defined in section 7801 [1] of title 20);

(D) solicit applications from interested schools that include—

(i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this chapter;

(ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);

(iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and

(iv) such other information as may be requested by the Secretary; and

(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).

(2) Exception

Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a sufficient number of additional schools that meet the requirement of that clause.

(3) Outreach to low-income schools

(A) In general

Prior to making decisions regarding school participation in the program, a State agency shall

inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).

(B) Requirement

In providing information to schools in accordance with subparagraph (A), a State agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).

(e) Notice of availability

If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

(f) Per-student grant

The per-student grant provided to a school under this section shall be—

(1) determined by a State agency; and

(2) not less than $50, nor more than $75.

(g) Limitation

To the maximum extent practicable, each State agency shall ensure that in making the fruits and vegetables provided under this section available to students, schools offer the fruits and vegetables separately from meals otherwise provided at the school under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(h) Evaluation and reports

(1) In general

The Secretary shall conduct an evaluation of the program, including a determination as to whether children experienced, as a result of participating in the program—

(A) increased consumption of fruits and vegetables;

(B) other dietary changes, such as decreased consumption of less nutritious foods; and

(C) such other outcomes as are considered appropriate by the Secretary.

(2) Report

Not later than September 30, 2011, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under paragraph (1).

(i) Funding

(1) In general

Out of the funds made available under subsection (b)(2)(A) of section 612c–6 of title 7, the Secretary shall use the following amounts to carry out this section:

(A) On October 1, 2008, $40,000,000.

(B) On July 1, 2009, $65,000,000.

(C) On July 1, 2010, $101,000,000.

(D) On July 1, 2011, $150,000,000.

(E) On July 1, 2012, and each July 1 thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding April 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

(2) Maintenance of existing funding

In allocating funding made available under paragraph (1) among the States in accordance with subsection (c), the Secretary shall ensure that each State that received funding under section

1769(f) of this title on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008 shall continue to receive sufficient funding under this section to maintain the caseload level of the State under that section as in effect on that date.

(3) Evaluation funding

On October 1, 2008, out of any funds made available under subsection (b)(2)(A) of section 612c–6 of title 7, the Secretary shall use to carry out the evaluation required under subsection (h), $3,000,000, to remain available for obligation until September 30, 2010.

(4) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section any funds transferred for that purpose, without further appropriation.

(5) Authorization of appropriations

In addition to any other amounts made available to carry out this section, there are authorized to be appropriated such sums as are necessary to expand the program established under this section.

(6) Administrative costs

(A) In general

Of funds made available to carry out this section for a fiscal year, the Secretary may use not more than $500,000 for the administrative costs of carrying out the program.

(B) Reservation of funds

The Secretary shall allow each State to reserve such funding as the Secretary determines to be necessary to administer the program in the State (with adjustments for the size of the State and the grant amount), but not to exceed the amount required to pay the costs of 1 full-time coordinator for the program in the State.

(7) Reallocation

(A) Among States

The Secretary may reallocate any amounts made available to carry out this section that are not obligated or expended by a date determined by the Secretary.

(B) Within States

A State that receives a grant under this section may reallocate any amounts made available under the grant that are not obligated or expended by a date determined by the Secretary.

(June 4, 1946, ch. 281, §19, as added Pub. L. 110–234, title IV, §4304(a)(1), May 22, 2008, 122 Stat. 1127, and Pub. L. 110–246, §4(a), title IV, §4304(a)(1), June 18, 2008, 122 Stat. 1664, 1888.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (d)(1), is section 4304(a)(2) of Pub. L. 110–246, which is set out as a note below.

Section 7801 of title 20, referred to in subsec. (d)(1)(C), was in the original a reference to section 9101 of Pub. L. 89–10, which was renumbered section 8101 of Pub. L. 89–10 by Pub. L. 114–95, title VIII, §8001(a)(1), Dec. 10, 2015, 129 Stat. 2089.

The Child Nutrition Act of 1966, referred to in subsec. (g), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (i)(2), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 1769a, act June 4, 1946, ch. 281, §19, formerly §21, as added Nov. 10, 1977, Pub. L. 95–166, §13, 91 Stat. 1338; renumbered §19, Oct. 18, 1986, Pub. L. 99–500, title III, §371(c)(1), 100 Stat. 1783–368, and Oct. 30, 1986, Pub. L. 99–591, title III, §371(c)(1), 100 Stat. 3341–372; renumbered §19, Nov. 14, 1986, Pub. L. 99–661, div. D, title V, §4501(c)(1), 100 Stat. 4080; Nov. 10, 1989, Pub. L. 101–147, title I, §108, 103 Stat. 887; Nov. 2, 1994, Pub. L. 103–448, title I, §119, 108 Stat. 4726, directed Secretary to reduce paperwork required in carrying out functions under this chapter and under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), prior to repeal by Pub. L. 104–193, title VII, §710, Aug. 22, 1996, 110 Stat. 2301.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

Section effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 2, The Congress.

PILOT PROJECT FOR CANNED, FROZEN, OR DRIED FRUITS AND VEGETABLES

Pub. L. 113–79, title IV, §4214, Feb. 7, 2014, 128 Stat. 831, provided that:

"(a) IN GENERAL.—Subject to subsection (b), in the 2014–2015 school year, the Secretary [of Agriculture] shall carry out a pilot project in schools participating in the Fresh Fruit and Vegetable Program under section 19 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769a) (referred to in this section as the "Program"), in not less than 5 States, to evaluate the impact of allowing schools to offer canned, frozen, or dried fruits and vegetables as part of the Program.

"(b) REQUIREMENTS.—Not later than 60 days after the date of enactment of this Act [Feb. 14, 2014], the Secretary shall establish criteria for the conditions under which canned, frozen, or dried fruits and vegetables may be offered, which shall be in accordance with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

"(c) EVALUATION.—With respect to the pilot project, the Secretary shall evaluate—

"(1) the impacts on fruit and vegetable consumption at the schools participating in the pilot project;

"(2) the impacts of the pilot project on school participation in the Program and operation of the Program;

"(3) the implementation strategies used by the schools participating in the pilot project;

"(4) the acceptance of the pilot project by key stakeholders; and

"(5) such other outcomes as are determined by the Secretary.

"(d) REPORTS.—

"(1) INTERIM REPORT.—Not later than January 1, 2015, the Secretary shall submit to the Committee on Education and [the] Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under subsection (c).

"(2) FINAL REPORT.—On completion of the pilot project, the Secretary shall submit to the Committee on Education and [the] Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under subsection (c).

"(e) NOTICE OF AVAILABILITY.—As soon as practicable after the date on which the Secretary establishes the criteria for the pilot project under subsection (b), the Secretary shall notify potentially eligible schools of the potential eligibility of the schools for participation in the pilot project.

"(f) RELATIONSHIP TO FRESH FRUIT AND VEGETABLE PROGRAM.—Nothing in this section permits a school that is not a part of the pilot project to offer anything other than fresh fruits and vegetables through the Program.

"(g) FUNDING.—The Secretary shall use $5,000,000 of amounts otherwise made available to the Secretary

to carry out this section."

TRANSITION OF EXISTING SCHOOLS

Pub. L. 110–234, title IV, §4304(a)(2), May 22, 2008, 122 Stat. 1130, and Pub. L. 110–246, §4(a), title IV, §4304(a)(2), June 18, 2008, 122 Stat. 1664, 1891, provided that:

"(A) EXISTING SECONDARY SCHOOLS.—Section 19(d)(1)(C) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1769a(d)(1)(C)] (as amended by paragraph (1)) may be waived by a State until July 1, 2010, for each secondary school in the State that has been awarded funding under section 18(f) of that Act (42 U.S.C. 1769(f)) for the school year beginning July 1, 2008.

"(B) SCHOOL YEAR BEGINNING JULY 1, 2008.—To facilitate transition from the program authorized under section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act [June 18, 2008]) to the program established under section 19 of that Act [42 U.S.C. 1769a] (as amended by paragraph (1))—

"(i) for the school year beginning July 1, 2008, the Secretary [of Agriculture] may permit any school selected for participation under section 18(f) of that Act (42 U.S.C. 1769(f)) for that school year to continue to participate under section 19 of that Act [42 U.S.C. 1769a] until the end of that school year; and

"(ii) funds made available under that Act [42 U.S.C. 1751 et seq.] for fiscal year 2009 may be used to support the participation of any schools selected to participate in the program authorized under section 18(f) of that Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act [June 18, 2008])."

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

[1] *See References in Text note below.*

§1769b. Department of Defense overseas dependents' schools

(a) Purpose of program; availability of payments and commodities

For the purpose of obtaining Federal payments and commodities in conjunction with the provision of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

(b) Administration of program; eligibility determinations and regulations

The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

(c) Nutritional standards for meals; noncompliance with standards

The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns, fluid milk requirements, and nutritional standards for nondairy beverages when local conditions preclude strict compliance or when such compliance is impracticable.

(d) Authorization of appropriations

Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

(e) Technical assistance for administration of program

The Secretary of Agriculture shall provide the Secretary of Defense with the technical assistance in the administration of the school lunch programs authorized by this section.

(June 4, 1946, ch. 281, §20, formerly §22, as added Pub. L. 95–561, title XIV, §1408(a), Nov. 1, 1978, 92 Stat. 2368; renumbered §20 and amended Pub. L. 99–500, title III, §§328(a), 371(c)(1), Oct. 18, 1986, 100 Stat. 1783–362, 1783–368, and Pub. L. 99–591, title III, §§328(a), 371(c)(1), Oct. 30, 1986, 100 Stat. 3341–365, 3341–372; renumbered §20 and amended Pub. L. 99–661, div. D, title II, §4208(a), title V, §4501(c)(1), Nov. 14, 1986, 100 Stat. 4073, 4080; Pub. L. 101–147, title III, §312(2), Nov. 10, 1989, 103 Stat. 916; Pub. L. 119–69, §2(b)(2), Jan. 14, 2026, 139 Stat. 1998.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 20 of act June 4, 1946, was renumbered section 18 of act June 4, 1946, and is classified to section 1769 of this title.

AMENDMENTS

2026—Subsec. (c). Pub. L. 119–69 substituted "patterns, fluid milk requirements, and nutritional standards for nondairy beverages" for "patterns and fluid milk requirements".

1989—Subsec. (b). Pub. L. 101–147 substituted "reduced price" for "reduced-price".

1986—Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, §328(a), and Pub. L. 99–661, §4208(a), amended subsec. (d) identically, striking out "and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each lunch for each student eligible for a free lunch, and (2) the full cost of each lunch, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price lunch" after "this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1978 and no provision herein to be construed as impairing or preventing the taking effect of any other Act providing for the transfer of functions described herein to an executive department having responsibility for education, see section 1415 of Pub. L. 95–561, set out as a note under section 921 of Title 20, Education.

§1769b–1. Training, technical assistance, and food service management institute

(a) General authority

The Secretary—

(1) subject to the availability of, and from, amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide—

(A) training and technical assistance to improve the skills of individuals employed in—

(i) food service programs carried out with assistance under this chapter and, to the maximum extent practicable, using individuals who administer exemplary local food service programs in the State;

(ii) school breakfast programs carried out with assistance under section 1773 of this title; and

(iii) as appropriate, other federally assisted feeding programs; and

(B) assistance, on a competitive basis, to State agencies for the purpose of aiding schools and school food authorities with at least 50 percent of enrolled children certified to receive free or reduced price meals (and, if there are any remaining funds, other schools and school food authorities) in meeting the cost of acquiring or upgrading technology and information

management systems for use in food service programs carried out under this chapter and section 1773 of this title, if the school or school food authority submits to the State agency an infrastructure development plan that—

(i) addresses the cost savings and improvements in program integrity and operations that would result from the use of new or upgraded technology;

(ii) ensures that there is not any overt identification of any child by special tokens or tickets, announced or published list of names, or by any other means;

(iii) provides for processing and verifying applications for free and reduced price school meals;

(iv) integrates menu planning, production, and serving data to monitor compliance with section 1758(f)(1) of this title; and

(v) establishes compatibility with statewide reporting systems;

(C) assistance, on a competitive basis, to State agencies with low proportions of schools or students that—

(i) participate in the school breakfast program under section 1773 of this title; and

(ii) demonstrate the greatest need, for the purpose of aiding schools in meeting costs associated with initiating or expanding a school breakfast program under section 1773 of this title, including outreach and informational activities; and

(2) from amounts appropriated pursuant to subsection (e)(2), is authorized to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute.

(b) Minimum requirements

The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

(1) menu planning;

(2) implementation of regulations and appropriate guidelines; and

(3) compliance with program requirements and accountability for program operations.

(c) Duties of food service management institute

(1) In general

Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

(A) food service programs assisted under this chapter;

(B) school breakfast programs assisted under section 1773 of this title; and

(C) as appropriate, other federally assisted feeding programs.

(2) Required activities

Activities carried out under paragraph (1) shall include—

(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

(B) providing training and technical assistance with respect to—

(i) efficient use of physical resources;

(ii) financial management;

(iii) efficient use of computers;

(iv) procurement;

(v) sanitation;

(vi) safety, including food handling, hazard analysis and critical control point plan implementation, emergency readiness, responding to a food recall, and food biosecurity training;

(vii) meal planning and related nutrition activities;

(viii) culinary skills; and
(ix) other appropriate activities;

(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

(D) developing training materials for use in the programs and workshops described in subparagraph (C);

(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs;

(F) training food service personnel to comply with the nutrition guidance and objectives established by the Secretary through a national network of instructors or other means;

(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives established by the Secretary.

(d) Coordination

(1) In general

The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

(2) Use of institute for dietary and nutrition activities

The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.

(e) Food service management institute

(1) Funding

(A) In general

In addition to any amounts otherwise made available for fiscal year 2011, on October 1, 2010, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subsection (a)(2) $5,000,000, to remain available until expended.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out subsection (a)(2) the funds transferred under subparagraph (A), without further appropriation.

(2) Additional funding

In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out subsection (a)(2) such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under paragraph (1), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

(3) Funding for education, training, or applied research or studies

In addition to amounts made available under paragraphs (1) and (2), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.

(f) Administrative training and technical assistance material

In collaboration with State educational agencies, local educational agencies, and school food authorities of varying sizes, the Secretary shall develop and distribute training and technical assistance material relating to the administration of school meals programs that are representative of the best management and administrative practices.

(g) Federal administrative support

(1) Funding

(A) In general

Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection—

(i) on October 1, 2004, and October 1, 2005, $3,000,000;

(ii) on October 1, 2006, October 1, 2007, October 1, 2008, and October 1, 2009, $2,000,000; and

(iii) on October 1, 2010, and every October 1 thereafter, $4,000,000.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(C) Availability of funds

Funds transferred under subparagraph (A) shall remain available until expended.

(2) Use of funds

The Secretary may use funds provided under this subsection—

(A) to provide training and technical assistance and material related to improving program integrity and administrative accuracy in school meals programs; and

(B) to assist State educational agencies in reviewing the administrative practices of local educational agencies, to the extent determined by the Secretary.

(June 4, 1946, ch. 281, §21, as added Pub. L. 101–147, title I, §109, Nov. 10, 1989, 103 Stat. 887; amended Pub. L. 102–337, §1, Aug. 7, 1992, 106 Stat. 865; Pub. L. 103–448, title I, §120, Nov. 2, 1994, 108 Stat. 4726; Pub. L. 105–336, title I, §§103(c)(2), 110, Oct. 31, 1998, 112 Stat. 3147, 3157; Pub. L. 108–265, title I, §§125, 126(a), title II, §205(b), June 30, 2004, 118 Stat. 761, 763, 787; Pub. L. 108–447, div. A, title VII, §788(c), Dec. 8, 2004, 118 Stat. 2851; Pub. L. 111–80, title VII, §749(e), Oct. 21, 2009, 123 Stat. 2132; Pub. L. 111–296, title IV, §§406, 407, Dec. 13, 2010, 124 Stat. 3259, 3260.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (e). Pub. L. 111–296, §406, substituted "Food service management institute" for "Authorization of appropriations" in heading, added par. (1), redesignated former subpars. (B) and (C) of former par. (2) as pars. (2) and (3), respectively, and realigned margins, substituted "paragraph (1)" for "subparagraph (A)" in two places in par. (2) and "paragraphs (1) and (2)" for "subparagraphs (A) and (B)" in par. (3), and struck out former pars. (1) and (2)(A) which related to authorization of appropriations for training activities and technical assistance and funding for the food service management institute, respectively.

Subsec. (g)(1)(A)(iii). Pub. L. 111–296, §407, added cl. (iii).

2009—Subsec. (g)(1)(A)(ii). Pub. L. 111–80 substituted "October 1, 2008, and October 1, 2009" for "and October 1, 2008".

2004—Subsec. (a)(1). Pub. L. 108–265, §125(a), substituted provisions relating to training and technical assistance under this chapter, section 1773 of this title, and other federally assisted programs, including assistance on a competitive basis to State agencies for the purpose of aiding schools with at least 50 percent of enrolled children certified to receive free or reduced price meals, and to State agencies with low proportions of students that participate in the school breakfast program and demonstrate the greatest need, for provisions relating to training activities and technical assistance under this chapter, section 1773 of this title, and other federally assisted programs.

Subsec. (c)(2)(B)(vi) to (x). Pub. L. 108–265, §125(b), added cl. (vi), struck out former cls. (vi) and (vii), which related to safety and food handling, respectively, and redesignated former cls. (viii) to (x) as (vii) to (ix), respectively.

Subsec. (c)(2)(E). Pub. L. 108–265, §205(b), struck out ", including activities carried out with assistance provided under section 1788 of this title" before semicolon at end.

Subsec. (e)(1). Pub. L. 108–265, §125(c)(1), substituted "2009" for "2003".

Subsec. (e)(2)(A). Pub. L. 108–447 inserted "and" after "2005".

Pub. L. 108–265, §125(c)(2), substituted "provide to the Secretary" for "provide to the Secretary $147,000 for fiscal year 1995, $2,000,000 for each of fiscal years 1996 through 1998, and" and "2004 and $4,000,000 for fiscal year 2005" for "1999 and".

Subsecs. (f), (g). Pub. L. 108–265, §126(a), added subsecs. (f) and (g).

1998—Subsec. (c)(2)(F), (H). Pub. L. 105–336, §110(a), substituted "established by the Secretary" for "of section 1769e of this title".

Subsec. (e)(1). Pub. L. 105–336, §110(b), substituted "2003" for "1998".

Subsec. (e)(2)(A). Pub. L. 105–336, §110(c), substituted "$2,000,000 for each of fiscal years 1996 through 1998, and $3,000,000 for fiscal year 1999 and each subsequent fiscal year," for "and $2,000,000 for fiscal year 1996 and each subsequent fiscal year," in first sentence.

Pub. L. 105–336, §103(c)(2), inserted ", without further appropriation" before period at end of second sentence.

1994—Subsec. (a)(1). Pub. L. 103–448, §120(c)(1), substituted "subject to the availability of, and from, amounts" for "from amounts" in introductory provisions.

Subsec. (c)(2)(B)(ix), (x). Pub. L. 103–448, §120(a)(1), added cl. (ix) and redesignated former cl. (ix) as (x).

Subsec. (c)(2)(F) to (H). Pub. L. 103–448, §120(a)(2)–(4), added subpars. (F) to (H).

Subsec. (d). Pub. L. 103–448, §120(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (e). Pub. L. 103–448, §120(c)(2), added subsec. (e) and struck out former subsec. (e) which read as follows: "There are authorized to be appropriated—

"(1) $3,000,000 for the fiscal year 1990, $2,000,000 for the fiscal year 1991, and $1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1) of this section; and

"(2) $1,000,000 for the fiscal year 1990 and $4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2) of this section."

1992—Subsec. (a)(2). Pub. L. 102–337 inserted "to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi," after "is authorized".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

§1769c. Compliance and accountability

(a) Unified accountability system

(1) [1] In general

There shall be a unified system prescribed and administered by the Secretary to ensure that local food service authorities participating in the school lunch program established under this chapter

and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) comply with those Acts, including compliance with—

(A) the nutritional requirements of section 1758(f) of this title for school lunches; and

(B) as applicable, the nutritional requirements for school breakfasts under section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

(b) Functions of system

(1) In general

Under the system described in subsection (a), each State educational agency shall—

(A) require that local food service authorities comply with the nutritional requirements described in subparagraphs (A) and (B) of paragraph (1); [2]

(B) to the maximum extent practicable, ensure compliance through reasonable audits and supervisory assistance reviews;

(C) in conducting audits and reviews for the purpose of determining compliance with this chapter, including the nutritional requirements of section 1758(f) of this title—

(i) conduct audits and reviews during a 3-year cycle or other period prescribed by the Secretary;

(ii) select schools for review in each local educational agency using criteria established by the Secretary;

(iii) report the final results of the reviews to the public in the State in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary; and

(iv) submit to the Secretary each year a report containing the results of the reviews in accordance with procedures developed by the Secretary; and

(D) when any local food service authority is reviewed under this section, ensure that the final results of the review by the State educational agency are posted and otherwise made available to the public on request in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary.

(2) Minimization of additional duties

Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

(3) Additional review requirement for selected local educational agencies

(A) Definition of selected local educational agencies

In this paragraph, the term "selected local educational agency" means a local educational agency that has a demonstrated high level of, or a high risk for, administrative error, as determined by the Secretary.

(B) Additional administrative review

In addition to any review required by subsection (a) or paragraph (1), each State educational agency shall conduct an administrative review of each selected local educational agency during the review cycle established under subsection (a).

(C) Scope of review

In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected local educational agency, including application, certification, verification, meal counting, and meal claiming procedures.

(D) Results of review

If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected local educational agency fails to meet performance criteria established by the Secretary, the State educational agency shall—

(i) require the selected local educational agency to develop and carry out an approved plan

of corrective action;

(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected local educational agency in carrying out the corrective action plan; and

(iii) conduct a followup review of the selected local educational agency under standards established by the Secretary.

(4) Retaining funds after administrative reviews

(A) In general

Subject to subparagraphs (B) and (C), if the local educational agency fails to meet administrative performance criteria established by the Secretary in both an initial review and a followup review under paragraph (1) or (3) or subsection (a), the Secretary may require the State educational agency to retain funds that would otherwise be paid to the local educational agency for school meals programs under procedures prescribed by the Secretary.

(B) Amount

The amount of funds retained under subparagraph (A) shall equal the value of any overpayment made to the local educational agency or school food authority as a result of an erroneous claim during the time period described in subparagraph (C).

(C) Time period

The period for determining the value of any overpayment under subparagraph (B) shall be the period—

(i) beginning on the date the erroneous claim was made; and

(ii) ending on the earlier of the date the erroneous claim is corrected or—

(I) in the case of the first followup review conducted by the State educational agency of the local educational agency under this section after July 1, 2005, the date that is 60 days after the beginning of the period under clause (i); or

(II) in the case of any subsequent followup review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

(5) Use of retained funds

(A) In general

Subject to subparagraph (B), funds retained under paragraph (4) shall—

(i) be returned to the Secretary, and may be used—

(I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs to State educational agencies and, to the extent determined by the Secretary, to local educational agencies and school food authorities;

(II) to assist State educational agencies in reviewing the administrative practices of local educational agencies in carrying out school meals programs; and

(III) to carry out section 1769b–1(f) of this title; or

(ii) be credited to the child nutrition programs appropriation account.

(B) State share

A State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist local educational agencies and school food authorities that have repeatedly failed, as determined by the Secretary, to meet administrative performance criteria.

(C) Requirement

To be eligible to retain funds under subparagraph (B), a State educational agency shall—

(i) submit to the Secretary a plan describing how the State educational agency will use the

funds to improve school meals program integrity, including measures to give priority to local educational agencies from which funds were retained under paragraph (4);

(ii) consider using individuals who administer exemplary local food service programs in the provision of training and technical assistance; and

(iii) obtain the approval of the Secretary for the plan.

(6) Eligibility determination review for selected local educational agencies

(A) In general

A local educational agency that has demonstrated a high level of, or a high risk for, administrative error associated with certification, verification, and other administrative processes, as determined by the Secretary, shall ensure that the initial eligibility determination for each application is reviewed for accuracy prior to notifying a household of the eligibility or ineligibility of the household for free or reduced price meals.

(B) Timeliness

The review of initial eligibility determinations—

(i) shall be completed in a timely manner; and

(ii) shall not result in the delay of an eligibility determination for more than 10 operating days after the date on which the application is submitted.

(C) Acceptable types of review

Subject to standards established by the Secretary, the system used to review eligibility determinations for accuracy shall be conducted by an individual or entity that did not make the initial eligibility determination.

(D) Notification of household

Once the review of an eligibility determination has been completed under this paragraph, the household shall be notified immediately of the determination of eligibility or ineligibility for free or reduced price meals.

(E) Reporting

(i) Local educational agencies

In accordance with procedures established by the Secretary, each local educational agency required to review initial eligibility determinations shall submit to the relevant State agency a report describing the results of the reviews, including—

(I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and

(II) such other information as the Secretary determines to be necessary.

(ii) State agencies

In accordance with procedures established by the Secretary, each State agency shall submit to the Secretary a report describing the results of the reviews of initial eligibility determinations, including—

(I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and

(II) such other information as the Secretary determines to be necessary.

(iii) Transparency

The Secretary shall publish annually the results of the reviews of initial eligibility determinations by State, number, percentage, and type of error.

(c) Role of Secretary

In carrying out this section, the Secretary shall—

(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

(2) through management evaluations, review the compliance of the State educational agency

and the local school food service authorities with regulations issued under this chapter.

(d) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) $10,000,000 for each of fiscal years 2011 through 2015.

(e) Fines for violating program requirements

(1) School food authorities and schools

(A) In general

The Secretary shall establish criteria by which the Secretary or a State agency may impose a fine against any school food authority or school administering a program authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary or the State agency determines that the school food authority or school has—

(i) failed to correct severe mismanagement of the program;

(ii) disregarded a program requirement of which the school food authority or school had been informed; or

(iii) failed to correct repeated violations of program requirements.

(B) Limits

(i) In general

In calculating the fine for a school food authority or school, the Secretary shall base the amount of the fine on the reimbursement earned by school food authority or school for the program in which the violation occurred.

(ii) Amount

The amount under clause (i) shall not exceed—

(I) 1 percent of the amount of meal reimbursements earned for the fiscal year for the first finding of 1 or more program violations under subparagraph (A);

(II) 5 percent of the amount of meal reimbursements earned for the fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

(III) 10 percent of the amount of meal reimbursements earned for the fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

(2) State agencies

(A) In general

The Secretary shall establish criteria by which the Secretary may impose a fine against any State agency administering a program authorized under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary determines that the State agency has—

(i) failed to correct severe mismanagement of the program;

(ii) disregarded a program requirement of which the State had been informed; or

(iii) failed to correct repeated violations of program requirements.

(B) Limits

In the case of a State agency, the amount of a fine under subparagraph (A) shall not exceed—

(i) 1 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the first finding of 1 or more program violations under subparagraph (A);

(ii) 5 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

(iii) 10 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

(3) Source of funding

Funds to pay a fine imposed under paragraph (1) or (2) shall be derived from non-Federal sources.

(June 4, 1946, ch. 281, §22, as added Pub. L. 101–147, title I, §110(a), Nov. 10, 1989, 103 Stat. 889; amended Pub. L. 103–448, title I, §121, Nov. 2, 1994, 108 Stat. 4727; Pub. L. 105–336, title I, §111, Oct. 31, 1998, 112 Stat. 3157; Pub. L. 108–265, title I, §§126(b)(1), 127, June 30, 2004, 118 Stat. 763, 767; Pub. L. 111–296, title II, §207, title III, §§303, 304, title IV, §408, Dec. 13, 2010, 124 Stat. 3220, 3240, 3242, 3260.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1) and (e)(1)(A), (2)(A), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

Those Acts, referred to in subsec. (a)(1), mean the Richard B. Russell National School Lunch Act, which was in the original "this Act" and was translated to read "this chapter", and the Child Nutrition Act of 1966. See above.

PRIOR PROVISIONS

A prior section 1769c, act June 4, 1946, ch. 281, §22, as added Nov. 10, 1978, Pub. L. 95–627, §9, 92 Stat. 3623, directed a study of menu choice, prior to repeal by Pub. L. 99–500, title III, §371(b), Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, §371(b), Oct. 30, 1986, 100 Stat. 3341–372; Pub. L. 99–661, div. D, title V, §4501(b), Nov. 14, 1986, 100 Stat. 4080.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–296, §207(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this chapter comply with the provisions of this chapter. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5."

Subsec. (b)(1). Pub. L. 111–296, §207(2), added subpars. (A) to (D) and struck out former subpars. (A) and (B) which read as follows:

"(A) require that local food service authorities comply with the provisions of this chapter; and

"(B) ensure such compliance through reasonable audits and supervisory assistance reviews."

Subsec. (b)(6). Pub. L. 111–296, §304, added par. (6).

Subsec. (d). Pub. L. 111–296, §408, substituted "$10,000,000 for each of fiscal years 2011 through 2015" for "$6,000,000 for each of fiscal years 2004 through 2009".

Subsec. (e). Pub. L. 111–296, §303, added subsec. (e).

2004—Subsec. (b)(3) to (5). Pub. L. 108–265, §126(b)(1), added pars. (3) to (5).

Subsec. (d). Pub. L. 108–265, §127, substituted "$6,000,000 for each of fiscal years 2004 through 2009" for "$3,000,000 for each of the fiscal years 1994 through 2003".

1998—Subsec. (d). Pub. L. 105–336 substituted "2003" for "1996".

1994—Subsec. (d). Pub. L. 103–448 substituted "fiscal years 1994 through 1996" for "fiscal years 1990, 1991, 1992, 1993, and 1994".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 126(b)(1) of Pub. L. 108–265 effective July 1, 2005, and amendment by section 127 of Pub. L. 108–265 effective June 30, 2004, see section 502(a), (b)(4) of Pub. L. 108–265, as amended, set out

as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

REGULATIONS

Pub. L. 101–147, title I, §110(b), Nov. 10, 1989, 103 Stat. 889, provided that: "Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22 of the [Richard B. Russell] National School Lunch Act [this section] (as added by subsection (a) of this section)."

INTERPRETATION

Pub. L. 108–265, title I, §126(b)(2), June 30, 2004, 118 Stat. 765, provided that: "Nothing in the amendment made by paragraph (1) [amending this section] affects the requirements for fiscal actions as described in the regulations issued pursuant to section 22(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(a))."

[1] So in original. No par. (2) has been enacted.

[2] So in original. Probably means subpars. (A) and (B) of par. (1) of subsec. (a).

§1769d. Childhood hunger research

(a) Research on causes and consequences of childhood hunger

(1) In general

The Secretary shall conduct research on—

(A) the causes of childhood hunger and food insecurity;

(B) the characteristics of households with childhood hunger and food insecurity; and

(C) the consequences of childhood hunger and food insecurity.

(2) Authority

In carrying out research under paragraph (1), the Secretary may—

(A) enter into competitively awarded contracts or cooperative agreements; or

(B) provide grants to States or public or private agencies or organizations, as determined by the Secretary.

(3) Application

To be eligible to enter into a contract or cooperative agreement or receive a grant under this subsection, a State or public or private agency or organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require.

(4) Areas of inquiry

The Secretary shall design the research program to advance knowledge and understanding of information on the issues described in paragraph (1), such as—

(A) economic, health, social, cultural, demographic, and other factors that contribute to childhood hunger or food insecurity;

(B) the geographic distribution of childhood hunger and food insecurity;

(C) the extent to which—

(i) existing Federal assistance programs, including title 26, reduce childhood hunger and food insecurity; and

(ii) childhood hunger and food insecurity persist due to—
(I) gaps in program coverage;
(II) the inability of potential participants to access programs; or
(III) the insufficiency of program benefits or services;

(D) the public health and medical costs of childhood hunger and food insecurity;

(E) an estimate of the degree to which the Census Bureau measure of food insecurity underestimates childhood hunger and food insecurity because the Census Bureau excludes certain households, such as homeless, or other factors;

(F) the effects of childhood hunger on child development, well-being, and educational attainment; and

(G) such other critical outcomes as are determined by the Secretary.

(5) Funding

(A) In general

On October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $10,000,000, to remain available until expended.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(b) Demonstration projects to end childhood hunger

(1) Definitions

In this subsection:

(A) Child

The term "child" means a person under the age of 18.

(B) Supplemental nutrition assistance program

The term "supplemental nutrition assistance program" means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(2) Purpose

Under such terms and conditions as are established by the Secretary, the Secretary shall carry out demonstration projects that test innovative strategies to end childhood hunger, including alternative models for service delivery and benefit levels that promote the reduction or elimination of childhood hunger and food insecurity.

(3) Projects

Demonstration projects carried out under this subsection may include projects that—

(A) enhance benefits provided under the supplemental nutrition assistance program for eligible households with children;

(B) enhance benefits or provide for innovative program delivery models in the school meals, afterschool snack, and child and adult care food programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(C) target Federal, State, or local assistance, including emergency housing or family preservation services, at households with children who are experiencing hunger or food insecurity, to the extent permitted by the legal authority establishing those assistance programs and services.

(4) Grants

(A) Demonstration projects

(i) In general

In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as determined by the Secretary), for use in accordance with demonstration projects that meet the purposes of this subsection.

(ii) Requirement

At least 1 demonstration project funded under this subsection shall be carried out on an Indian reservation in a rural area with a service population with a prevalence of diabetes that exceeds 15 percent, as determined by the Director of the Indian Health Service.

(B) Application

To be eligible to receive a contract, cooperative agreement, or grant under this subsection, an organization or agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) Selection criteria

Demonstration projects shall be selected based on publicly disseminated criteria that may include—

(i) an identification of a low-income target group that reflects individuals experiencing hunger or food insecurity;

(ii) a commitment to a demonstration project that allows for a rigorous outcome evaluation as described in paragraph (6);

(iii) a focus on innovative strategies to reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children; and

(iv) such other criteria as are determined by the Secretary.

(5) Consultation

In determining the range of projects and defining selection criteria under this subsection, the Secretary shall consult with—

(A) the Secretary of Health and Human Services;

(B) the Secretary of Labor; and

(C) the Secretary of Housing and Urban Development.

(6) Evaluation and reporting

(A) Independent evaluation

The Secretary shall provide for an independent evaluation of each demonstration project carried out under this subsection that—

(i) measures the impact of each demonstration project on appropriate participation, food security, nutrition, and associated behavioral outcomes among participating households; and

(ii) uses rigorous experimental designs and methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective in reducing the prevalence or preventing the incidence of food insecurity and hunger in the community, especially among children.

(B) Reporting

Not later than December 31, 2013 and each December 31 thereafter until the date on which the last evaluation under subparagraph (A) is completed, the Secretary shall—

(i) submit to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

(I) the status of each demonstration project; and

(II) the results of any evaluations of the demonstration projects completed during the previous fiscal year; and

(ii) ensure that the evaluation results are shared broadly to inform policy makers, service providers, other partners, and the public in order to promote the wide use of successful strategies.

(7) Funding

(A) In general

On October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $40,000,000, to remain available until September 30, 2017.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(C) Use of funds

(i) In general

Funds made available under subparagraph (A) may be used to carry out this subsection, including to pay Federal costs associated with developing, soliciting, awarding, monitoring, evaluating, and disseminating the results of each demonstration project under this subsection.

(ii) Indian reservations

Of amounts made available under subparagraph (A), the Secretary shall use a portion of the amounts to carry out research relating to hunger, obesity and type 2 diabetes on Indian reservations, including research to determine the manner in which Federal nutrition programs can help to overcome those problems.

(iii) Report

Not later than 1 year after December 13, 2010, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(I) describes the manner in which Federal nutrition programs can help to overcome child hunger nutrition problems on Indian reservations; and

(II) contains proposed administrative and legislative recommendations to strengthen and streamline all relevant Department of Agriculture nutrition programs to reduce childhood hunger, obesity, and type 2 diabetes on Indian reservations.

(D) Limitations

(i) Duration

No project may be funded under this subsection for more than 5 years.

(ii) Project requirements

No project that makes use of, alters, or coordinates with the supplemental nutrition assistance program may be funded under this subsection unless the project is fully consistent with the project requirements described in section 17(b)(1)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)).

(iii) Hunger-free communities

No project may be funded under this subsection that receives funding under section 7517 of title 7.[1]

(iv) Other benefits

Funds made available under this subsection may not be used for any project in a manner that is inconsistent with—

(I) this chapter;

(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(III) the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or
(IV) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).

(June 4, 1946, ch. 281, §23, as added Pub. L. 111–296, title I, §141, Dec. 13, 2010, 124 Stat. 3206.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 7517 of title 7, referred to in subsec. (b)(7)(D)(iii), was amended generally by Pub. L. 113–79, title IV, §4208, Feb. 7, 2014, 128 Stat. 826, and now relates to the Gus Schumacher nutrition incentive program.

The Food and Nutrition Act of 2008, referred to in subsec. (b)(1)(B), (7)(D)(iv)(III), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (b)(3)(B), (7)(D)(iv)(II), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Emergency Food Assistance Act of 1983, referred to in subsec. (b)(7)(D)(iv)(IV), is title II of Pub. L. 98–8, Mar. 24, 1983, 97 Stat. 35, which is classified principally to chapter 102 (§7501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7501 of Title 7 and Tables.

PRIOR PROVISIONS

A prior section 1769d, act June 4, 1946, ch. 281, §23, as added Nov. 10, 1989, Pub. L. 101–147, title I, §111, 103 Stat. 890, directed Secretary to provide each appropriate State agency with information on income eligibility for free or reduced price meals under each program established under this chapter and the Child Nutrition Act of 1966, prior to repeal by Pub. L. 104–193, title VII, §711, Aug. 22, 1996, 110 Stat. 2301.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Section effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as an Effective Date of 2010 Amendment note under section 1751 of this title.

[1] *See References in Text note below.*

§1769e. State childhood hunger challenge grants

(a) Definitions

In this section:

(1) Child

The term "child" means a person under the age of 18.

(2) Supplemental nutrition assistance program

The term "supplemental nutrition assistance program" means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(b) Purpose

Under such terms and conditions as are established by the Secretary, funds made available under this section may be used to competitively award grants to or enter into cooperative agreements with

Governors to carry out comprehensive and innovative strategies to end childhood hunger, including alternative models for service delivery and benefit levels that promote the reduction or elimination of childhood hunger by 2015.

(c) Projects

State demonstration projects carried out under this section may include projects that—

(1) enhance benefits provided under the supplemental nutrition assistance program for eligible households with children;

(2) enhance benefits or provide for innovative program delivery models in the school meals, afterschool snack, and child and adult care food programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(3) target Federal, State, or local assistance, including emergency housing, family preservation services, child care, or temporary assistance at households with children who are experiencing hunger or food insecurity, to the extent permitted by the legal authority establishing those assistance programs and services;

(4) enhance outreach to increase access and participation in Federal nutrition assistance programs; and

(5) improve the coordination of Federal, State, and community resources and services aimed at preventing food insecurity and hunger, including through the establishment and expansion of State food policy councils.

(d) Grants

(1) In general

In carrying out this section, the Secretary may competitively award grants or enter into competitively awarded cooperative agreements with Governors for use in accordance with demonstration projects that meet the purposes of this section.

(2) Application

To be eligible to receive a grant or cooperative agreement under this section, a Governor shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) Selection criteria

The Secretary shall evaluate proposals based on publicly disseminated criteria that may include—

(A) an identification of a low-income target group that reflects individuals experiencing hunger or food insecurity;

(B) a commitment to approaches that allow for a rigorous outcome evaluation as described in subsection (f);

(C) a comprehensive and innovative strategy to reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children; and

(D) such other criteria as are determined by the Secretary.

(4) Requirements

Any project funded under this section shall provide for—

(A) a baseline assessment, and subsequent annual assessments, of the prevalence and severity of very low food security among children in the State, based on a methodology prescribed by the Secretary;

(B) a collaborative planning process including key stakeholders in the State that results in a comprehensive agenda to eliminate childhood hunger that is—

(i) described in a detailed project plan; and

(ii) provided to the Secretary for approval;

(C) an annual budget;

(D) specific performance goals, including the goal to sharply reduce or eliminate food

insecurity among children in the State by 2015, as determined through a methodology prescribed by the Secretary and carried out by the Governor; and

(E) an independent outcome evaluation of not less than 1 major strategy of the project that measures—

(i) the specific impact of the strategy on food insecurity among children in the State; and

(ii) if applicable, the nutrition assistance participation rate among children in the State.

(e) Consultation

In determining the range of projects and defining selection criteria under this section, the Secretary shall consult with—

(1) the Secretary of Health and Human Services;

(2) the Secretary of Labor;

(3) the Secretary of Education; and

(4) the Secretary of Housing and Urban Development.

(f) Evaluation and reporting

(1) General performance assessment

Each project authorized under this section shall require an independent assessment that—

(A) measures the impact of any activities carried out under the project on the level of food insecurity in the State that—

(i) focuses particularly on the level of food insecurity among children in the State; and

(ii) includes a preimplementation baseline and annual measurements taken during the project of the level of food insecurity in the State; and

(B) is carried out using a methodology prescribed by the Secretary.

(2) Independent evaluation

Each project authorized under this section shall provide for an independent evaluation of not less than 1 major strategy that—

(A) measures the impact of the strategy on appropriate participation, food security, nutrition, and associated behavioral outcomes among participating households; and

(B) uses rigorous experimental designs and methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective in reducing the prevalence or preventing the incidence of food insecurity and hunger in the community, especially among children.

(3) Reporting

Not later than December 31, 2011 and each December 31 thereafter until the date on which the last evaluation under paragraph (1) is completed, the Secretary shall—

(A) submit to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

(i) the status of each State demonstration project; and

(ii) the results of any evaluations of the demonstration projects completed during the previous fiscal year; and

(B) ensure that the evaluation results are shared broadly to inform policy makers, service providers, other partners, and the public in order to promote the wide use of successful strategies.

(g) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2011 through 2014, to remain available until expended.

(2) Use of funds

Funds made available under paragraph (1) may be used to carry out this section, including to pay Federal costs associated with developing, soliciting, awarding, monitoring, evaluating, and disseminating the results of each demonstration project under this section.

(3) Limitations

(A) Duration

No project may be funded under this section for more than 5 years.

(B) Performance basis

Funds provided under this section shall be made available to each Governor on an annual basis, with the amount of funds provided for each year contingent on the satisfactory implementation of the project plan and progress towards the performance goals defined in the project year plan.

(C) Altering nutrition assistance program requirements

No project that makes use of, alters, or coordinates with the supplemental nutrition assistance program may be funded under this section unless the project is fully consistent with the project requirements described in section 17(b)(1)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)).

(D) Other benefits

Funds made available under this section may not be used for any project in a manner that is inconsistent with—

(i) this chapter;
(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);
(iii) the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or
(iv) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).

(June 4, 1946, ch. 281, §24, as added Pub. L. 111–296, title I, §142, Dec. 13, 2010, 124 Stat. 3210.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsecs. (a)(2) and (g)(3)(D)(iii), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Child Nutrition Act of 1966, referred to in subsecs. (c)(2) and (g)(3)(D)(ii), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Emergency Food Assistance Act of 1983, referred to in subsec. (g)(3)(D)(iv), is title II of Pub. L. 98–8, Mar. 24, 1983, 97 Stat. 35, which is classified principally to chapter 102 (§7501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 7501 of Title 7 and Tables.

PRIOR PROVISIONS

A prior section 1769e, act June 4, 1946, ch. 281, §24, as added Nov. 10, 1989, Pub. L. 101–147, title I, §112, 103 Stat. 890, related to nutrition guidance for child nutrition programs, prior to repeal by Pub. L. 104–193, title VII, §712, Aug. 22, 1996, 110 Stat. 2301.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress,

Jan. 9, 2023.

EFFECTIVE DATE

Section effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as an Effective Date of 2010 Amendment note under section 1751 of this title.

§1769f. Duties of Secretary relating to nonprocurement debarment

(a) Purposes

The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

(2) providing training, technical advice, and guidance in identifying and preventing the activities.

(b) Definitions

As used in this section:

(1) Child nutrition program

The term "child nutrition program" means—

(A) the school lunch program established under this chapter;

(B) the summer food service program for children established under section 1761 of this title;

(C) the child and adult care food program established under section 1766 of this title;

(D) the special milk program established under section 1772 of this title;

(E) the school breakfast program established under section 1773 of this title; and

(F) the special supplemental nutrition program for women, infants, and children authorized under section 1786 of this title.

(2) Contractor

The term "contractor" means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

(3) Local agency

The term "local agency" means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

(4) Nonprocurement debarment

The term "nonprocurement debarment" means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

(5) Person

The term "person" means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

(c) Assistance to identify and prevent fraud and anticompetitive activities

The Secretary shall—

(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

(d) Nonprocurement debarment

(1) In general

Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

(2) Causes for debarment

Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;

(C) knowingly receiving stolen property;

(D) making a false claim or statement; or

(E) any other obstruction of justice.

(3) Exception

If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

(4) Mandatory child nutrition program debarment periods

(A) In general

Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

(B) Previous debarment

If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

(C) Scope

At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

(D) Reversal, reduction, or exception

Nothing in this section shall restrict the ability of the Secretary to—

(i) reverse a debarment decision;

(ii) reduce the period or scope of a debarment;

(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

(5) Information

On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

(6) Relationship to other authorities

A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

(7) Regulations

The Secretary shall issue such regulations as are necessary to carry out this subsection.

(e) Mandatory debarment

Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2)), unless the action—

(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not involved in the improper activity that would otherwise result in the debarment;

(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

(f) Exhaustion of administrative remedies

Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

(1) exhaust all administrative procedures prescribed by the Secretary; and

(2) receive notice of the final determination of the Secretary.

(g) Information relating to prevention and control of anticompetitive activities

On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.

(June 4, 1946, ch. 281, §25, as added Pub. L. 103–448, title I, §122(a), Nov. 2, 1994, 108 Stat. 4727; amended Pub. L. 105–336, title I, §107(j)(2)(C)(ii), Oct. 31, 1998, 112 Stat. 3153.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b)(1)(D) to (G). Pub. L. 105–336 redesignated subpars. (E) to (G) as (D) to (F), respectively, and struck out former subpar. (D) which read as follows: "the homeless children nutrition program established under section 1766b of this title;".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective July 1, 1999, see section 107(j)(4) of Pub. L. 105–336, set out as a note under section 1761 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as an Effective Date of 1994 Amendment note under section 1755 of this title.

Pub. L. 103–448, title I, §122(b), Nov. 2, 1994, 108 Stat. 4730, provided that: "Section 25 of the [Richard B. Russell] National School Lunch Act [42 U.S.C. 1769f] (as added by subsection (a)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act [Oct. 1, 1994]."

NO REDUCTION IN AUTHORITY OF SECRETARY OF AGRICULTURE TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS

Pub. L. 103–448, title I, §122(c), Nov. 2, 1994, 108 Stat. 4731, provided that: "The authority of the Secretary of Agriculture that exists on the day before the date of enactment of this Act [Nov. 2, 1994] to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by subsection (a) [enacting this section] or the amendment made by subsection (a)."

§1769g. Information clearinghouse

(a) In general

The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

(b) Nongovernmental organization

The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in

becoming self-sufficient and self-reliant;

(4) be sponsored by an organization, or be an organization, that—

(A) has helped combat hunger for at least 10 years;

(B) is committed to reinvesting in the United States; and

(C) is knowledgeable regarding Federal nutrition programs;

(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

(c) Audits

The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

(d) Funding

Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for fiscal year 1997, $100,000 for fiscal year 1998, $166,000 for each of fiscal years 1999 through 2004, and $250,000 for each of fiscal years 2010 through 2027. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.

(June 4, 1946, ch. 281, §26, as added Pub. L. 103–448, title I, §123, Nov. 2, 1994, 108 Stat. 4731; amended Pub. L. 105–336, title I, §§103(c)(2), 112, Oct. 31, 1998, 112 Stat. 3147, 3157; Pub. L. 108–265, title I, §128, June 30, 2004, 118 Stat. 767; Pub. L. 111–80, title VII, §749(f), Oct. 21, 2009, 123 Stat. 2132; Pub. L. 111–296, title IV, §409, Dec. 13, 2010, 124 Stat. 3260; Pub. L. 114–113, div. A, title IV, Dec. 18, 2015, 129 Stat. 2266; Pub. L. 114–223, div. C, §148, as added Pub. L. 114–254, div. A, §101(3), Dec. 10, 2016, 130 Stat. 1006; Pub. L. 115–31, div. A, title IV, May 5, 2017, 131 Stat. 159; Pub. L. 115–141, div. A, title IV, Mar. 23, 2018, 132 Stat. 373; Pub. L. 116–6, div. B, title IV, Feb. 15, 2019, 133 Stat. 67; Pub. L. 116–94, div. B, title IV, Dec. 20, 2019, 133 Stat. 2635; Pub. L. 116–260, div. A, title IV, Dec. 27, 2020, 134 Stat. 1209; Pub. L. 117–103, div. A, title IV, Mar. 15, 2022, 136 Stat. 77; Pub. L. 117–328, div. A, title IV, Dec. 29, 2022, 136 Stat. 4488; Pub. L. 118–42, div. B, title IV, Mar. 9, 2024, 138 Stat. 92; Pub. L. 119–37, div. B, title IV, Nov. 12, 2025, 139 Stat. 534.)

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (d). Pub. L. 119–37 substituted "2010 through 2027" for "2010 through 2025".

2024—Subsec. (d). Pub. L. 118–42 substituted "2010 through 2025" for "2010 through 2024".

2022—Subsec. (d). Pub. L. 117–328 substituted "2010 through 2024" for "2010 through 2023".

Pub. L. 117–103 substituted "2010 through 2023" for "2010 through 2022".

2020—Subsec. (d). Pub. L. 116–260 substituted "2010 through 2022" for "2010 through 2021".

2019—Subsec. (d). Pub. L. 116–94 substituted "2010 through 2021" for "2010 through 2019".

Pub. L. 116–6 substituted "2010 through 2019" for "2010 through 2018".

2018—Subsec. (d). Pub. L. 115–141 substituted "2010 through 2018" for "2010 through 2017".

2017—Subsec. (d). Pub. L. 115–31, which directed substitution of "2010 through 2017" for "2010 through 2016" in first sentence, could not be executed because of the prior identical amendment by Pub. L. 114–223, §148. See 2016 Amendment note below.

2016—Subsec. (d). Pub. L. 114–223, §148, as added by Pub. L. 114–254, §101(3), substituted "2010 through 2017" for "2010 through 2016" in first sentence.

2015—Subsec. (d). Pub. L. 114–113 substituted "2010 through 2016" for "2010 through 2015" in first

sentence.

2010—Subsec. (d). Pub. L. 111–296 substituted "2010 through 2015" for "2005 through 2010" in first sentence.

2009—Subsec. (d). Pub. L. 111–80 substituted "2010" for "2009".

2004—Subsec. (d). Pub. L. 108–265, in first sentence, substituted "1998," for "1998, and" and "through 2004, and $250,000 for each of fiscal years 2005 through 2009" for "through 2003".

1998—Subsec. (d). Pub. L. 105–336 substituted "$100,000 for fiscal year 1998, and $166,000 for each of fiscal years 1999 through 2003" for "and $100,000 for fiscal year 1998" in first sentence and inserted ", without further appropriation" before period at end of second sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as an Effective Date of 1994 Amendment note under section 1755 of this title.

§1769h. Repealed. Pub. L. 111–296, title IV, §441(a)(14), Dec. 13, 2010, 124 Stat. 3264

Section, act June 4, 1946, ch. 281, §27, as added Pub. L. 103–448, title I, §124, Nov. 2, 1994, 108 Stat. 4732; amended Pub. L. 105–220, title IV, §414(d), Aug. 7, 1998, 112 Stat. 1242; Pub. L. 105–336, title I, §113, Oct. 31, 1998, 112 Stat. 3157, related to accommodation of the special dietary needs of individuals with disabilities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as an Effective Date of 2010 Amendment note under section 1751 of this title.

§1769i. Program evaluation

(a) Performance assessments

(1) In general

Subject to the availability of funds made available under paragraph (3), the Secretary, acting through the Administrator of the Food and Nutrition Service, may conduct annual national performance assessments of the meal programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) Components

In conducting an assessment, the Secretary may assess—

(A) the cost of producing meals and meal supplements under the programs described in paragraph (1); and

(B) the nutrient profile of meals, and status of menu planning practices, under the programs.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2004 and each subsequent fiscal year.

(b) Certification improvements

(1) In general

Subject to the availability of funds made available under paragraph (5), the Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct a study of the feasibility of improving the certification process used for the school lunch program established under this chapter.

(2) Pilot projects

In carrying out this subsection, the Secretary may conduct pilot projects to improve the certification process used for the school lunch program.

(3) Components

In carrying out this subsection, the Secretary shall examine the use of—

(A) other income reporting systems;

(B) an integrated benefit eligibility determination process managed by a single agency;

(C) income or program participation data gathered by State or local agencies; and

(D) other options determined by the Secretary.

(4) Waivers

(A) In general

Subject to subparagraph (B), the Secretary may waive such provisions of this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) as are necessary to carry out this subsection.

(B) Provisions

The protections of section 1758(b)(6) of this title shall apply to any study or pilot project carried out under this subsection.

(5) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection such sums as are necessary.

(c) Cooperation with program research and evaluation

States, State educational agencies, local educational agencies, schools, institutions, facilities, and contractors participating in programs authorized under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall cooperate with officials and contractors acting on behalf of the Secretary, in the conduct of evaluations and studies under those Acts.

(June 4, 1946, ch. 281, §28, as added Pub. L. 108–265, title I, §129, June 30, 2004, 118 Stat. 767; amended Pub. L. 111–296, title III, §305, Dec. 13, 2010, 124 Stat. 3243.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1), (b)(4)(A), and (c), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

Those Acts, referred to in subsec. (c), mean the Richard B. Russell National School Lunch Act, which was in the original "this Act" and was translated to read "this chapter", and the Child Nutrition Act of 1966. See above.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111–296 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

§1769j. Ensuring safety of school meals

(a) Food and Nutrition Service

Not later than 1 year after December 13, 2010, the Secretary, acting through the Administrator of the Food and Nutrition Service, shall—

(1) in consultation with the Administrator of the Agricultural Marketing Service and the Administrator of the Farm Service Agency, develop guidelines to determine the circumstances under which it is appropriate for the Secretary to institute an administrative hold on suspect foods purchased by the Secretary that are being used in school meal programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(2) work with States to explore ways for the States to increase the timeliness of notification of food recalls to schools and school food authorities;

(3) improve the timeliness and completeness of direct communication between the Food and Nutrition Service and States about holds and recalls, such as through the commodity alert system of the Food and Nutrition Service; and

(4) establish a timeframe to improve the commodity hold and recall procedures of the Department of Agriculture to address the role of processors and determine the involvement of distributors with processed products that may contain recalled ingredients, to facilitate the provision of more timely and complete information to schools.

(b) Food Safety and Inspection Service

Not later than 1 year after December 13, 2010, the Secretary, acting through the Administrator of the Food Safety and Inspection Service, shall revise the procedures of the Food Safety and Inspection Service to ensure that schools are included in effectiveness checks.

(June 4, 1946, ch. 281, §29, as added Pub. L. 111–296, title III, §308, Dec. 13, 2010, 124 Stat. 3246.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a)(1), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as an Effective Date of 2010 Amendment note under section 1751 of this title.

CHAPTER 13A—CHILD NUTRITION

Sec.

1771. Congressional declaration of purpose.

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1789. Department of Defense overseas dependents' schools.
1790. Breastfeeding promotion program.
1791. Bill Emerson Good Samaritan Food Donation Act.
1792. Promoting Federal food donation.
1793. Grants for expansion of school breakfast programs.

§1771. Congressional declaration of purpose

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

(Pub. L. 89–642, §2, Oct. 11, 1966, 80 Stat. 885.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–129, §1, May 21, 2022, 136 Stat. 1225, provided that: "This Act [amending section 1786 of this title] may be cited as the 'Access to Baby Formula Act of 2022'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–247, §1, June 20, 2008, 122 Stat. 2314, provided that: "This Act [enacting section 1792 of this title and provisions set out as notes under section 1792 of this title] may be cited as the 'Federal Food Donation Act of 2008'."

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–512, §1, Oct. 24, 1992, 106 Stat. 3363, provided that: "This Act [amending sections 1769, 1776, and 1786 of this title and enacting provisions set out as notes under this section and sections 1769 and 1786 of this title] may be cited as the 'Children's Nutrition Assistance Act of 1992'."

Pub. L. 102–512, title I, §101, Oct. 24, 1992, 106 Stat. 3363, provided that: "This title [amending sections

1769 and 1776 of this title and enacting provisions set out as a note under section 1769 of this title] may be cited as the 'Homeless Children's Assistance Act of 1992'."

Pub. L. 102–512, title II, §201, Oct. 24, 1992, 106 Stat. 3364, provided that: "This title [amending section 1786 of this title and enacting provisions set out as notes under section 1786 of this title] may be cited as the 'WIC Infant Formula Procurement Act of 1992'."

Pub. L. 102–314, §1, July 2, 1992, 106 Stat. 280, provided that: "This Act [amending section 1786 of this title and enacting provisions set out as notes under section 1786 of this title] may be cited as the 'WIC Farmers' Market Nutrition Act of 1992'."

SHORT TITLE

Pub. L. 89–642, §1, Oct. 11, 1966, 80 Stat. 885, provided: "That this Act [enacting this chapter] may be cited as the 'Child Nutrition Act of 1966'."

§1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations; eligibility for special milk program; minimum rate of reimbursement; ineligibility of commodity only schools

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

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

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

(4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as the Secretary administered the special milk program provided for by this chapter during the fiscal year ending June 30, 1969.

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

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

(7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.

(8) Such adjustment shall be computed to the nearest one-fourth cent.

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

(10) The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State.

The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

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

(Pub. L. 89–642, §3, Oct. 11, 1966, 80 Stat. 885; Pub. L. 91–295, June 30, 1970, 84 Stat. 336; Pub. L. 93–150, §7, Nov. 7, 1973, 87 Stat. 563; Pub. L. 93–347, §3, July 12, 1974, 88 Stat. 341; Pub. L. 94–105, §15(a), Oct. 7, 1975, 89 Stat. 522; Pub. L. 95–166, §§11, 20(1), (2), Nov. 10, 1977, 91 Stat. 1337, 1346; Pub. L. 95–627, §5(a), Nov. 10, 1978, 92 Stat. 3619; Pub. L. 96–499, title II, §209, Dec. 5, 1980, 94 Stat. 2602; Pub. L. 97–35, title VIII, §§807, 813(c), Aug. 13, 1981, 95 Stat. 527, 530; Pub. L. 99–500, title III, §329, Oct. 18, 1986, 100 Stat. 1783–362, and Pub. L. 99–591, title III, §329, Oct. 30, 1986, 100 Stat. 3341–365; Pub. L. 99–661, div. D, title II, §4209, Nov. 14, 1986, 100 Stat. 4073; Pub. L. 101–147, title II, §211, title III, §321, Nov. 10, 1989, 103 Stat. 911, 916; Pub. L. 104–193, title VII, §721, Aug. 22, 1996, 110 Stat. 2301; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsecs. (a)(1), (2), (5) and (b), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1999—Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act" wherever appearing.

1996—Subsec. (a)(3). Pub. L. 104–193 substituted "the Commonwealth of the Northern Mariana Islands" for "the Trust Territory of the Pacific Islands".

1989—Subsec. (a). Pub. L. 101–147, §211(a), amended subsec. (a) as identically amended by Pub. L. 99–591, §329, and Pub. L. 99–661, §4209, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (a)(1). Pub. L. 101–147, §321(1), substituted "the Secretary" for "he" before "may deem".

Subsec. (a)(2). Pub. L. 101–147, §321(2), struck out "(42 U.S.C. 1751 et seq.)" after "National School Lunch Act".

Subsec. (a)(4). Pub. L. 101–147, §321(3), substituted "the Secretary" for "he".

Subsec. (a)(5). Pub. L. 101–147, §321(4), substituted "its" for "their" before "request".

Subsec. (a)(10). Pub. L. 101–147, §211(b), added par. (10).

1986—Subsec. (a). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (a) identically, designating existing provisions as pars. (1) and (3) to (9), in par. (1), redesignating former cls. (1) and (2) as subpars. (A) and (B) and inserting "except as provided in paragraph (2)," in subpar. (A), and adding par. (2).

1981—Subsec. (a). Pub. L. 97–35, §813(c)(1), designated existing provisions as subsec. (a).

Pub. L. 97–35, §807, inserted provisions respecting nonparticipation in a meal service program, and struck out provisions relating to rate of reimbursement per half-pint of milk served to children not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act.

Subsec. (b). Pub. L. 97–35, §813(c)(2), added subsec. (b).

1980—Pub. L. 96–499 provided that rate of reimbursement per half-pint of milk, served to children not eligible for free milk in schools, child care institutions, and summer camps participating in meal service

programs under the National School Lunch Act and this chapter was to be five cents.

1978—Pub. L. 95–627 substituted "Producer Price Index for Fresh Processed Milk" for "series of food away from home of the Consumer Price Index", and inserted provision relating to eligibility for free milk.

1977—Pub. L. 95–166 provided free milk for children when milk is made available at times other than the periods of meal service in outlets that operate a food service program under sections 1753, 1766, and 1773 of this title, and substituted "school years" and "annual basis each school year" for "fiscal years" and "annual basis each fiscal year" and deleted "thereafter, beginning with the fiscal year ending June 30, 1976," before "to reflect changes".

1975—Pub. L. 94–105 added the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands to definition of "United States", and inserted provision relating to minimum rate of reimbursement to schools and institutions of the cost of milk served to children.

1974—Pub. L. 93–347 substituted "such sums as may be necessary" for ", not to exceed $120,000,000," in provision limiting the size of appropriations authorized and inserted provisions setting a minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions and allowing for an annual adjustment of the minimum rate.

1973—Pub. L. 93–150 inserted provisions making any school or nonprofit child care institution eligible to receive the special milk program upon their request and any children that qualify for free lunches under guidelines set forth by the Secretary also eligible for free milk.

1970—Pub. L. 91–295 substituted provisions authorizing appropriations of not to exceed $120,000,000 for fiscal year ending June 30, 1970, and for each succeeding fiscal year, for provisions authorizing appropriations of not to exceed $110,000,000 for fiscal year ending June 30, 1967, not to exceed $115,000,000 for fiscal year ending June 30, 1968, and not to exceed $120,000,000 for each of two succeeding fiscal years, and provisions requiring Secretary to administer the special milk program provided for by this section in same manner as he administered the special milk program provided for by this chapter during fiscal year ending June 30, 1969, for provisions requiring the Secretary to administer such program in the same manner as he administered the special milk program provided for by Pub. L. 85–478, as amended, during fiscal year ending June 30, 1966, and provided that Guam be subject to provisions of this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99–661, div. D, title II, §4209, Nov. 14, 1986, 100 Stat. 4073, provided that the amendment made by that section is effective Oct. 1, 1986.

Pub. L. 99–500, title III, §329, Oct. 18, 1986, 100 Stat. 1783–362, and Pub. L. 99–591, title III, §329, Oct. 30, 1986, 100 Stat. 3341–365, provided that the amendment made by each such section is effective July 1, 1987.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 807 of Pub. L. 97–35 effective Oct. 1, 1981, and amendment by section 813 of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, see section 820(a)(3), (5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective July 1, 1979, except as specifically provided, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §20, Nov. 10, 1977, 91 Stat. 1346, provided that the amendment made by that section is effective July 1, 1977.

§1773. School breakfast program

(a) Establishment; authorization of appropriations

There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States and the Department of Defense through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make

application for assistance and agree to carry out a nonprofit breakfast program in accordance with this chapter. Appropriations and expenditures for this chapter shall be considered Health and Human Services functions for budget purposes rather than functions of Agriculture.

(b) Breakfast assistance payments to State educational agencies; calculation; national average payments for breakfasts, free breakfasts and reduced price breakfasts; maximum price for reduced cost breakfasts; minimum daily nutrition requirements criteria; additional payments for severe need schools; maximum severe need payments

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

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

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

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

(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 1759a(a) of this title). The national average payment for each reduced price breakfast shall be one-half of the national average payment for each free breakfast, except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced price breakfast exceed 30 cents. The national average payment for each breakfast served to a child not eligible for free or reduced price meals shall be 8.25 cents (as adjusted pursuant to section 1759a(a) of this title).

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

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

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

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

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

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

(ii) 45 cents (as adjusted pursuant to section 1759a(a)(3)(B) of this title).

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

(3) The Secretary shall increase by 6 cents the annually adjusted payment for each breakfast served under this chapter and section 1766 of this title. These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are

acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this chapter in a quantity equal in value to not less than 3 cents for each breakfast served under this chapter and section 1766 of this title.

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

(c) Disbursement of apportioned funds by State; preference for schools in poor economic areas, for students traveling long distances daily, and for schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families

Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in operating a breakfast program and for the purpose of subsection (d). Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d) Severe need assistance

(1) In general

Each State educational agency shall provide additional assistance to schools in severe need, which shall include only those schools (having a breakfast program or desiring to initiate a breakfast program) in which—

(A) during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price; or

(B) in the case of a school in which lunches were not served during the most recent second preceding school year, the Secretary otherwise determines that the requirements of subparagraph (A) would have been met.

(2) Additional assistance

A school, on the submission of appropriate documentation about the need circumstances in that school and the eligibility of the school for additional assistance, shall be entitled to receive the meal reimbursement rate specified in subsection (b)(2).

(e) Nutritional requirements; service free or at reduced price; compliance assistance

(1)(A) Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet the minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 1758 of this title.

(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to

subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs.

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

(Pub. L. 89–642, §4, Oct. 11, 1966, 80 Stat. 886; Pub. L. 90–302, §5, May 8, 1968, 82 Stat. 119; Pub. L. 91–248, §§6(d), 10, May 14, 1970, 84 Stat. 210, 214; Pub. L. 92–32, §§2–5, June 30, 1971, 85 Stat. 85; Pub. L. 92–433, §3, Sept. 26, 1972, 86 Stat. 724; Pub. L. 93–150, §4, Nov. 7, 1973, 87 Stat. 562; Pub. L. 94–105, §§2, 3, 15(b), 17(a), Oct. 7, 1975, 89 Stat. 511, 522, 525; Pub. L. 95–166, §12, Nov. 10, 1977, 91 Stat. 1337; Pub. L. 95–561, title XIV, §1408(b)(1), Nov. 1, 1978, 92 Stat. 2368; Pub. L. 95–627, §6(c), Nov. 10, 1978, 92 Stat. 3620; Pub. L. 97–35, title VIII, §§801(c), 817(d), 819(b), Aug. 13, 1981, 95 Stat. 522, 532, 533; Pub. L. 99–500, title III, §§330(a), 331, 372(b)(1), Oct. 18, 1986, 100 Stat. 1783–363, 1783–369, and Pub. L. 99–591, title III, §§330(a), 331, 372(b)(1), Oct. 30, 1986, 100 Stat. 3341–366, 3341–372; Pub. L. 99–661, div. D, title II, §§4210(a), 4211, title V, §4502(b)(1), Nov. 14, 1986, 100 Stat. 4074, 4080; Pub. L. 100–435, title II, §210, Sept. 19, 1988, 102 Stat. 1657; Pub. L. 101–147, title I, §121, title II, §212(a)(1), (2)(A), (b), title III, §322, Nov. 10, 1989, 103 Stat. 891, 912, 916; Pub. L. 103–448, title II, §201, Nov. 2, 1994, 108 Stat. 4734; Pub. L. 104–193, title VII, §§722–723(b)(1), Aug. 22, 1996, 110 Stat. 2301, 2302; Pub. L. 105–336, title I, §103(b)(2), title II, §201, Oct. 31, 1998, 112 Stat. 3146, 3158; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 108–265, title I, §108(c), title II, §201, June 30, 2004, 118 Stat. 746, 768.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2004—Subsec. (b)(1)(E). Pub. L. 108–265, §108(c), substituted "local educational agency" for "school food authority" wherever appearing.

Subsec. (d). Pub. L. 108–265, §201, added subsec. (d) and struck out former subsec. (d), which authorized severe need assistance to schools in which the service of breakfasts is required by State law and to schools in which 40 percent or more of lunches were served free or at a reduced price during the most recent second preceding school year, and entitled such schools to receive the lesser of 100 percent of the operating costs of the breakfast program or the meal reimbursement rate specified in subsec. (b)(2).

1999—Subsecs. (b), (e)(1)(A). Pub. L. 106–78 made technical amendment to references in original act which appear in text as references to sections 1758, 1759a, and 1766 of this title.

1998—Subsec. (a). Pub. L. 105–336, §201, struck out "and to carry out the provisions of subsection (g) of this section" before period at end of first sentence.

Subsec. (b)(1)(B). Pub. L. 105–336, §103(b)(2)(A), struck out "adjusted to the nearest one-fourth cent," after "payment for each free breakfast," in second sentence.

Subsec. (b)(2)(B)(ii). Pub. L. 105–336, §103(b)(2)(B), substituted "(as adjusted pursuant to section 1759a(a)(3)(B) of this title)." for ", which shall be adjusted on an annual basis each July 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent twelve-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977."

1996—Subsec. (b)(1)(E). Pub. L. 104–193, §722, added subpar. (E).

Subsec. (e)(1)(B). Pub. L. 104–193, §723(a), struck out at end "The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements."

Subsecs. (f), (g). Pub. L. 104–193, §723(b)(1), struck out subsec. (f) relating to expansion of program and

subsec. (g) relating to startup and expansion costs.

1994—Subsec. (e)(1). Pub. L. 103–448, §201(a), (b), designated existing provisions as subpar. (A), inserted ", except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts" before period at end, and added subpar. (B).

Subsec. (f)(1). Pub. L. 103–448, §201(c), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (g). Pub. L. 103–448, §201(d), amended heading and text of subsec. (g) generally. Prior to amendment, text required the Secretary to pay State educational agencies to assist eligible schools in initiating a school breakfast program, set forth a plan by which certain State educational agencies competing for startup cost payments were to be given preference, provided that breakfast program maintenance funds were not to be diminished by these payments, defined "eligible school", and directed Secretary to report to Congress.

1989—Subsec. (a). Pub. L. 101–147, §121(1), inserted before period at end of first sentence "and to carry out the provisions of subsection (g) of this section".

Subsec. (b). Pub. L. 101–147, §322(1), substituted "reduced price" for "reduced-price" wherever appearing.

Subsec. (b)(1)(A). Pub. L. 101–147, §212(b), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i), and added cl. (ii).

Subsec. (b)(3). Pub. L. 101–147, §322(2), made technical amendment to reference to section 1766 of this title involving underlying provisions of original act and requiring no change in text.

Subsec. (b)(3) to (5). Pub. L. 101–147, §212(a)(1), (2)(A), amended subsec. (b)(3) to (5), as amended identically by Pub. L. 99–591, §330(a), and Pub. L. 99–661, §4210(a), and as further amended by Pub. L. 100–435, §210, to read as if only the amendment by Pub. L. 99–661 was enacted, and further amended subsec. (b)(3) identically to the amendment that was made by Pub. L. 100–435, resulting in no change in text, see 1986 and 1988 Amendment notes below.

Subsec. (d)(1)(B). Pub. L. 101–147, §322(1), substituted "reduced price" for "reduced-price".

Subsec. (f). Pub. L. 101–147, §121(2), inserted "Expansion of program" as heading, designated existing provisions as par. (1), struck out at end "Within 4 months after October 7, 1975, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program.", and added par. (2).

Subsec. (g). Pub. L. 101–147, §121(3), added subsec. (g).

1988—Subsec. (b)(3). Pub. L. 100–435 substituted "6" for "3".

1986—Subsec. (a). Pub. L. 99–500 and Pub. L. 99–591, §372(b)(1), and Pub. L. 99–661, §4502(b)(1), amended subsec. (a) identically, substituting "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (b)(3) to (5). Pub. L. 99–500 and Pub. L. 99–591, §330(a), and Pub. L. 99–661, §4210(a), amended subsec. (b) identically, adding pars. (3) to (5).

Subsec. (e). Pub. L. 99–500 and Pub. L. 99–591, §331, and Pub. L. 99–661, §4211, amended subsec. (e) identically, designating existing provisions as par. (1) and adding par. (2).

1981—Subsec. (b). Pub. L. 97–35, §801(c)(1), (2), in par. (1) substituted provisions respecting calculation, amount, limitations, etc., for breakfast assistance payments to State educational agencies for provisions respecting apportionment, calculation, etc., for payments beginning with fiscal year ending June 30, 1973, and in par. (2) substituted provisions respecting annual adjustments, for provisions respecting semiannual adjustments and substituted "thirty" for "five".

Subsec. (c). Pub. L. 97–35, §819(b), struck out "financing the costs of" after "such schools in".

Subsec. (d). Pub. L. 97–35, §801(c)(3)(A), substituted provisions limiting additional assistance requirements to schools in severe need for provisions setting forth requirements for eligibility standards for providing additional assistance to schools in severe need.

Subsec. (f). Pub. L. 97–35, §817(d), redesignated former subsec. (g) as (f). Former subsec. (f), which related to nonprofit private schools, was struck out.

Subsec. (g). Pub. L. 97–35, §817(d), redesignated former subsec. (g) as (f).

1978—Subsec. (a). Pub. L. 95–561 inserted provision relating to applicability to programs of the Department of Defense.

Subsec. (d). Pub. L. 95–627 specified which schools could be considered to be in severe need.

1977—Subsec. (b)(1). Pub. L. 95–166, §12(1), (2), designated existing provisions as par. (1) and struck out provision for payment of up to 45 cents for breakfasts served to children qualifying for a free breakfast in cases of severe need, which is now covered in par. (2).

Subsec. (b)(2). Pub. L. 95–166, §12(3), added par. (2).

Subsec. (d). Pub. L. 95–166, §12(4), substituted requirement that the Secretary establish eligibility standards for providing additional assistance to schools in severe need for prior requirement that the State

educational agency require applicant schools to provide justification of the need for such assistance; required the eligibility standards to be submitted to the Secretary for approval and to be included in the State plan of child nutrition operations and submission of appropriate documentation about the need circumstances in the school and the school's eligibility for additional assistance; and authorized payment of the lesser of 100 percent of the operating costs or the meal reimbursement rate, previously limited to the 100 percent payment.

1975—Subsec. (a). Pub. L. 94–105, §2, struck out "for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975," after "such sums as are necessary".

Subsec. (b). Pub. L. 94–105, §15(b), substituted "American Samoa, and the Trust Territory of the Pacific Islands" for "and American Samoa" wherever appearing in cl. (1) of first sentence.

Subsec. (f). Pub. L. 94–105, §17(a), substituted "directly to the schools (as defined in section 1784(c) of this title which are private and nonprofit as defined in the last sentence of section 1784(c) of this title)" for "directly to the nonprofit private schools".

Subsec. (g). Pub. L. 94–105, §3, added subsec. (g).

1973—Subsec. (b). Pub. L. 93–150, §4(c), prescribed a minimum payment of 8 cents as the national average payment for all breakfasts served to eligible children, inserted provision for minimum payment of 15 cents for each reduced-price breakfast and for minimum payment of 20 cents for each free breakfast, and authorized, in cases of severe need, a payment of up to 45 cents for each breakfast served to children qualifying for a free breakfast.

Subsec. (c). Pub. L. 93–150, §4(a), (b), substituted in first sentence "State educational agency to assist such schools in financing the costs of operating a breakfast program" for "State educational agency, to assist such schools in financing the cost of obtaining agricultural and other foods for consumption by needy children in a breakfast program" and struck out second sentence which provided that "Such food costs may include, in addition to the purchase price, the cost of processing, distributing, transporting, storing, and handling.", respectively.

1972—Subsec. (a). Pub. L. 92–433, §3(a), substituted authorization of appropriation of such sums as are necessary for fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of amounts not exceeding $25,000,000 for fiscal years 1972 and 1973 and made amounts available to schools making applications for assistance and agreeing to carry out a nonprofit breakfast program in accordance with this chapter.

Subsec. (b). Pub. L. 92–433, §3(b), made existing apportionment formula applicable to fiscal year ending June 30, 1973 and added new formula for fiscal years beginning with fiscal year ending June 30, 1974.

Subsec. (c). Pub. L. 92–433, §3(c), inserted provision that breakfast assistance disbursements to schools may be made in advance or by way of reimbursement in accordance with procedure prescribed by the Secretary.

Subsec. (e). Pub. L. 92–433, §3(d), substituted provisions that breakfasts be served free or at reduced cost under same terms and conditions as set forth in section 1758 of this title for provisions relating to determination by local school authorities of the inability of children to pay full cost, criteria for such determination, income poverty guidelines, affidavit of household's annual income, eligibility of nonprofit private schools for funds, and prohibition of discrimination on account of inability to pay.

Subsec. (f). Pub. L. 92–433, §3(e), substituted provisions that for fiscal year ending June 30, 1973, withholding and disbursement to nonprofit private schools will be effected as before and that commencing with the next fiscal year, the Secretary would directly make payments to the nonprofit private schools participating in the breakfast program under agreement with the Secretary for provisions that such withholding and disbursement be effected in accordance with section 1759 of this title with some exceptions.

1971—Subsec. (a). Pub. L. 92–32, §2, authorized appropriations of 25 million dollars for fiscal years 1972, and 1973, and struck out provision for appropriation of 6.5, 10, and 25 million dollars for fiscal years, 1969, 1970, and 1971, respectively.

Subsec. (c). Pub. L. 92–32, §3, substituted "assist such schools in financing the cost" for "reimburse such schools for the cost" and provided for preference of schools for improvement of nutrition and dietary practices of children of working mothers and from low-income families.

Subsec. (d). Pub. L. 92–32, §4, increased financial assistance from "80" to "100" per centum.

Subsec. (e). Pub. L. 92–32, §5, substituted provisions relating to criteria for determination of eligible children, income poverty guidelines, priority of neediest children, affidavit of household's annual income, and certification of availability of funds for nonprofit private schools, for former provision for determination of eligible children on basis of consultations of local school authorities with public welfare and health agencies.

1970—Subsec. (a). Pub. L. 91–248, §10, substituted "$25,000,000" for "$12,000,000".

Subsec. (e). Pub. L. 91–248, §6(d), provided that there be no overt identification of those children who receive free and reduced price meals.

1968—Subsec. (a). Pub. L. 90–302 provided authorization to appropriate $6,500,000 for fiscal year 1969, not to exceed $10,000,000 for fiscal year 1970, and not to exceed $12,000,000 for fiscal year 1971, struck out references to authorization for fiscal years 1967 and 1968 and to pilot programs conducted on a nonpartisan basis, and added provision that appropriations and expenditures for this chapter be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 108(c) of Pub. L. 108–265 effective June 30, 2004, and amendment by section 201 of Pub. L. 108–265 effective July 1, 2004, see section 502(a), (b)(1) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–193, title VII, §723(b)(2), Aug. 22, 1996, 110 Stat. 2302, provided that: "The amendments made by paragraph (1) [amending this section] shall become effective on October 1, 1996."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title II, §212(a)(2)(B), Nov. 10, 1989, 103 Stat. 912, provided that: "The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on July 1, 1989."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on July 1, 1989, see section 701(b)(4) of Pub. L. 100–435, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99–661, div. D, title II, §4210(a), Nov. 14, 1986, 100 Stat. 4074, provided that the amendment made by that section is effective Oct. 1, 1986.

Pub. L. 99–500, title III, §330(a), Oct. 18, 1986, 100 Stat. 1783–363, and Pub. L. 99–591, title III, §330(a), Oct. 30, 1986, 100 Stat. 3341–366, provided that the amendment made by each such section is effective July 1, 1987.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 801(c) of Pub. L. 97–35 effective Sept. 1, 1981, and amendment by sections 817 and 819 of Pub. L. 97–35 effective Oct. 1, 1981, see section 820(1)(A), (4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, and no provision therein to be construed as impairing or preventing the taking effect of any other Act providing for the transfer of functions described therein to an executive department having responsibility for education, see section 1415 of Pub. L. 95–561, set out as an Effective Date note under section 921 of Title 20, Education.

REVIEW OF BEST PRACTICES IN THE BREAKFAST PROGRAM

Pub. L. 108–265, title II, §206, June 30, 2004, 118 Stat. 787, directed the Secretary of Agriculture to enter into an agreement with a research organization to collect and disseminate a review of best practices to assist

school food authorities in addressing existing impediments at the State and local level that hinder the growth of the school breakfast program and, not later than 1 year after June 30, 2004, to make the review available to school food authorities via the Internet and to transmit it to congressional committees.

CONSOLIDATION OF SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE MEAL PROGRAM

For provisions directing Secretary of Agriculture to consolidate school breakfast program under this section and school lunch program under chapter 13 (§1751 et seq.) of this title into comprehensive meal program, see section 301 of Pub. L. 103–448, set out as a note under section 1751 of this title.

ADJUSTMENTS IN MAXIMUM BREAKFAST PAYMENTS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96–499, title II, §210, Dec. 5, 1980, 94 Stat. 2602, provided that: "Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 [subsec. (b)(2)(B)(ii) of this section], in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

"(1) no adjustment under such section shall be made on January 1 of such fiscal year; and

"(2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor."

ALTERNATE FOODS

Pub. L. 95–627, §6(d), Nov. 10, 1998, 93 Stat. 3621, provided that: "The Secretary shall not limit or prohibit, during the school year 1978–79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office [now Government Accountability Office]. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978–79 school year until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification."

REPORT TO CONGRESS OF NEEDS FOR ADDITIONAL FUNDS FOR SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS, FISCAL YEAR ENDING JUNE 30, 1972

Pub. L. 92–153, §3, Nov. 5, 1971, 85 Stat. 420, provided that the Secretary of Agriculture determine immediately upon enactment of this resolution (Nov. 5, 1971) and report to Congress the needs for additional funds to carry out the school breakfast and nonfood assistance programs during the fiscal year ending June 30, 1972, at levels permitting expansion of the school breakfast and school lunch programs to all schools desiring such programs as rapidly as practicable.

TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Pub. L. 92–153, §7, Nov. 5, 1971, 85 Stat. 420, provided that: "In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program."

DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Additional funds for direct distribution programs for diet of needy children suffering from general and continued hunger and payment of administrative costs of State or local welfare agency carrying out such programs, see section 6 of Pub. L. 92–32, set out as a note under section 612c of Title 7, Agriculture.

§1774. Disbursement directly to schools or institutions

(a) The Secretary shall withhold funds payable to a State under this chapter and disburse the funds

directly to schools or institutions within the State for the purposes authorized by this chapter to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this chapter. If the Secretary is administering (in whole or in part) any program authorized under this chapter, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

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

(Pub. L. 89–642, §5, as added Pub. L. 97–35, title VIII, §817(e), Aug. 13, 1981, 95 Stat. 532.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1774, Pub. L. 89–642, §5, Oct. 11, 1966, 80 Stat. 887; Pub. L. 91–248, §2, May 14, 1970, 84 Stat. 208; Pub. L. 92–433, §6(a)–(d), Sept. 26, 1972, 86 Stat. 727; Pub. L. 93–326, §5, June 30, 1974, 88 Stat. 287; Pub. L. 94–105, §18, Oct. 7, 1975, 89 Stat. 525; Pub. L. 95–166, §§4, 20(3), (4), Nov. 10, 1977, 91 Stat. 1332, 1346; Pub. L. 95–627, §6(b), Nov. 10, 1978, 92 Stat. 3620; Pub. L. 96–499, title II, §211, Dec. 5, 1980, 94 Stat. 2603, made provision for food service equipment assistance program, prior to repeal by Pub. L. 97–35, §805(b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 1753 of this title.

REPORT TO CONGRESS OF NEEDS FOR EQUIPMENT TO BE SUBMITTED BY JUNE 30, 1973

Pub. L. 92–433, §6(e), Sept. 26, 1972, 86 Stat. 729, directed Secretary, to assist Congress in determining amounts needed annually, to conduct a survey among States and school districts on unmet needs for equipment in schools eligible for assistance under former section 1774 of this title, results of such survey to be reported to Congress by June 30, 1973.

§1775. Certification to Secretary of the Treasury of amounts to be paid to States

The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 1772 through 1776 of this title and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(Pub. L. 89–642, §6, Oct. 11, 1966, 80 Stat. 888.)

§1776. State administrative expenses

(a) Amount and allocation of funds

(1) Amount available

(A) In general

Each fiscal year, the Secretary shall make available to the States for their administrative costs

an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1753, 1759a, 1766] and 1772 and 1773 of this title during the second preceding fiscal year.

(B) Allocation

The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection.

(2) Expense grants

(A) In general

Subject to subparagraph (B), the Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] or under this chapter, except for the programs authorized under section 13 or 17 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1761, 1766] or under section 1786 of this title, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1753, 1759a] and sections 1772 and 1773 of this title during the second preceding fiscal year.

(B) Minimum amount

(i) In general

In no case shall the grant available to any State under this paragraph be less than the amount such State was allocated in the fiscal year ending September 30, 1981, or $200,000 (as adjusted under clause (ii),[1] whichever is larger.

(ii) Adjustment

On October 1, 2008, and each October 1 thereafter, the minimum dollar amount for a fiscal year specified in clause (i) shall be adjusted to reflect the percentage change between—

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

(II) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.

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

(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] and this chapter, except for section 1786 of this title, including, but not limited to, improved program integrity and the quality of meals served to children.

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

(B) REALLOCATION OF FUNDS.—

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

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

(6) USE OF ADMINISTRATIVE FUNDS.—Funds available to a State under this subsection and under section 13(k)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under this chapter (except for the programs authorized under sections 1786 and 1790 of this title) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) without regard to the basis on which the funds were earned and allocated.

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

(8) In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this chapter and under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this chapter and under the Richard B. Russell National School Lunch Act.

(9)(A) If the Secretary determines that the administration of any program by a State under this chapter (other than section 1786 of this title) or under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766)), or compliance with a regulation issued pursuant to either this chapter or such Act, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.

(b) Funds, usage: compensation, benefits, and travel expenses of personnel; support services; office equipment; staff development

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

(c) Fund adjustment; State administered programs

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

(d) Unused funds; availability for obligation and expenditure, and reallocation to other States

Notwithstanding any other provision of law, funds made available to each State under this section

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

(e) Plans for use of administrative expense funds

(1) In general

Each State shall submit to the Secretary for approval by October 1 of the initial fiscal year a plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(2) Updates and information management systems

(A) In general

After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.

(B) Plan contents

Each State plan shall, at a minimum, include a description of how technology and information management systems will be used to improve program integrity by—

(i) monitoring the nutrient content of meals served;

(ii) training local educational agencies, school food authorities, and schools in how to use technology and information management systems (including verifying eligibility for free or reduced price meals using program participation or income data gathered by State or local agencies); and

(iii) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data.

(3) Training and technical assistance

Each State shall submit to the Secretary for approval a plan describing the manner in which the State intends to implement subsection (g) and section 22(b)(3) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1769c(b)(3)].

(f) State funding requirement

Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this chapter (except section 1786 of this title) and the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (except section 13 of that Act [42 U.S.C. 1761]), not less than the amount expended or obligated in fiscal year 1977, and that agree to participate fully in any studies authorized by the Secretary.

(g) Professional standards for school food service

(1) Criteria for school food service and State agency directors

(A) School food service directors

(i) In general

The Secretary shall establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority.

(ii) Requirements

The program shall include—

(I) minimum educational requirements necessary to successfully manage the school lunch program established under the Richard B. Russell National School Lunch Act (42

U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title;

(II) minimum program training and certification criteria for school food service directors; and

(III) minimum periodic training criteria to maintain school food service director certification.

(B) School nutrition State agency directors

The Secretary shall establish criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title.

(C) Training program partnership

The Secretary may provide financial and other assistance to 1 or more professional food service management organizations—

(i) to establish and manage the program under this paragraph; and

(ii) to develop voluntary training and certification programs for other school food service workers.

(D) Required date of compliance

(i) School food service directors

The Secretary shall establish a date by which all school food service directors whose local educational agencies are participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title shall be required to comply with the education, training, and certification criteria established in accordance with subparagraph (A).

(ii) School nutrition State agency directors

The Secretary shall establish a date by which all State agencies shall be required to comply with criteria and standards established in accordance with subparagraph (B) for the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title.

(2) Training and certification of food service personnel

(A) Training for individuals conducting or overseeing administrative procedures

(i) In general

At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to local educational agency and school food authority personnel and other appropriate personnel.

(ii) Federal role

The Secretary shall—

(I) provide training and technical assistance described in clause (i) to the State; or

(II) at the option of the Secretary, directly provide training and technical assistance described in clause (i).

(iii) Required participation

In accordance with procedures established by the Secretary, each local educational agency or school food authority shall ensure that an individual conducting or overseeing administrative procedures described in clause (i) receives training at least annually, unless determined otherwise by the Secretary.

(B) Training and certification of all local food service personnel

(i) In general

The Secretary shall provide training designed to improve—

(I) the accuracy of approvals for free and reduced price meals; and

(II) the identification of reimbursable meals at the point of service.

(ii) Certification of local personnel

In accordance with criteria established by the Secretary, local food service personnel shall complete annual training and receive annual certification—

(I) to ensure program compliance and integrity; and

(II) to demonstrate competence in the training provided under clauses (i) and (iii).

(iii) Training modules

In addition to the topics described in clause (i), a training program carried out under this subparagraph shall include training modules on—

(I) nutrition;

(II) food allergies, including information on the best practices to prevent, recognize, and respond to food-related allergic reactions;

(III) health and food safety standards and methodologies; and

(IV) any other appropriate topics, as determined by the Secretary.

(3) Funding

(A) In general

Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection, to remain available until expended—

(i) on October 1, 2010, $5,000,000; and

(ii) on each October 1 thereafter, $1,000,000.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(h) Funding for training and administrative reviews

(1) Funding

(A) In general

On October 1, 2004, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection $4,000,000, to remain available until expended.

(B) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(2) Use of funds

(A) In general

Except as provided in subparagraph (B), the Secretary shall use funds provided under this subsection to assist States in carrying out subsection (g) and administrative reviews of selected local educational agencies carried out under section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c).

(B) Exception

The Secretary may retain a portion of the amount provided to cover costs of activities carried out by the Secretary in lieu of the State.

(3) Allocation

The Secretary shall allocate funds provided under this subsection to States based on the number of local educational agencies that have demonstrated a high level of, or a high risk for, administrative error, as determined by the Secretary, taking into account the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004 and the amendments made by that Act.

(4) Reallocation

The Secretary may reallocate, to carry out this section, any amounts made available to carry out this subsection that are not obligated or expended, as determined by the Secretary.

(i) Technology infrastructure improvement

(1) In general

Each State shall submit to the Secretary, for approval by the Secretary, an amendment to the plan required by subsection (e) that describes the manner in which funds provided under this section will be used for technology and information management systems.

(2) Requirements

The amendment shall, at a minimum, describe the manner in which the State will improve program integrity by—

(A) monitoring the nutrient content of meals served;

(B) providing training to local educational agencies, school food authorities, and schools on the use of technology and information management systems for activities including—

(i) menu planning;

(ii) collection of point-of-sale data; and

(iii) the processing of applications for free and reduced price meals; and

(C) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data across schools and school food authorities.

(3) Technology infrastructure grants

(A) In general

Subject to the availability of funds made available under paragraph (4) to carry out this paragraph, the Secretary shall, on a competitive basis, provide funds to States to be used to provide grants to local educational agencies, school food authorities, and schools to defray the cost of purchasing or upgrading technology and information management systems for use in programs authorized by this chapter (other than section 1786 of this title) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) Infrastructure development plan

To be eligible to receive a grant under this paragraph, a school or school food authority shall submit to the State a plan to purchase or upgrade technology and information management systems that addresses potential cost savings and methods to improve program integrity, including—

(i) processing and verification of applications for free and reduced price meals;

(ii) integration of menu planning, production, and serving data to monitor compliance with section 9(f)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1)); and

(iii) compatibility with statewide reporting systems.

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2010 through 2015, to remain available until expended.

(j) Authorization of appropriations

For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before

October 1, 2015, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

(Pub. L. 89–642, §7, Oct. 11, 1966, 80 Stat. 888; Pub. L. 90–302, §4, May 8, 1968, 82 Stat. 119; Pub. L. 91–248, §5, May 14, 1970, 84 Stat. 210; Pub. L. 95–166, §14, Nov. 10, 1977, 91 Stat. 1338; Pub. L. 95–627, §7(a), Nov. 10, 1978, 92 Stat. 3621; Pub. L. 96–499, title II, §201(b), Dec. 5, 1980, 94 Stat. 2600; Pub. L. 97–35, title VIII, §§814, 819(e), Aug. 13, 1981, 95 Stat. 531, 533; Pub. L. 99–500, title III, §§313, 332, Oct. 18, 1986, 100 Stat. 1783–360, 1783–363, and Pub. L. 99–591, title III, §§313, 332, Oct. 30, 1986, 100 Stat. 3341–363, 3341–367; Pub. L. 99–661, div. D, title I, §4103, title II, §4212, Nov. 14, 1986, 100 Stat. 4071, 4075; Pub. L. 101–147, title I, §122(a), Nov. 10, 1989, 103 Stat. 893; Pub. L. 102–512, title I, §103, Oct. 24, 1992, 106 Stat. 3363; Pub. L. 103–448, title I, §117(a)(2)(B), title II, §202, Nov. 2, 1994, 108 Stat. 4717, 4737; Pub. L. 104–193, title VII, §724, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 105–336, title II, §202, Oct. 31, 1998, 112 Stat. 3158; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 106–224, title II, §243(j), June 20, 2000, 114 Stat. 420; Pub. L. 108–265, title I, §126(c), title II, §202, June 30, 2004, 118 Stat. 765, 769; Pub. L. 111–296, title III, §306, title IV, §§421, 422, 441(b)(1), Dec. 13, 2010, 124 Stat. 3243, 3260, 3264; Pub. L. 119–69, §3, Jan. 14, 2026, 139 Stat. 1998.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsecs. (a), (f), (g)(1), and (i)(3)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

The Child Nutrition and WIC Reauthorization Act of 2004, referred to in subsec. (h)(3), is Pub. L. 108–265, June 30, 2004, 118 Stat. 729. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1751 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2026—Subsec. (g)(2)(B)(ii)(II). Pub. L. 119–69, §3(b), substituted "clauses (i) and (iii)" for "clause (i)".

Subsec. (g)(2)(B)(iii)(II) to (IV). Pub. L. 119–69, §3(a), added subcl. (II) and redesignated former subcls. (II) and (III) as (III) and (IV), respectively.

2010—Subsec. (a)(1). Pub. L. 111–296, §441(b)(1), substituted "Each fiscal year" for "Except as provided in subparagraph (B), each fiscal year" in subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "In the case of each of fiscal years 2005 through 2007, the Secretary shall make available to each State for administrative costs not less than the initial allocation made to the State under this subsection for fiscal year 2004."

Subsec. (g). Pub. L. 111–296, §306, added subsec. (g) and struck out former subsec. (g) which required each State to provide, at least annually, training in administrative practices, with emphasis on the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004, and set out the Federal role and procedures for required participation.

Subsec. (i)(4). Pub. L. 111–296, §421, substituted "2010 through 2015" for "2005 through 2009".

Subsec. (j). Pub. L. 111–296, §422, substituted "October 1, 2015" for "October 1, 2009".

2004—Subsec. (a). Pub. L. 108–265, §202(a)(1), inserted heading.

Subsec. (a)(1). Pub. L. 108–265, §202(a)(1), (2)(A), inserted par. heading, designated first and second sentences as subpars. (A) and (C), respectively, inserted subpar. (A) and (C) headings, in subpar. (A) substituted "Except as provided in subparagraph (B), each" for "Each", added subpar. (B), and struck out at end "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section."

Subsec. (a)(2). Pub. L. 108–265, §202(a)(2)(B), inserted par. heading, designated existing provisions as subpars. (A) and (B)(i), inserted headings, in subpar. (A) substituted "Subject to subparagraph (B), the" for "The", in subpar. (B)(i) substituted "this paragraph" for "this subsection" and "$200,000 (as adjusted under clause (ii)" for "$100,000", and added subpar. (B)(ii).

Subsec. (e). Pub. L. 108–265, §126(c)(1), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, struck out last sentence requiring a State, after submitting the initial plan, to submit to the Secretary for approval only a substantive change in the plan, and added pars. (2) and (3).

Subsecs. (g), (h). Pub. L. 108–265, §126(c)(3), added subsecs. (g) and (h). Former subsec. (g) redesignated (j).

Subsec. (i). Pub. L. 108–265, §202(b), added subsec. (i).

Subsec. (j). Pub. L. 108–265, §202(c), substituted "2009" for "2003".

Pub. L. 108–265, §126(c)(2), redesignated subsec. (g) as (j).

2000—Subsec. (a)(9)(A). Pub. L. 106–224 inserted "(including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766))" after "(42 U.S.C. 1751 et seq.)".

1999—Subsecs. (a), (f). Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act" wherever appearing.

1998—Subsec. (a)(5)(B). Pub. L. 105–336, §202(a), amended subpar. (B) generally, substituting present provisions for provisions which related to return of unexpended funds to Secretary and reallocation of such funds to provide annual grants to public entities and private nonprofit organizations participating in projects under former section 1766b of this title.

Subsec. (a)(6). Pub. L. 105–336, §202(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs."

Subsec. (g). Pub. L. 105–336, §202(c), substituted "2003" for "1998".

1996—Subsec. (e). Pub. L. 104–193, §724(b), substituted "the initial fiscal year a plan" for "each year an annual plan" and inserted at end "After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan."

Pub. L. 104–193, §724(a), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: "The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program."

Subsecs. (f), (g). Pub. L. 104–193, §724(a)(2), redesignated subsecs. (g) and (i) as (f) and (g), respectively. Former subsec. (f) redesignated (e).

Subsec. (h). Pub. L. 104–193, §724(a)(1), struck out subsec. (h) which read as follows: "The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in any study or survey of programs authorized under this chapter or the National School Lunch Act (42 U.S.C. 1751 et seq.) and conducted by the Secretary."

Subsec. (i). Pub. L. 104–193, §724(a)(2), redesignated subsec. (i) as (g).

1994—Subsec. (a)(5)(B)(i)(I). Pub. L. 103–448, §117(a)(2)(B), substituted "projects under section 17B of the National School Lunch Act" for "projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c))" and substituted "fiscal year 1995 and each subsequent fiscal year" for "each of fiscal years 1993 and 1994" in two places.

Subsec. (a)(9). Pub. L. 103–448, §202(a), added par. (9).

Subsec. (h). Pub. L. 103–448, §202(c)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 103–448, §202(b), substituted "1998" for "1994".

Subsec. (i). Pub. L. 103–448, §202(c)(1), redesignated subsec. (h) as (i).

1992—Subsec. (a)(5)(B)(i). Pub. L. 102–512, §103(1), substituted a colon for ", the Secretary shall—" in introductory provisions.

Subsec. (a)(5)(B)(i)(I). Pub. L. 102–512, §103(2), added subcl. (I) and struck out former subcl. (I) which read as follows: "first allocate, for the purpose of providing grants on an annual basis to private nonprofit organizations participating in projects under section 18(f) of the National School Lunch Act, not less than $3,000,000 in the fiscal year 1992 and not less than $4,000,000 in each of the fiscal years 1993 and 1994; and".

Subsec. (a)(5)(B)(i)(II). Pub. L. 102–512, §103(3), substituted "After making the allocations under subclause (I), the Secretary shall allocate," for "then allocate,".

1989—Subsec. (a)(3). Pub. L. 101–147, §122(a)(1)(A), inserted after first sentence "If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5)."

Subsec. (a)(5) to (8). Pub. L. 101–147, §122(a)(1)(B)–(D), added pars. (5) and (8) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (g). Pub. L. 101–147, §122(a)(2), inserted before period at end ", and that agree to participate fully in any studies authorized by the Secretary".

Subsec. (h). Pub. L. 101–147, §122(a)(3), substituted "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994," for "For the fiscal years beginning October 1, 1977, and ending September 30, 1989,".

1986—Subsecs. (b) to (g). Pub. L. 99–500 and Pub. L. 99–591, §332, and Pub. L. 99–661, §4212, amended section identically, redesignating subsecs. (c) to (h) as (b) to (g), respectively, and striking out former subsec. (b) which read as follows: "The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act [42 U.S.C. 1753, 1759a, 1766], and sections 1772 and 1773 of this title, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses."

Subsecs. (h), (i). Pub. L. 99–500 and Pub. L. 99–591, §§313, 332(2), and Pub. L. 99–661, §§4103, 4212(2), amended section identically, redesignating subsec. (i) as (h) and substituting "1989" for "1984". Former subsec. (h) redesignated (g).

1981—Subsec. (a). Pub. L. 97–35, §§814(a), 819(e), in par. (1) struck out reference to section 1774 of this title, and in par. (2) substituted "1981" for "1978" and struck out reference to section 1774 of this title.

Subsec. (b). Pub. L. 97–35, §819(e), struck out reference to section 1774 of this title.

Subsec. (e). Pub. L. 97–35, §814(b), substituted provisions relating to general availability of unobligated funds during fiscal years following the fiscal years for which such funds were made available for provisions relating to availability of unobligated funds for fiscal year 1979 and for the five succeeding fiscal years.

1980—Subsec. (e). Pub. L. 96–499, §201(b)(1), substituted "and for the five succeeding fiscal years" for "and the succeeding fiscal year".

Subsec. (i). Pub. L. 96–499, §201(b)(2), substituted "September 30, 1984" for "September 30, 1980".

1978—Subsec. (a). Pub. L. 95–627 generally revised and restructured subsection and, among other changes, inserted formula for determining State allocations for administrative costs incurred under the program authorized by section 17 of the National School Lunch Act, authorized the State to transfer up to ten percent of any amounts allocated for administrative costs of the programs for which such funds were allocated, and authorized retention by the Secretary for the Secretary's use in administering certain programs, allocations for such programs, under this section and section 13(k)(1) of the National School Lunch Act.

1977—Subsecs. (a) to (i). Pub. L. 95–166 added subsecs. (a) to (i) and struck out prior provisions authorizing the Secretary to utilize appropriated funds for advances to State educational agencies for use for administrative expenses, advancing the fund only in necessary amounts and for administration of certain activities, and authorizing appropriation of necessary sums, now incorporated in subsec. (i) of this section.

1970—Pub. L. 91–248 inserted provisions authorizing Secretary to utilize funds appropriated under this section for advances for administrative expenses of any other designated State agency as well as for those of the State educational agency and in the case of either State agency, for its administrative expenses in supervising and giving technical assistance to service institutions as well as to local school districts.

1968—Pub. L. 90–302 inserted the programs under sections 1759a and 1761 of this title to the enumeration of programs in which appropriated funds could be used for administrative expenses of local school districts in supervising and giving technical assistance and added section 1761 to the enumeration of sections covering programs of additional activities under which funds could be advanced only in amounts and to the extent determined necessary by the Secretary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 126(c) of Pub. L. 108–265 effective July 1, 2004, amendment by section 202(a) of Pub. L. 108–265 effective Oct. 1, 2004, and amendment by section 202(b), (c) of Pub. L. 108–265 effective June 30, 2004, see section 502(a), (b)(1), (2) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–512 effective Sept. 30, 1992, see section 104 of Pub. L. 102–512, set out as a note under section 1769 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title I, §122(b), Nov. 10, 1989, 103 Stat. 894, provided that: "The amendment made by subsection (a)(1)(A) [amending this section] shall be effective as of October 1, 1989."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

[1] So in original. Probably should be preceded by an additional closing parenthesis.

§§1776a, 1776b. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1776a, Pub. L. 103–111, title IV, Oct. 21, 1993, 107 Stat. 1071, conditioned the distribution of funds under section 1776 of this title upon agreement by a State to participate in studies and surveys of programs authorized under this chapter or the preceding chapter, when such studies or surveys were directed by Congress and requested by the Secretary of Agriculture, and was not repeated in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995. See section 1776(h) of this title.

Section 1776b, Pub. L. 103–111, title IV, Oct. 21, 1993, 107 Stat. 1071, authorized the withholding, by the Secretary of Agriculture, of funds allocated to a State under sections 1761(k)(1) and 1776 of this title if the Secretary determined that the State was seriously deficient in administering any program under this chapter or the preceding chapter, and the State failed to correct such deficiencies within a specified period of time, and was not repeated in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995. See section 1776(a)(9)(A) of this title.

Provisions similar to sections 1776a and 1776b were contained in the following prior appropriation acts:

Pub. L. 102–341, title IV, Aug. 14, 1992, 106 Stat. 900.

Pub. L. 102–142, title IV, Oct. 28, 1991, 105 Stat. 904.

Pub. L. 101–506, title III, Nov. 5, 1990, 104 Stat. 1340.

Pub. L. 101–161, title III, Nov. 21, 1989, 103 Stat. 976.

Pub. L. 100–460, title III, Oct. 1, 1988, 102 Stat. 2254.

Pub. L. 100–202, §101(k) [title III], Dec. 22, 1987, 101 Stat. 1329–322, 1329–348.

Pub. L. 99–500, §101(a) [title III], Oct. 18, 1986, 100 Stat. 1783, 1783–22, and Pub. L. 99–591, §101(a) [title III], Oct. 30, 1986, 100 Stat. 3341, 3341–22.

Pub. L. 99–190, §101(a) [H.R. 3037, title III], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100–202, §106, Dec. 22, 1987, 101 Stat. 1329–433.

Pub. L. 98–473, title I, §101(a) [H.R. 5743, title III], Oct. 12, 1984, 98 Stat. 1837.

Pub. L. 98–151, §101(d) [H.R. 3223, title III], Nov. 14, 1983, 97 Stat. 972.

Pub. L. 97–370, title III, Dec. 18, 1982, 96 Stat. 1805.

Pub. L. 97–103, title III, Dec. 23, 1981, 95 Stat. 1484.

Pub. L. 96–528, title III, Dec. 15, 1980, 94 Stat. 3112.

Pub. L. 96–108, title III, Nov. 9, 1979, 93 Stat. 837.
Pub. L. 96–38, title I, July 25, 1979, 93 Stat. 98.

§1777. Use in school breakfast program of food designated as being in abundance or food donated by the Secretary of Agriculture

Each school participating under section 1773 of this title shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 1431 of title 7 or purchased under section 612c or 1446a–1 of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this chapter.

(Pub. L. 89–642, §8, Oct. 11, 1966, 80 Stat. 888.)

§1778. Nonprofit programs

The food and milk service programs in schools and nonprofit institutions receiving assistance under this chapter shall be conducted on a nonprofit basis.

(Pub. L. 89–642, §9, Oct. 11, 1966, 80 Stat. 888.)

§1779. Regulations

(a) In general

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

(b) National school nutrition standards

(1) Proposed regulations

(A) In general

The Secretary shall—

(i) establish science-based nutrition standards for foods sold in schools other than foods provided under this chapter and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(ii) not later than 1 year after December 13, 2010, promulgate proposed regulations to carry out clause (i).

(B) Application

The nutrition standards shall apply to all foods sold—

(i) outside the school meal programs;

(ii) on the school campus; and

(iii) at any time during the school day.

(C) Requirements

In establishing nutrition standards under this paragraph, the Secretary shall—

(i) establish standards that are consistent with the most recent Dietary Guidelines for Americans published under section 5341 of title 7, including the food groups to encourage and nutrients of concern identified in the Dietary Guidelines; and

(ii) consider—

(I) authoritative scientific recommendations for nutrition standards;

(II) existing school nutrition standards, including voluntary standards for beverages and snack foods and State and local standards;

(III) the practical application of the nutrition standards; and

(IV) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school.

(D) Updating standards

As soon as practicable after the date of publication by the Department of Agriculture and the Department of Health and Human Services of a new edition of the Dietary Guidelines for Americans under section 5341 of title 7, the Secretary shall review and update as necessary the school nutrition standards and requirements established under this subsection.

(2) Implementation

(A) Effective date

The interim or final regulations under this subsection shall take effect at the beginning of the school year that is not earlier than 1 year and not later than 2 years following the date on which the regulations are finalized.

(B) Reporting

The Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representatives a quarterly report that describes progress made toward promulgating final regulations under this subsection.

(c) Transfer of funds; reserve for special projects

In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this chapter and the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

(Pub. L. 89–642, §10, Oct. 11, 1966, 80 Stat. 889; Pub. L. 91–248, §8, May 14, 1970, 84 Stat. 212; Pub. L. 92–433, §7, Sept. 26, 1972, 86 Stat. 729; Pub. L. 95–166, §17, Nov. 10, 1977, 91 Stat. 1345; Pub. L. 101–147, title III, §323, Nov. 10, 1989, 103 Stat. 916; Pub. L. 103–448, title II, §203, Nov. 2, 1994, 108 Stat. 4738; Pub. L. 104–193, title VII, §725, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 111–296, title II, §208, Dec. 13, 2010, 124 Stat. 3221.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in text, is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

AMENDMENTS

2010—Pub. L. 111–296 inserted subsec. (a) heading, added subsec. (b), and struck out former subsec. (b) which related to sale of competitive foods approved by the Secretary.

1999—Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act" wherever appearing.

1996—Subsec. (b). Pub. L. 104–193 redesignated par. (1) as subsec. (b) and struck out pars. (2) to (4) which read as follows:

"(2) The Secretary shall develop and provide to State agencies, for distribution to private elementary schools and to public elementary schools through local educational agencies, model language that bans the

sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

"(3) The Secretary shall provide to State agencies, for distribution to private secondary schools and to public secondary schools through local educational agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

"(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State."

1994—Pub. L. 103–448 designated existing provisions as subsecs. (a) to (c), realigned margins, and in subsec. (b) designated existing provisions as par. (1), substituted "The regulations" for "Such regulations", and added pars. (2) to (4).

1989—Pub. L. 101–147 substituted "the Secretary" for "he" before "may deem" in first sentence.

1977—Pub. L. 95–166 inserted "approved by the Secretary" after "competitive foods".

1972—Pub. L. 92–433 inserted provision that regulations issued under the section shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food if the proceeds from the sales of such foods inures to the benefit of the schools or organizations of students approved by the school.

1970—Pub. L. 91–248 provided that regulations under this chapter and under the National School Lunch Act may include provisions relating to the service of food in participating schools and service institutions in competition with programs under this chapter and the National School Lunch Act, provided for transfer of funds by any State between programs authorized under this chapter and under the National School Lunch Act, and provided for a reserve of up to one percent of the funds available for apportionment to any State to carry out special development projects.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

§1780. Prohibitions

(a) Interference with school personnel, curriculum, or instruction

In carrying out the provisions of sections 1772 and 1773 of this title, the Secretary shall not impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) Inclusion of assistance in determining income or resources

The value of assistance to children under this chapter shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this chapter.

(c) Federal law not applicable

Section 1693o–2 of title 15 shall not apply to electronic benefit transfer systems established under this chapter or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(Pub. L. 89–642, §11, Oct. 11, 1966, 80 Stat. 889; Pub. L. 97–35, title VIII, §819(f), Aug. 13, 1981, 95 Stat. 533; Pub. L. 104–193, title VII, §726, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 111–203, title

X, §1075(d), July 21, 2010, 124 Stat. 2074.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111–203 added subsec. (c).

1996—Subsec. (a). Pub. L. 104–193 substituted "the Secretary shall not" for "neither the Secretary nor the State shall".

1981—Subsec. (a). Pub. L. 97–35 struck out reference to section 1774 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

§1781. Preschool programs

The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

(Pub. L. 89–642, §12, Oct 11, 1966, 80 Stat. 889.)

§1782. Centralization in Department of Agriculture of administration of food service programs for children

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

(Pub. L. 89–642, §13, Oct. 11, 1966, 80 Stat. 889; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in text, is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

AMENDMENTS

1999—Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act".

§1783. Appropriations for administrative expense

There are hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for the Secretary's administrative expense under this chapter.

(Pub. L. 89–642, §14, Oct. 11, 1966, 80 Stat. 889; Pub. L. 101–147, title III, §324, Nov. 10, 1989, 103 Stat. 917.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101–147 inserted "Appropriations for administrative expense" as section catchline and substituted "are hereby" for "is hereby" and "the Secretary's" for "his".

§1784. Definitions

For the purposes of this chapter—

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

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

(3) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, and (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor). For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

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

(5) "School year" means the annual period from July 1 through June 30.

(6) Except as used in section 1786 of this title, the terms "child" and "children" as used in this chapter, shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more disabilities and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with disabilities.

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

(Pub. L. 89–642, §15, Oct. 11, 1966, 80 Stat. 889; Pub. L. 94–105, §§15(c), 17(b), Oct. 7, 1975, 89 Stat. 522, 525; Pub. L. 95–166, §20(5), Nov. 10, 1977, 91 Stat. 1346; Pub. L. 95–627, §10(c), (d)(3), Nov. 10, 1978, 92 Stat. 3624; Pub. L. 96–499, title II, §212, Dec. 5, 1980, 94 Stat. 2603; Pub. L. 97–35, title VIII, §808(b), Aug. 13, 1981, 95 Stat. 527; Pub. L. 99–500, title III, §325(b), Oct. 18, 1986, 100 Stat. 1783–361, and Pub. L. 99–591, title III, §325(b), Oct. 30, 1986, 100 Stat. 3341–365; Pub. L. 99–661, div. D, title II, §4205(b), Nov. 14, 1986, 100 Stat. 4072; Pub. L. 100–71, title I, §101(b), July 11, 1987, 101 Stat. 430; Pub. L. 101–147, title III, §325, Nov. 10, 1989, 103 Stat. 917; Pub. L. 104–193, title VII, §727, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 105–336, title I, §107(j)(3)(D), Oct. 31, 1998, 112 Stat. 3153.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in par. (7), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. Title II of the Act is classified generally to subchapter II (§760 et seq.) of chapter 16 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1998—Par. (6). Pub. L. 105–336, §107(j)(3)(D)(i), substituted "disabilities" for "mental or physical handicaps" in two places.

Par. (7). Pub. L. 105–336, §107(j)(3)(D)(ii), added par. (7).

1996—Par. (1). Pub. L. 104–193, §727(1), substituted "the Commonwealth of the Northern Mariana Islands" for "Trust Territory of the Pacific Islands".

Par. (3). Pub. L. 104–193, §727(2), inserted "and" before "(B)" and struck out ", and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico" before ". For purposes of clauses (A) and (B)".

1989—Pub. L. 101–147 redesignated subsecs. (a) through (f) as pars. (1) through (6), respectively, in par. (2) redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, in par. (3) substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text, and in par. (6) substituted "to have 1 or more mental or physical handicaps" for "to be mentally or physically handicapped" and "for individuals with mental or physical handicaps" for "for mentally or physically handicapped".

1987—Subsec. (c). Pub. L. 100–71 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: " 'School' means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26. On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available."

1986—Subsec. (c). Pub. L. 99–661, §4205(b)(2), inserted "On July 1, 1988, and on each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect the changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available."

Subsec. (c)(A). Pub. L. 99–500 and Pub. L. 99–591, which directed the amendment of subpar. (A) by striking out "except private schools whose average yearly tuition exceeds $1,500 per child," after "such school" was executed by striking out "except private schools whose average yearly tuition exceeds $2,000 per child," after "such school" to reflect the probable intent of Congress and the intervening amendment of subpar. (A) by Pub. L. 99–661, §4205(b)(2). See below.

Pub. L. 99–661, §4205(b)(1), substituted "$2,000" for "$1,500".

1981—Subsec. (c). Pub. L. 97–35 inserted exception for private schools whose average yearly tuition exceeds $1,500.

1980—Subsec. (c). Pub. L. 96–499 inserted ", but excluding Job Corps Centers funded by the Department of Labor" after "mentally retarded".

1978—Subsec. (e). Pub. L. 95–627, §10(c), substituted "from July 1 through June 30" for "determined in accordance with regulations issued by the Secretary".

Subsec. (f). Pub. L. 95–627, §10(d)(3), added subsec. (f).

1977—Subsec. (e). Pub. L. 95–166 added subsec. (e).

1975—Subsec. (a). Pub. L. 94–105, §15(c), included Trust Territory of Pacific Islands in definition of "State".

Subsecs. (c) to (e). Pub. L. 94–105, §17(b), struck out subsec. (c) which defined "Nonprofit private school"

as any private school exempt from income tax under section 501(c)(3) of title 26, redesignated subsecs. (d) and (e) as (c) and (d) respectively, and in subsec. (c) as so redesignated, inserted definition of "School" any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and provision defining "nonprofit" as an exemption under section 501(c)(3) of title 26.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–71 effective July 1, 1987, see section 101(c) of Pub. L. 100–71, set out as a note under section 1760 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 4205(b)(1) of Pub. L. 99–661 applicable for fiscal year beginning Oct. 1, 1986, and each school year thereafter, and amendment by section 4205(b)(2) of Pub. L. 99–661 applicable for school year beginning July 1, 1988, and each school year thereafter, see section 4205(c) of Pub. L. 99–661, set out as a note under section 1760 of this title.

Amendment by Pub. L. 99–500 and Pub. L. 99–591 effective July 1, 1987, see section 325(c) of Pub. L. 99–500 and Pub. L. 99–591, set out as a note under section 1760 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(3) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §20, Nov. 10, 1977, 91 Stat. 1346, provided that the amendment made by that section is effective July 1, 1977.

§1785. Accounts and records; availability for inspection; authority to settle, adjust, or waive claims

(a) States, State educational agencies, schools, and nonprofit institutions participating in programs under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this chapter and the regulations hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

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

(Pub. L. 89–642, §16, Oct. 11, 1966, 80 Stat. 890; Pub. L. 97–35, title VIII, §816, Aug. 13, 1981, 95 Stat. 531; Pub. L. 104–193, title VII, §728, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 106–78, title VII,

§752(b)(16), Oct. 22, 1999, 113 Stat. 1170.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (b), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act" in two places.

1996—Subsec. (a). Pub. L. 104–193 substituted "be available at any reasonable time" for "at all times be available".

1981—Pub. L. 97–35 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 820(a)(7)(C), of Pub. L. 97–35, set out as a note under section 1753 of this title.

STUDY OF COST ACCOUNTING REQUIREMENTS

Secretary prohibited from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per meal costs on the basis of noncompliance with full cost accounting procedure unless and until the Secretary has studied additional personnel and training needs of States, local school districts and schools resulting from imposition of requirement to implement full cost accounting procedures, see section 21 of Pub. L. 94–105, set out as a note under section 1760 of this title.

§1786. Special supplemental nutrition program for women, infants, and children

(a) Congressional findings and declaration of purpose

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

(b) Definitions

As used in this section—

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

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

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

(4) "Costs of nutrition services and administration" or "nutrition services and administration" means costs that shall include, but not be limited to, costs for certification of eligibility of persons

for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, breastfeeding support and promotion, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

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

(6) "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health and Human Services, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(7) NUTRITION EDUCATION.—The term "nutrition education" means individual and group sessions and the provision of material that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

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

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

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

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

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

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

(14) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children and foods that promote the health of the population served by the program authorized by this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

(15) "Homeless individual" means—

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

(B) an individual whose primary nighttime residence is—

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

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

(iii) a temporary accommodation of not more than 365 days in the residence of another individual; or

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

(16) "Drug abuse education" means—

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

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

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

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

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

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

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

(A) is located in a rural area;

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

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

(22) PRIMARY CONTRACT INFANT FORMULA.—The term "primary contract infant formula" means the specific infant formula for which manufacturers submit a bid to a State agency in response to a rebate solicitation under this section and for which a contract is awarded by the State agency as a result of that bid.

(23) STATE ALLIANCE.—The term "State alliance" means 2 or more State agencies that join together for the purpose of procuring infant formula under the program by soliciting competitive bids for infant formula.

(24) SUPPLY CHAIN DISRUPTION.—The term "supply chain disruption" means a shortage of supplemental foods that impedes the redemption of food instruments, as determined by the Secretary.

(c) Grants-in-aid; cash grants; ratable reduction of amount an agency may distribute; affirmative action; regulations relating to dual receipt of benefits under commodity supplemental food program

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

(A) the supplemental nutrition assistance program;

(B) any program under which foods are distributed to needy families in lieu of supplemental nutrition assistance program benefits; and

(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

(2) Subject to amounts appropriated to carry out this section under subsection (g)—

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

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

(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

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

(d) Eligible participants

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

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

(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 1758(b) of this title for free and reduced price meals;

(ii)(I) receives supplemental nutrition assistance program benefits under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.]; or

(II) is a member of a family that receives assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995; or

(iii)(I) receives medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or

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

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

(i) any basic allowance—

(I) for housing received by military service personnel residing off military installations; or

(II) provided under section 403 of title 37 for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10 or any related provision of law; and

(ii) any cost-of-living allowance provided under section 405 of title 37 to a member of a uniformed service who is on duty outside the contiguous States of the United States.

(C) COMBAT PAY.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, or

otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

(i) is the result of deployment to or service in a combat zone; and

(ii) was not received immediately prior to serving in a combat zone.

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

(3) CERTIFICATION.—

(A) PROCEDURES.—

(i) IN GENERAL.—Subject to clause (ii), a person shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(ii) BREASTFEEDING WOMEN.—A State may elect to certify a breastfeeding woman for a period of 1 year postpartum or until a woman discontinues breastfeeding, whichever is earlier.

(iii) CHILDREN.—A State may elect to certify participant children for a period of up to 1 year, if the State electing the option provided under this clause ensures that participant children receive required health and nutrition assessments.

(B) A State may consider pregnant women who meet the income eligibility standards to be presumptively eligible to participate in the program and may certify the women for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of such a woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.

(C) PHYSICAL PRESENCE.—

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

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

(I) an infant or child who—

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

(bb) is receiving ongoing health care;

(II) an infant or child who—

(aa) was present at the initial certification visit;

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

(cc) has one or more parents who work; and

(III) an infant under 8 weeks of age—

(aa) who cannot be present at certification for a reason determined appropriate by the local agency; and

(bb) for whom all necessary certification information is provided.

(D) INCOME DOCUMENTATION.—

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

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

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

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

(E) ADJUNCT DOCUMENTATION.—In order to participate in the program pursuant to clause (ii) or (iii) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of receipt of assistance described in that clause.

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

(e) Nutrition education and drug abuse education

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

(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education, including breastfeeding support and education, under this section.

(3) NUTRITION EDUCATION MATERIALS.—

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

(B) SHARING OF MATERIALS WITH OTHER PROGRAMS.—

(i) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program established under section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) at no cost to that program.

(ii) CHILD AND ADULT CARE FOOD PROGRAM.—A State agency may allow the local agencies or clinics under the State agency to share nutrition educational materials with institutions participating in the child and adult care food program established under section 1766 of this title at no cost to that program, if a written materials sharing agreement exists between the relevant agencies.

(4) The State agency—

(A) shall provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (in this section referred to as the "medicaid program");

(B) shall provide to individuals applying for the program under this section, or reapplying at the

end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program; and

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

(5) Each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.

(f) Plan of operation and administration by State agency

(1)(A) Each State agency shall submit to the Secretary, by a date specified by the Secretary, an initial plan of operation and administration for a fiscal year. After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.

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

(C) The plan shall include—

(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program at any of the authorized retail stores under the program, to be administered in accordance with standards developed by the Secretary, including a description of the State agency's vendor peer group system, competitive price criteria, and allowable reimbursement levels that demonstrate that the State is in compliance with the cost-containment provisions in subsection (h)(11);

(ii) procedures for accepting and processing vendor applications outside of the established timeframes if the State agency determines there will be inadequate access to the program, including in a case in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership;

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

(iv) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;

(v) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants, homeless individuals, and Indians;

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

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

(viii) a plan for reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;

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

(x) a plan to provide nutrition education and promote breastfeeding; and

(xi) such other information as the Secretary may reasonably require.

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

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

(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program and

shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

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

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

(6)(A) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

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

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

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

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

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

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

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

(8)(A) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

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

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

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

(11) SUPPLEMENTAL FOODS.—

(A) IN GENERAL.—The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section.

(B) APPROPRIATE CONTENT.—To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

(C) REVIEW OF AVAILABLE SUPPLEMENTAL FOODS.—As frequently as determined by the Secretary to be necessary to reflect the most recent scientific knowledge, but not less than every 10 years, the Secretary shall—

(i) conduct a scientific review of the supplemental foods available under the program; and

(ii) amend the supplemental foods available, as necessary, to reflect nutrition science, public health concerns, and cultural eating patterns.

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

(13) The State agency may (A) provide nutrition education, breastfeeding promotion, and drug abuse education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

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

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

(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.]; and

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

(16) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals.

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

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

(19) The State agency shall adopt policies that—

(A) require each local agency to attempt to contact each pregnant woman who misses an

appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

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

(20) Each State agency shall conduct monitoring reviews of each local agency at least biennially.

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

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

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

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

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

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

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

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

(24) HIGH RISK VENDORS.—Each State agency shall—

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

(B) conduct compliance investigations of the vendors.

(25) INFANT FORMULA BENEFITS.—A State agency may round up to the next whole can of infant formula to allow all participants under the program to receive the full-authorized nutritional benefit specified by regulation.

(26) NOTIFICATION OF VIOLATIONS.—If a State agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a penalty or sanction, the State agency shall notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State agency determines that notifying the vendor would compromise an investigation.

(g) Authorization of appropriations

(1) IN GENERAL.—

(A) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2010 through 2015.

(B) ADVANCE APPROPRIATIONS; AVAILABILITY.—As authorized by section 1752 of this title, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.

(2)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this

subparagraph, the Secretary—

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

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

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

(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

(B) In any fiscal year—

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

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

(3) Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than 1/3 of the amounts appropriated by the legislation described in such paragraph;

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

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

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

(5) Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $15,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, preparing reports on program participant characteristics, providing technical assistance to improve State agency administrative systems, administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations, and carrying out technical assistance and research evaluation projects of the programs under this section.

(h) Funds for nutrition services and administration

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

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

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

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

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

(C) REMAINING AMOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), in any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the extent that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

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

(2)(A) The Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula—

(i) shall be designed to take into account—

(I) the varying needs of each State;

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

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

(ii) shall provide for each State agency—

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

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

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

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

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

(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 10 percent (except that the Secretary may establish a higher percentage for State agencies that are small) higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

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

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

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

(I) 1/6 of the amounts expended by the State for costs of nutrition services and

administration; and

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

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

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

(i) the State agency so requests; and

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

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

(i) the State agency so requests; and

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

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

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

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

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

(4) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall—

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

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

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

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

(v) not later than 1 year after November 2, 1994, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program;

(vi) partner with communities, State and local agencies, employers, health care professionals, and other entities in the private sector to build a supportive breastfeeding environment for women participating in the program under this section to support the breastfeeding goals of the Healthy People initiative; and

(vii) annually compile and publish breastfeeding performance measurements based on

program participant data on the number of partially and fully breast-fed infants, including breastfeeding performance measurements for—

(I) each State agency; and

(II) each local agency;

(viii) in accordance with subparagraph (B), implement a program to recognize exemplary breastfeeding support practices at local agencies or clinics participating in the special supplemental nutrition program established under this section; and

(ix) in accordance with subparagraph (C), implement a program to provide performance bonuses to State agencies.

(B) EXEMPLARY BREASTFEEDING SUPPORT PRACTICES.—

(i) IN GENERAL.—In evaluating exemplary practices under subparagraph (A)(viii), the Secretary shall consider—

(I) performance measurements of breastfeeding;

(II) the effectiveness of a peer counselor program;

(III) the extent to which the agency or clinic has partnered with other entities to build a supportive breastfeeding environment for women participating in the program; and

(IV) such other criteria as the Secretary considers appropriate after consultation with State and local program agencies.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the activities described in clause (viii) of subparagraph (A) such sums as are necessary.

(C) PERFORMANCE BONUSES.—

(i) IN GENERAL.—Following the publication of breastfeeding performance measurements under subparagraph (A)(vii), the Secretary shall provide performance bonus payments to not more than 15 State agencies that demonstrate, as compared to other State agencies participating in the program—

(I) the highest proportion of breast-fed infants; or

(II) the greatest improvement in proportion of breast-fed infants.

(ii) CONSIDERATION.—In providing performance bonus payments to State agencies under this subparagraph, the Secretary shall consider the proportion of fully breast-fed infants in the States.

(iii) USE OF FUNDS.—A State agency that receives a performance bonus under clause (i)—

(I) shall treat the funds as program income; and

(II) may transfer the funds to local agencies for use in carrying out the program.

(iv) IMPLEMENTATION.—The Secretary shall provide the first performance bonuses not later than 1 year after December 13, 2010, and may subsequently revise the criteria for awarding performance bonuses; and [1]

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

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

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

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

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

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

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

(A) local agency staffing needs;

(B) density of population;

(C) number of individuals served; and

(D) availability of administrative support from other sources.

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

(A) a new local agency;

(B) a new cost containment measure; or

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

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

(I) a competitive bidding system; or

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

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

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

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

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

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

(iv) SIZE OF STATE ALLIANCES.—

(I) IN GENERAL.—Except as provided in subclauses (II) through (IV), no State alliance may exist among States if the total number of infants served by States participating in the alliance as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, would exceed 100,000.

(II) ADDITION OF INFANT PARTICIPANTS.—In the case of a State alliance that exists on June 30, 2004, the alliance may continue and may expand to serve more than 100,000 infants but, except as provided in subclause (III), may not expand to include any additional State agency.

(III) ADDITION OF SMALL STATE AGENCIES AND INDIAN STATE AGENCIES .—Except as provided in paragraph (9)(B)(i)(II), any State alliance may expand to include any State agency that served less than 5,000 infant participants as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, or any Indian State agency, if the State agency or Indian State agency requests to join the State alliance.

(IV) SECRETARIAL WAIVER.—The Secretary may waive the requirements of this clause not earlier than 30 days after submitting to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a written report that describes the cost-containment and competitive benefits of the proposed waiver.

(v) FIRST CHOICE OF ISSUANCE.—The State agency shall use the primary contract infant formula as the first choice of issuance (by formula type), with all other infant formulas issued as an alternative to the primary contract infant formula.

(vi) REBATE INVOICES.—Effective beginning October 1, 2004, each State agency shall have a system to ensure that infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section.

(vii) SEPARATE SOLICITATIONS.—In soliciting bids for infant formula under a competitive bidding system, any State agency, or State alliance, that served under the program a monthly average of more than 100,000 infants during the preceding 12-month period shall solicit bids from infant formula manufacturers under procedures that require that bids for rebates or discounts are solicited for milk-based and soy-based infant formula separately.

(viii) CENT-FOR-CENT ADJUSTMENTS.—A bid solicitation for infant formula under the program shall require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires—

(I) a cent-for-cent increase in the rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular infant formula; and

(II) a cent-for-cent decrease in the rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular infant formula.

(ix) LIST OF INFANT FORMULA WHOLESALERS, DISTRIBUTORS, RETAILERS, AND MANUFACTURERS.—The State agency shall maintain a list of—

(I) infant formula wholesalers, distributors, and retailers licensed in the State in accordance with State law (including regulations); and

(II) infant formula manufacturers registered with the Food and Drug Administration that provide infant formula.

(x) PURCHASE REQUIREMENT.—A vendor authorized to participate in the program under this

section shall only purchase infant formula from the list described in clause (ix).

(B)(i) The Secretary shall waive the requirement of subparagraph (A) in the case of any State that demonstrates to the Secretary that—

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

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

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

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

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

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

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

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

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

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

(G) To reduce the costs of any supplemental foods, the Secretary may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

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

(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil

penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

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

(I) Not later than the expiration of the 180-day period beginning on October 24, 1992, the Secretary shall prescribe regulations to carry out this paragraph.

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

(K) REPORTING.—Effective beginning October 1, 2011, each State agency shall report rebate payments received from manufacturers in the month in which the payments are received, rather than in the month in which the payments were earned.

(L) INFANT FORMULA COST CONTAINMENT CONTRACT REQUIREMENT.—

(i) IN GENERAL.—The Secretary shall require that each infant formula cost containment contract renewed or entered into on or after May 21, 2022, includes remedies in the event of an infant formula recall, including how an infant formula manufacturer would protect against disruption to program participants in the State.

(ii) REBATES.—In the case of an infant formula recall, an infant formula manufacturer contracted to provide infant formula under this section shall comply with the contract requirements under clause (i).

(M) MEMORANDUM OF UNDERSTANDING.—Not later than 30 days after May 21, 2022, the Secretary shall ensure there is a memorandum of understanding between the Secretary and the Secretary of Health and Human Services that includes procedures to promote coordination and information sharing between the Department of Agriculture and the Department of Health and Human Services regarding any supply chain disruption, including a supplemental food recall.

(9) COST CONTAINMENT MEASURE.—

(A) DEFINITION OF COST CONTAINMENT MEASURE.—In this subsection, the term "cost containment measure" means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in the approved State plan of operation and administration of the State agency.

(B) SOLICITATION AND REBATE BILLING REQUIREMENTS.—Any State agency instituting a cost containment measure for any authorized food, including infant formula, shall—

(i) in the bid solicitation—

(I) identify the composition of State alliances for the purposes of a cost containment measure; and

(II) verify that no additional States shall be added to the State alliance between the date of the bid solicitation and the end of the contract;

(ii) have a system to ensure that rebate invoices under competitive bidding provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section;

(iii) open and read aloud all bids at a public proceeding on the day on which the bids are due; and

(iv) unless otherwise exempted by the Secretary, provide a minimum of 30 days between the publication of the solicitation and the date on which the bids are due.

(C) STATE ALLIANCES FOR AUTHORIZED FOODS OTHER THAN INFANT FORMULA .—Program requirements relating to the size of State alliances under paragraph (8)(A)(iv) shall apply to cost containment measures established for any authorized food under this section.

(10) FUNDS FOR INFRASTRUCTURE, MANAGEMENT INFORMATION SYSTEMS, AND

SPECIAL NUTRITION EDUCATION.—

(A) IN GENERAL.—For each of fiscal years 2010 through 2015, the Secretary shall use for the purposes specified in subparagraph (B) $139,000,000 (as adjusted annually for inflation by the same factor used to determine the national average per participant grant for nutrition services and administration for the fiscal year under paragraph (1)(B)).

(B) PURPOSES.—Subject to subparagraph (C), of the amount made available under subparagraph (A) for a fiscal year—

(i) $14,000,000 shall be used for—

(I) infrastructure for the program under this section;

(II) special projects to promote breastfeeding, including projects to assess the effectiveness of particular breastfeeding promotion strategies; and

(III) special State projects of regional or national significance to improve the services of the program;

(ii) $35,000,000 shall be used to establish, improve, or administer management information systems for the program, including changes necessary to meet new legislative or regulatory requirements of the program, of which up to $5,000,000 may be used for Federal administrative costs; and

(iii) $90,000,000 shall be used for special nutrition education (such as breastfeeding peer counselors and other related activities), of which not more than $10,000,000 of any funding provided in excess of $50,000,000 shall be used to make performance bonus payments under paragraph (4)(C).

(C) ADJUSTMENT.—Each of the amounts referred to in clauses (i), (ii), and (iii) of subparagraph (B) shall be adjusted annually for inflation by the same factor used to determine the national average per participant grant for nutrition services and administration for the fiscal year under paragraph (1)(B).

(D) PROPORTIONAL DISTRIBUTION.—The Secretary shall distribute funds made available under subparagraph (A) in accordance with the proportional distribution described in subparagraphs (B) and (C).

(11) VENDOR COST CONTAINMENT.—

(A) PEER GROUPS.—

(i) IN GENERAL.—The State agency shall—

(I) establish a vendor peer group system;

(II) in accordance with subparagraphs (B) and (C), establish competitive price criteria and allowable reimbursement levels for each vendor peer group; and

(III) if the State agency elects to authorize any types of vendors described in subparagraph (D)(ii)(I)—

(aa) distinguish between vendors described in subparagraph (D)(ii)(I) and other vendors by establishing—

(AA) separate peer groups for vendors described in subparagraph (D)(ii)(I); or

(BB) distinct competitive price criteria and allowable reimbursement levels for vendors described in subparagraph (D)(ii)(I) within a peer group that contains both vendors described in subparagraph (D)(ii)(I) and other vendors; and

(bb) establish competitive price criteria and allowable reimbursement levels that comply with subparagraphs (B) and (C), respectively, and that do not result in higher food costs if program participants redeem supplemental food vouchers at vendors described in subparagraph (D)(ii)(I) rather than at vendors other than vendors described in subparagraph (D)(ii)(I).

Nothing in this paragraph shall be construed to compel a State agency to achieve lower food costs

if program participants redeem supplemental food vouchers at vendors described in subparagraph (D)(ii)(I) rather than at vendors other than vendors described in subparagraph (D)(ii)(I).

(ii) EXEMPTIONS.—The Secretary may exempt from the requirements of clause (i)—

(I) a State agency that elects not to authorize any types of vendors described in subparagraph (D)(ii)(I) and that demonstrates to the Secretary that—

(aa) compliance with clause (i) would be inconsistent with efficient and effective operation of the program administered by the State under this section; or

(bb) an alternative cost-containment system would be as effective as a vendor peer group system; or

(II) a State agency—

(aa) in which the sale of supplemental foods that are obtained with food instruments from vendors described in subparagraph (D)(ii)(I) constituted less than 5 percent of total sales of supplemental foods that were obtained with food instruments in the State in the year preceding a year in which the exemption is effective; and

(bb) that demonstrates to the Secretary that an alternative cost-containment system would be as effective as the vendor peer group system and would not result in higher food costs if program participants redeem supplemental food vouchers at vendors described in subparagraph (D)(ii)(I) rather than at vendors other than vendors described in subparagraph (D)(ii)(I).

(B) COMPETITIVE PRICING.—

(i) IN GENERAL.—The State agency shall establish competitive price criteria for each peer group for the selection of vendors for participation in the program that—

(I) ensure that the retail prices charged by vendor applicants for the program are competitive with the prices charged by other vendors; and

(II) consider—

(aa) the shelf prices of the vendor for all buyers; or

(bb) the prices that the vendor bid for supplemental foods, which shall not exceed the shelf prices of the vendor for all buyers.

(ii) PARTICIPANT ACCESS.—In establishing competitive price criteria, the State agency shall consider participant access by geographic area.

(iii) SUBSEQUENT PRICE INCREASES.—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not, subsequent to selection, increase prices to levels that would make the store ineligible for selection to participate in the program.

(C) ALLOWABLE REIMBURSEMENT LEVELS.—

(i) IN GENERAL.—The State agency shall establish allowable reimbursement levels for supplemental foods for each vendor peer group that ensure—

(I) that payments to vendors in the vendor peer group reflect competitive retail prices; and

(II) that the State agency does not reimburse a vendor for supplemental foods at a level that would make the vendor ineligible for authorization under the criteria established under subparagraph (B).

(ii) PRICE FLUCTUATIONS.—The allowable reimbursement levels may include a factor to reflect fluctuations in wholesale prices.

(iii) PARTICIPANT ACCESS.—In establishing allowable reimbursement levels, the State agency shall consider participant access in a geographic area.

(D) EXEMPTIONS.—The State agency may exempt from competitive price criteria and allowable reimbursement levels established under this paragraph—

(i) pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program; and

(ii) vendors—

(I)(aa) for which more than 50 percent of the annual revenue of the vendor from the sale of food items consists of revenue from the sale of supplemental foods that are obtained with food instruments; or

(bb) who are new applicants likely to meet the criteria of item (aa) under criteria approved by the Secretary; and

(II) that are nonprofit.

(E) COST CONTAINMENT.—If a State agency elects to authorize any types of vendors described in subparagraph (D)(ii)(I), the State agency shall demonstrate to the Secretary, and the Secretary shall certify, that the competitive price criteria and allowable reimbursement levels established under this paragraph for vendors described in subparagraph (D)(ii)(I) do not result in average payments per voucher to vendors described in subparagraph (D)(ii)(I) that are higher than average payments per voucher to comparable vendors other than vendors described in subparagraph (D)(ii)(I).

(F) LIMITATION ON PRIVATE RIGHTS OF ACTION.—Nothing in this paragraph may be construed as creating a private right of action.

(G) IMPLEMENTATION.—A State agency shall comply with this paragraph not later than 18 months after June 30, 2004.

(12) ELECTRONIC BENEFIT TRANSFER.—

(A) DEFINITIONS.—In this paragraph:

(i) ELECTRONIC BENEFIT TRANSFER.—The term "electronic benefit transfer" means a food delivery system that provides benefits using a card or other access device approved by the Secretary that permits electronic access to program benefits.

(ii) PROGRAM.—The term "program" means the special supplemental nutrition program established by this section.

(B) REQUIREMENTS.—

(i) IN GENERAL.—Not later than October 1, 2020, each State agency shall be required to implement electronic benefit transfer systems throughout the State, unless the Secretary grants an exemption under subparagraph (C) for a State agency that is facing unusual barriers to implement an electronic benefit transfer system.

(ii) RESPONSIBILITY.—The State agency shall be responsible for the coordination and management of the electronic benefit transfer system of the agency.

(C) EXEMPTIONS.—

(i) IN GENERAL.—To be eligible for an exemption from the statewide implementation requirements of subparagraph (B)(i), a State agency shall demonstrate to the satisfaction of the Secretary 1 or more of the following:

(I) There are unusual technological barriers to implementation.

(II) Operational costs are not affordable within the nutrition services and administration grant of the State agency.

(III) It is in the best interest of the program to grant the exemption.

(ii) SPECIFIC DATE.—A State agency requesting an exemption under clause (i) shall specify a date by which the State agency anticipates statewide implementation described in subparagraph (B)(i).

(D) REPORTING.—

(i) IN GENERAL.—Each State agency shall submit to the Secretary electronic benefit

transfer project status reports to demonstrate the progress of the State toward statewide implementation.

(ii) CONSULTATION.—If a State agency plans to incorporate additional programs in the electronic benefit transfer system of the State, the State agency shall consult with the State agency officials responsible for administering the programs prior to submitting the planning documents to the Secretary for approval.

(iii) REQUIREMENTS.—At a minimum, a status report submitted under clause (i) shall contain—

(I) an annual outline of the electronic benefit transfer implementation goals and objectives of the State;

(II) appropriate updates in accordance with approval requirements for active electronic benefit transfer State agencies; and

(III) such other information as the Secretary may require.

(E) IMPOSITION OF COSTS ON VENDORS.—

(i) COST PROHIBITION.—Except as otherwise provided in this paragraph, the Secretary may not impose, or allow a State agency to impose, the costs of any equipment or system required for electronic benefit transfers on any authorized vendor in order to transact electronic benefit transfers if the vendor equipment or system is used solely to support the program.

(ii) COST-SHARING.—The Secretary shall establish criteria for cost-sharing by State agencies and vendors of costs associated with any equipment or system that is not solely dedicated to transacting electronic benefit transfers for the program.

(iii) FEES.—

(I) IN GENERAL.—A vendor that elects to accept electronic benefit transfers using multifunction equipment shall pay commercial transaction processing costs and fees imposed by a third-party processor that the vendor elects to use to connect to the electronic benefit transfer system of the State.

(II) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this paragraph.

(iv) STATEWIDE OPERATIONS.—After completion of statewide expansion of a system for transaction of electronic benefit transfers—

(I) a State agency may not be required to incur ongoing maintenance costs for vendors using multifunction systems and equipment to support electronic benefit transfers; and

(II) any retail store in the State that applies for authorization to become a program vendor shall be required to demonstrate the capability to accept program benefits electronically prior to authorization, unless the State agency determines that the vendor is necessary for participant access.

(F) MINIMUM LANE COVERAGE.—

(i) IN GENERAL.—The Secretary shall establish minimum lane coverage guidelines for vendor equipment and systems used to support electronic benefit transfers.

(ii) PROVISION OF EQUIPMENT.—If a vendor does not elect to accept electronic benefit transfers using its own multifunction equipment, the State agency shall provide such equipment as is necessary to solely support the program to meet the established minimum lane coverage guidelines.

(G) TECHNICAL STANDARDS.—The Secretary shall—

(i) establish technical standards and operating rules for electronic benefit transfer systems; and

(ii) require each State agency, contractor, and authorized vendor participating in the program to demonstrate compliance with the technical standards and operating rules.

(13) UNIVERSAL PRODUCT CODES DATABASE.—

(A) IN GENERAL.—Not later than 2 years after December 13, 2010, the Secretary shall establish a national universal product code database to be used by all State agencies in carrying out the requirements of paragraph (12).

(B) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this paragraph $1,000,000, to remain available until expended.

(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

(iii) USE OF FUNDS.—The Secretary shall use the funds provided under clause (i) for development, hosting, hardware and software configuration, and support of the database required under subparagraph (A).

(14) INCENTIVE ITEMS.—A State agency shall not authorize or make payments to a vendor described in paragraph (11)(D)(ii)(I) that provides incentive items or other free merchandise, except food or merchandise of nominal value (as determined by the Secretary), to program participants unless the vendor provides to the State agency proof that the vendor obtained the incentive items or merchandise at no cost.

(i) Division of funds formula; reallocation of unspent funds; use of State allocation to buy supplemental foods; use of amounts available for succeeding fiscal year

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

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

(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B)—

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

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

(ii)(I) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than 3 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

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

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

(C) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary

determines that there has been a significant reduction in infant formula cost containment savings provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.

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

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

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

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

(8) TEMPORARY SPENDING AUTHORITY.—During each of fiscal years 2012 and 2013, the Secretary may authorize a State agency to expend more than the amount otherwise authorized under paragraph (3)(C) for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that—

(A) there has been a significant reduction in reported infant formula cost containment savings for the preceding fiscal year due to the implementation of subsection (h)(8)(K); and

(B) the reduction would affect the ability of the State agency to serve all eligible participants.

(j) Initiative to provide program services at community and migrant health centers

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

(2) The initiative shall also include—

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

(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods, nutrition education, and breastfeeding support and promotion under the special supplemental nutrition program.

(3) The initiative may include—

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

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

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

(4) As used in this subsection:

(A) The term "community health center" has the meaning given the term in section 254c(a) [2] of this title.

(B) The term "migrant health center" has the meaning given the term in section 254b(a)(1) [2] of this title.

(k) National Advisory Council on Maternal, Infant, and Fetal Nutrition; establishment; membership; term; officers; meetings; quorum; technical assistance by Secretary

(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of 24 members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental nutrition program; one member shall be a person involved at the retail sales level of food in the special supplemental nutrition program; two members shall be officials of the Department of Health and Human Services appointed by the Secretary of Health and Human Services; two members shall be officials of the Department of Agriculture appointed by the Secretary; 1 member shall be an expert in the promotion of breast feeding; one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.

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

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

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

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

(l) Donation of foods by Secretary

Foods available under section 1431 of title 7, including, but not limited to, dry milk, or purchased under section 612c of title 7, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.

(m) Women, infants, and children farmers' market nutrition program; establishment, grants, etc.

(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are

approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets and (at the option of a State) roadside stands, as defined in the State plans submitted under this subsection.

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

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

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

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

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

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

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

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

(i) provided under the grant; or

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

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

(i) less than $10 per year; or

(ii) more than $30 per year.

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

(i) the highest concentration of eligible individuals;

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

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

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

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

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

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

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

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

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

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

(B)(i) Subject to the availability of appropriations, if a State provides the amount of matching funds required under paragraph (3), the State shall receive assistance under this subsection in an amount that is not less than the amount of such assistance that the State received in the most recent fiscal year in which it received such assistance.

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

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

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

(ii) documentation that demonstrates that—

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

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

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

(iv) whether, in the case of a State that intends to use any funding provided under subparagraph (G)(i) [2] to increase the value of the Federal share of the benefits received by a recipient, the funding provided under subparagraph (G)(i) [2] will increase the rate of coupon redemption.

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

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

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

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

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

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

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

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

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

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

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

(B) Any programs for which a grant is received under this subsection shall be supplementary to the supplemental nutrition assistance program carried out under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of supplemental nutrition assistance program benefits.

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

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

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

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

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

(E) the effects of the program on farmers' markets, if the information is available; and

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

(9) FUNDING.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2010 through 2015.

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

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

(ii) The Secretary shall establish procedures to reallocate funds that are returned under clause (i).

(10) For purposes of this subsection:

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

(B) The term "program" means—

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

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

(C) The term "recipient" means a person or household, as determined by the State, who is

chosen by a State to receive benefits under this subsection, or who is on a waiting list to receive such benefits.

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

(n) Disqualification of vendors who are disqualified under supplemental nutrition assistance program

(1) In general

The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(2) Terms

A disqualification under paragraph (1)—

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

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

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

(o) Disqualification of vendors convicted of trafficking or illegal sales

(1) In general

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

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

(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 802 of title 21) in exchange for food instruments (including any item described in subparagraph (A) issued in lieu of a food instrument under this section).

(2) Notice of disqualification

The State agency shall—

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

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

(3) Prohibition of receipt of lost revenues

A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification under this subsection.

(4) Exceptions in lieu of disqualification

(A) In general

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

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

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

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

(B) Civil penalty

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

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

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

(p) Criminal forfeiture

(1) In general

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

(2) Applicable laws

A provision of law described in this paragraph is—

(A) section 1760(g) of this title; and

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

(3) Property subject to forfeiture

The following property shall be subject to forfeiture under paragraph (1):

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

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

(4) Procedures; interest of owner

Except as provided in paragraph (5), all property subject to forfeiture under this subsection, any seizure or disposition of the property, and any proceeding relating to the forfeiture, seizure, or disposition shall be subject to section 853 of title 21, other than subsection (d) of that section.

(5) Proceeds

The proceeds from any sale of forfeited property and any amounts forfeited under this subsection shall be used—

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

(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal, State, or local law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the State agency to carry out approval, reauthorization, and compliance investigations of vendors.

(q) Provision of technical assistance to Secretary of Defense

The Secretary of Agriculture shall provide technical assistance to the Secretary of Defense, if so requested by the Secretary of Defense, for the purpose of carrying out the overseas special supplemental food program established under section 1060a(a) of title 10.

(r) Emergencies and disasters

(1) In general

Notwithstanding any other provision of law, during an emergency period, the Secretary may modify or waive any qualified administrative requirement for one or more State agencies if—

(A) the qualified administrative requirement cannot be met by State agencies during any portion of the emergency period under the conditions which prompted the emergency period; and

(B) the modification or waiver of such a requirement—

(i) is necessary to provide assistance under this section; and

(ii) does not substantially weaken the nutritional quality of supplemental foods provided under this section.

(2) Duration

A waiver established under this subsection may be available for a period of not greater than the emergency period and the 60 days after the end of such emergency period.

(3) Definitions

In this subsection:

(A) Emergency period

The term "emergency period" means a period during which there exists—

(i) a public health emergency declared by the Secretary of Health and Human Services under section 247d of this title;

(ii) any renewal of such a public health emergency pursuant to such section 247d;

(iii) a presidentially declared major disaster as defined under section 5122 of this title; or

(iv) a presidentially declared emergency as defined under section 5122 of this title.

(B) Qualified administrative requirement

The term "qualified administrative requirement" means a requirement under this section or a regulatory requirement issued pursuant to this section.

(s) Supply chain disruptions

(1) In general

Notwithstanding any other provision of law, during a supply chain disruption, including a supplemental food product recall, the Secretary may modify or waive any qualified administrative requirement for one or more State agencies if—

(A) the qualified administrative requirement cannot be met by State agencies during any portion of the supply chain disruption, including a supplemental food product recall, under the conditions which prompted such disruption or recall; and

(B) the modification or waiver of such a requirement—

(i) is necessary to provide assistance under this section; and

(ii) does not substantially weaken the nutritional quality of supplemental foods provided under this section.

(2) Waiver authority

The Secretary may, under a waiver or modification under paragraph (1)—

(A) permit authorized vendors to exchange or substitute authorized supplemental foods obtained with food instruments beyond exchanges for an identical (exact brand and size) food item;

(B) waive any requirement with respect to medical documentation for the issuance of noncontract brand infant formula, except for the requirements for participants receiving Food Package III (as defined in section 246.10(e)(3) of title 7, Code of Federal Regulations (as in effect on May 21, 2022));

(C) waive the maximum monthly allowance for infant formula; and

(D) waive any additional qualified administrative requirement to address a supply chain disruption, including a supplemental food product recall.

(3) Duration

A waiver or modification established under this subsection—

(A) may be—

(i) available for a period of not more than 45 days, to begin on a date determined by the Secretary; and

(ii) renewed so long as the Secretary provides notice at least 15 days before such renewal; and

(B) shall not be available after the date that is 60 days after the supply chain disruption for which such waiver is established ceases to exist.

(4) Transparency

(A) In general

If the Secretary determines that a supply chain disruption exists and issues a waiver or modification under this subsection, the Secretary shall notify each State agency affected by such disruption and include with such notification an explanation of such determination.

(B) Publication

The Secretary shall make each determination described in subparagraph (A) publicly available on the website of the Department.

(C) State agency requirements

In the case of a waiver or modification under this subsection related to infant formula, a State agency notified under subparagraph (A) shall notify each infant formula manufacturer that has a contract with such State agency with respect to such notification.

(5) Qualified administrative requirement defined

For purposes of this subsection, the term "qualified administrative requirement" has the meaning given the term in subsection (r).

(Pub. L. 89–642, §17, as added Pub. L. 92–433, §9, Sept. 26, 1972, 86 Stat. 729; amended Pub. L. 93–150, §6, Nov. 7, 1973, 87 Stat. 563; Pub. L. 93–326, §6, June 30, 1974, 88 Stat. 287; Pub. L. 94–28, May 28, 1975, 89 Stat. 96; Pub. L. 94–105, §14, Oct. 7, 1975, 89 Stat. 518; Pub. L. 95–166, §§18, 20(6), Nov. 10, 1977, 91 Stat. 1345, 1346; Pub. L. 95–627, §3, Nov. 10, 1978, 92 Stat. 3611; Pub. L. 96–108, title III, §301, Nov. 9, 1979, 93 Stat. 838; Pub. L. 96–499, title II, §203(d), Dec. 5, 1980, 94 Stat. 2601; Pub. L. 97–35, title VIII, §815, Aug. 13, 1981, 95 Stat. 531; Pub. L. 99–500, title III, §§314, 341, 342(a), 343, 344(a), 345–348(a), 349–353(a), 372(b)(1), Oct. 18, 1986, 100 Stat. 1783–360, 1783–364 to 1783–367, 1783–369, and Pub. L. 99–591, title III, §§314, 341, 342(a), 343, 344(a), 345–348(a), 349–353(a), 372(b)(1), Oct. 30, 1986, 100 Stat. 3341–363, 3341–367 to 3341–370, 3341–372; Pub. L. 99–661, div. D, title I, §4104, title III, §§4301, 4302(a), 4303, 4304(a), 4305–4308(a), 4309–4313(a), title V, §4502(b)(1), Nov. 14, 1986, 100 Stat. 4071, 4075–4078, 4080; Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 425; Pub. L. 100–237, §§8(a), (b), 9, 11, 12, Jan. 8, 1988, 101 Stat. 1740, 1741; Pub. L. 100–356, §3, June 28, 1988, 102 Stat. 669; Pub. L. 100–435, title II, §212, title V, §501(b), Sept. 19, 1988, 102 Stat. 1657, 1668; Pub. L. 100–690, title III, §3201, Nov. 18, 1988, 102 Stat. 4246; Pub. L. 101–147, title I, §123(a), title II, §213(a), title III, §326, Nov. 10, 1989, 103 Stat. 894, 912, 917; Pub. L. 101–330, July 12, 1990, 104 Stat. 311; Pub. L. 102–314, §3, July 2, 1992, 106 Stat. 280; Pub. L. 102–342, title II, §204, Aug. 14, 1992, 106 Stat. 913; Pub. L. 102–512, title II, §§203–207, Oct. 24, 1992, 106 Stat. 3364–3368; Pub. L. 103–448, title II, §204(a)–(o)(1), (p)–(v)(11), (w)(1), Nov. 2, 1994, 108 Stat. 4738–4745; Pub. L. 104–66, title I, §1011(l), Dec. 21, 1995, 109 Stat. 710; Pub. L. 104–193, title I, §109(h), title VII, §729(a)–(g)(1), (h)–(j), Aug. 22, 1996, 110 Stat. 2171, 2303–2305; Pub. L. 105–336, title II, §203(a)–(f)(1), (g)–(l), (m)–(p)(1), (q), Oct. 31, 1998, 112 Stat. 3158–3165; Pub. L. 105–362, title I, §101(i), Nov. 10, 1998, 112 Stat. 3281; Pub. L. 106–65, div. A, title VI, §674(e), Oct. 5, 1999, 113 Stat. 675; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 106–224, title II, §§242(b)(1), (2), 244(a)–(e), June 20, 2000, 114 Stat. 411, 412, 421; Pub. L. 106–472, title III, §307(b), Nov. 9,

2000, 114 Stat. 2073; Pub. L. 107–171, title IV, §§4306(a), 4307(a), May 13, 2002, 116 Stat. 332; Pub. L. 108–265, title II, §203(a)–(c)(2)(A), (3), (4)(A), (5), (d), (e)(1)–(4)(A), (5), (6)(A), (7)(A), (B), (8)–(13), (f)–(i)(1), June 30, 2004, 118 Stat. 771–780; Pub. L. 108–447, div. A, title VII, §788(d), (e), Dec. 8, 2004, 118 Stat. 2851; Pub. L. 110–234, title IV, §4002(b)(1)(A), (B), (E), (J), (2)(AA), May 22, 2008, 122 Stat. 1095–1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(A), (B), (E), (J), (2)(AA), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 111–80, title VII, §734(b), Oct. 21, 2009, 123 Stat. 2125; Pub. L. 111–296, title I, §131, title II, §§231, 232, title III, §§351, 352, title IV, §§423, 424, 441(b)(2), Dec. 13, 2010, 124 Stat. 3206, 3229, 3232, 3254, 3260, 3265; Pub. L. 112–81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117–129, §2, May 21, 2022, 136 Stat. 1225; Pub. L. 117–263, div. A, title VI, §626(i), Dec. 23, 2022, 136 Stat. 2630.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973, referred to in subsecs. (c)(3), (e)(3)(B)(i), and (f)(1)(D), are sections 4 and 5 of Pub. L. 93–86, which are set out as notes under section 612c of Title 7, Agriculture.

The Food and Nutrition Act of 2008, referred to in subsecs. (d)(2)(A)(ii)(I), (m)(7)(B), and (n)(1), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in subsecs. (d)(2)(A)(ii)(II), (iii)(I), (e)(4)(A), and (f)(17), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV, title XIX, and title XXI of the Act are classified generally to part A (§601 et seq.) of subchapter IV, subchapter XIX (§1396 et seq.), and subchapter XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (d)(3)(C)(i), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (f)(15), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

Sections 254b and 254c of this title, referred to in subsec. (j)(4), were in the original references to sections 329 and 330 of the Public Health Service Act, act July 1, 1944, which were omitted in the general amendment of subpart I (§254b et seq.) of part D of subchapter II of chapter 6A of this title by Pub. L. 104–299, §2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104–299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Section 1304 of the Food and Agriculture Act of 1977, referred to in subsec. (k)(1), is section 1304 of Pub. L. 95–113, title XIII, Sept. 29, 1977, 91 Stat. 980, which amended provisions set out as notes under sections 612c and 1281 of Title 7, Agriculture.

Subparagraph (G)(i), referred to in subsec. (m)(6)(C)(iv), meaning subpar. (G)(i) of subsec. (m)(6), was redesignated subpar. (F)(i) of subsec. (m)(6) by Pub. L. 105–336, title II, §203(o)(3)(B), Oct. 31, 1998, 112 Stat. 3164.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2022—Subsec. (b)(24). Pub. L. 117–129, §2(1), added par. (24).

Subsec. (d)(2)(B)(ii). Pub. L. 117–263 substituted "section 405" for "section 475".

Subsec. (h)(8)(L), (M). Pub. L. 117–129, §2(2), added subpars. (L) and (M).

Subsecs. (r), (s). Pub. L. 117–129, §2(3), added subsecs. (r) and (s).

2013—Subsec. (d)(2)(B)(ii). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory

language of Pub. L. 112–81, §631(f)(4)(B). See 2011 Amendment note below.

2011—Subsec. (d)(2)(B)(ii). Pub. L. 112–81, §631(f)(4)(B), as amended by Pub. L. 112–239, §1076(a)(9), substituted "475" for "405".

2010—Subsec. (a). Pub. L. 111–296, §231(1), substituted "supplemental foods and nutrition education, including breastfeeding promotion and support, through any eligible local agency" for "supplemental foods and nutrition education through any eligible local agency" in second sentence.

Subsec. (b)(4). Pub. L. 111–296, §231(2), inserted "breastfeeding support and promotion," after "nutrition education,".

Subsec. (c)(1). Pub. L. 111–296, §231(3), substituted "supplemental foods, nutrition education, and breastfeeding support and promotion to" for "supplemental foods and nutrition education to" in first sentence of introductory provisions.

Subsec. (d)(3)(A)(iii). Pub. L. 111–296, §131, added cl. (iii).

Subsec. (e)(2). Pub. L. 111–296, §231(4), inserted ", including breastfeeding support and education," after "providing nutrition education" in second sentence.

Subsec. (e)(3)(B). Pub. L. 111–296, §351, which directed the amendment of section 17(e)(3) of the "Child Nutrition Act" by adding subpar. (B) and striking out former subpar. (B), was executed to this section, which is section 17 of the Child Nutrition Act of 1966, to reflect the probable intent of Congress. Prior to amendment, subpar. (B) related to sharing nutrition education materials.

Subsec. (f)(6)(B). Pub. L. 111–296, §231(5), inserted "and breastfeeding" after "nutrition education" in first sentence.

Subsec. (f)(11)(C). Pub. L. 111–296, §441(b)(2), redesignated subpar. (D) as (C) and struck out former subpar. (C). Prior to amendment, text read as follows: "Subject to the availability of funds, the Secretary shall award grants to not more than 10 local sites determined by the Secretary to be geographically and culturally representative of State, local, and Indian agencies, to evaluate the feasibility of including fresh, frozen, or canned fruits and vegetables (to be made available through private funds) as an addition to the supplemental foods prescribed under this section."

Subsec. (f)(11)(D). Pub. L. 111–296, §441(b)(2)(B), redesignated subpar. (D) as (C).

Pub. L. 111–296, §232, inserted "but not less than every 10 years," after "scientific knowledge," in introductory provisions.

Subsec. (g)(1)(A). Pub. L. 111–296, §423, substituted "each of fiscal years 2010 through 2015" for "each of fiscal years 2004 through 2009".

Subsec. (g)(5). Pub. L. 111–296, §352(a), substituted "$15,000,000" for "$5,000,000".

Subsec. (h)(4). Pub. L. 111–296, §231(6)(A), inserted par. heading, designated existing provisions as subpar. (A) and inserted heading, redesignated subpars. (B) to (F) as cls. (ii) to (vi), respectively, of subpar. (A), substituted "initiative; and" for "2010 initiative." in cl. (vi), added cls. (vii) to (ix), and added subpars. (B) and (C).

Subsec. (h)(8)(A)(iv)(III). Pub. L. 111–296, §352(c)(1), substituted "Except as provided in paragraph (9)(B)(i)(II), any" for "Any".

Subsec. (h)(8)(K). Pub. L. 111–296, §352(b), added subpar. (K).

Subsec. (h)(9). Pub. L. 111–296, §352(c)(2), added par. (9) and struck out former par. (9) which read as follows: "For purposes of this subsection, the term 'cost containment measure' means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration."

Subsec. (h)(10). Pub. L. 111–296, §231(6)(B), added par. (10) and struck out former par. (10) which related to funds for infrastructure, management information systems, and special nutrition education.

Subsec. (h)(12). Pub. L. 111–296, §352(d), added par. (12) and struck out former par. (12). Prior to amendment, text read as follows: "The Secretary may not impose, or allow a State agency to impose, the costs of any equipment, system, or processing required for electronic benefit transfers on any retail store authorized to transact food instruments, as a condition for authorization or participation in the program."

Subsec. (h)(13). Pub. L. 111–296, §352(e), added par. (13) and struck out former par. (13). Prior to amendment, text read as follows: "The Secretary shall—

"(A) establish a national universal product code database for use by all State agencies in carrying out the program; and

"(B) make available from appropriated funds such sums as are required for hosting, hardware and software configuration, and support of the database."

Subsec. (i)(8). Pub. L. 111–296, §352(f), added par. (8).

Subsec. (j). Pub. L. 111–296, §231(7), substituted "supplemental foods, nutrition education, and breastfeeding support and promotion" for "supplemental foods and nutrition education" in par. (1) and in two

places in par. (2).

Subsec. (m)(9)(A). Pub. L. 111–296, §424, added subpar. (A) and struck out former subpar. (A) which related to authorization of appropriations and mandatory funding.

2009—Subsec. (d)(2)(C), (D). Pub. L. 111–80 added subpar. (C) and redesignated former subpar. (C) as (D).

2008—Subsec. (c)(1)(A). Pub. L. 110–246, §4002(b)(1)(A), (2)(AA), substituted "supplemental nutrition assistance program" for "food stamp program".

Subsec. (c)(1)(B). Pub. L. 110–246, §4002(b)(1)(E), (2)(AA), substituted "supplemental nutrition assistance program benefits" for "food stamps".

Subsec. (d)(2)(A)(ii)(I). Pub. L. 110–246, §4002(b)(1)(B), (E), (2)(AA), substituted "supplemental nutrition assistance program benefits" for "food stamps" and "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

Subsec. (m)(7)(B). Pub. L. 110–246, §4002(b)(1)(A), (B), (E), (2)(AA), substituted "supplemental nutrition assistance program" for "food stamp program", "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977", and "supplemental nutrition assistance program benefits" for "food stamps".

Subsec. (n). Pub. L. 110–246, §4002(b)(1)(J), (2)(AA), substituted "supplemental nutrition assistance program" for "food stamp program" in heading.

Subsec. (n)(1). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(AA), substituted "supplemental nutrition assistance program" for "food stamp program" and "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

2004—Subsec. (b)(7). Pub. L. 108–265, §203(a)(1), added par. (7) and struck out former par. (7) which read as follows: " 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences."

Subsec. (b)(14). Pub. L. 108–265, §203(a)(2), inserted "and foods that promote the health of the population served by the program authorized by this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns" after "children".

Subsec. (b)(22), (23). Pub. L. 108–265, §203(a)(3), added pars. (22) and (23).

Subsec. (d)(3)(A). Pub. L. 108–265, §203(b)(1), inserted par. and subpar. headings, designated existing provisions as cl. (i), inserted heading, substituted "Subject to clause (ii), a person" for "Persons", and added cl. (ii).

Subsec. (d)(3)(C)(ii)(I)(bb). Pub. L. 108–265, §203(b)(2)(A), substituted semicolon for "from a provider other than the local agency; or".

Subsec. (d)(3)(C)(ii)(II)(cc). Pub. L. 108–265, §203(b)(2)(B), substituted "; and" for period at end.

Subsec. (d)(3)(C)(ii)(III). Pub. L. 108–265, §203(b)(2)(C), added subcl. (III).

Subsec. (f)(1)(C)(i). Pub. L. 108–447, §788(d), struck out period after "subsection (h)(11)".

Pub. L. 108–265, §203(e)(10)(B), inserted before semicolon at end ", including a description of the State agency's vendor peer group system, competitive price criteria, and allowable reimbursement levels that demonstrate that the State is in compliance with the cost-containment provisions in subsection (h)(11)."

Pub. L. 108–265, §203(c)(1)(A), inserted "at any of the authorized retail stores under the program" after "foods under the program".

Subsec. (f)(1)(C)(ii) to (xi). Pub. L. 108–265, §203(c)(1)(B), (C), added cl. (ii) and redesignated former cls. (ii) to (x) as (iii) to (xi), respectively.

Subsec. (f)(11). Pub. L. 108–265, §203(c)(2)(A), inserted par. heading, designated existing provisions as subpars. (A) and (B), inserted headings, and added subpars. (C) and (D).

Subsec. (f)(21). Pub. L. 108–265, §203(c)(3), substituted "local agencies, vendors," for "vendors" in heading and introductory provisions.

Subsec. (f)(25). Pub. L. 108–265, §203(c)(4)(A), added par. (25).

Subsec. (f)(26). Pub. L. 108–265, §203(c)(5), added par. (26).

Subsec. (g). Pub. L. 108–265, §203(d), inserted heading.

Subsec. (g)(1). Pub. L. 108–265, §203(d), inserted par. heading, added subpar. (A), designated second sentence as subpar. (B), inserted heading, and struck out first sentence relating to appropriations for fiscal year 1990 and fiscal years 1995 through 2003.

Subsec. (h)(2)(A). Pub. L. 108–265, §203(e)(1), substituted "The" for "For each of the fiscal years 1995 through 2003, the" in introductory provisions.

Subsec. (h)(4)(F). Pub. L. 108–265, §203(e)(2), added subpar. (F).

Subsec. (h)(8)(A)(ii). Pub. L. 108–265, §203(e)(7)(B), substituted "change" for "rise" in introductory

provisions.

Subsec. (h)(8)(A)(ii)(I). Pub. L. 108–265, §203(e)(4)(A)(i), substituted "primary contract" for "contract brand of".

Subsec. (h)(8)(A)(iii). Pub. L. 108–265, §203(e)(4)(A)(ii), inserted "for a specific infant formula for which manufacturers submit a bid" after "lowest net price".

Subsec. (h)(8)(A)(iv). Pub. L. 108–265, §203(e)(3), added cl. (iv).

Subsec. (h)(8)(A)(v). Pub. L. 108–265, §203(e)(4)(A)(iii), added cl. (v).

Subsec. (h)(8)(A)(vi). Pub. L. 108–447, §788(e), substituted "Effective beginning October 1, 2004, each State" for "Each State".

Pub. L. 108–265, §203(e)(5), added cl. (vi).

Subsec. (h)(8)(A)(vii). Pub. L. 108–265, §203(e)(6)(A), added cl. (vii).

Subsec. (h)(8)(A)(viii). Pub. L. 108–265, §203(e)(7)(A), added cl. (viii).

Subsec. (h)(8)(A)(ix), (x). Pub. L. 108–265, §203(e)(8), added cls. (ix) and (x).

Subsec. (h)(10). Pub. L. 108–265, §203(e)(9), added par. (10) and struck out former par. (10), which related to use of certain funds for each of fiscal years 1995 through 2003 for development of infrastructure for the program, special State projects to improve services, and special breastfeeding support and promotion projects.

Subsec. (h)(11). Pub. L. 108–265, §203(e)(10)(A), added par. (11) and struck out former par. (11), which required a State agency to consider price levels of retail stores for participation in the program and to establish procedures to ensure that selected stores would not subsequently raise prices to levels that would have made them ineligible for participation.

Subsec. (h)(12). Pub. L. 108–265, §203(e)(11), added par. (12) and struck out former par. (12), which directed the Secretary to establish a long-range plan for the development and implementation of management information systems to be used in carrying out the program, and to submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 2 years after Oct. 31, 1998.

Subsec. (h)(13), (14). Pub. L. 108–265, §203(e)(12), (13), added pars. (13) and (14).

Subsec. (i)(3)(A)(ii)(I). Pub. L. 108–265, §203(f), substituted "3 percent" for "1 percent".

Subsec. (j)(4), (5). Pub. L. 108–265, §203(g), redesignated par. (5) as (4) and struck out former par. (4), which directed the Secretaries to provide notifications to Congress concerning actions to carry out the initiative and, upon completion of such initiative, an evaluation and a plan to further its goals.

Subsec. (m)(1). Pub. L. 108–265, §203(h)(1), inserted "and (at the option of a State) roadside stands" after "farmers' markets".

Subsec. (m)(3). Pub. L. 108–265, §203(h)(2), substituted "administrative" for "total" in two places.

Subsec. (m)(5)(C)(ii). Pub. L. 108–265, §203(h)(3), substituted "$30" for "$20".

Subsec. (m)(9)(A)(i). Pub. L. 108–265, §203(h)(4), added cl. (i) and struck out former cl. (i), which authorized to be appropriated to carry out this subsection $8,000,000 for fiscal year 1994, $10,500,000 for fiscal year 1995, and such sums as might be necessary for each of fiscal years 1996 through 2003.

Subsec. (r). Pub. L. 108–265, §203(i)(1), struck out subsec. (r), which provided for demonstration projects relating to use of the WIC program for identification and enrollment of children in certain health programs.

2002—Subsec. (d)(2)(B)(i). Pub. L. 107–171, §4306(a), inserted hyphen after "basic allowance" and designated remainder of cl. (i) as subcl. (I), substituted "or" for "and" after semicolon, and added subcl. (II).

Subsec. (m)(9). Pub. L. 107–171, §4307(a), inserted par. heading, subpar. (A) heading, and cl. (i) designation and heading and added cl. (ii).

2000—Subsec. (b)(4). Pub. L. 106–224, §242(b)(2)(A), substituted "(4) 'Costs of nutrition services and administration' or 'nutrition services and administration' means" for "(4) 'Costs for nutrition services and administration' means".

Subsec. (b)(21). Pub. L. 106–224, §244(a), added par. (21).

Subsec. (d)(2)(B). Pub. L. 106–224, §244(b), designated part of existing provisions as cl. (i), substituted "housing" for "quarters", and added cl. (ii).

Subsec. (d)(2)(B)(ii). Pub. L. 106–472, §307(b)(1), substituted "contiguous States of the" for "continental".

Subsec. (d)(3)(F). Pub. L. 106–224, §244(c), added subpar. (F).

Subsec. (h)(1)(A). Pub. L. 106–224, §242(b)(2)(B), substituted "costs of nutrition services and administration incurred by State and local agencies" for "costs incurred by State and local agencies for nutrition services and administration".

Subsec. (h)(1)(B)(i). Pub. L. 106–224, §244(d)(1), substituted "the preceding fiscal year" for "the fiscal year 1987".

Subsec. (h)(1)(B)(ii). Pub. L. 106–224, §244(d)(2)(A), substituted "the preceding fiscal year" for "the fiscal year 1987" in introductory provisions.

Subsec. (h)(1)(B)(ii)(I). Pub. L. 106–224, §244(d)(2)(B), added subcl. (I) and struck out former subcl. (I) which read as follows: "the value of the index for State and local government purchases, using the implicit price deflator, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 1986; and".

Subsec. (h)(5)(D). Pub. L. 106–224, §244(e), added subpar. (D).

Subsec. (r). Pub. L. 106–224, §242(b)(1), added subsec. (r).

Subsec. (r)(1). Pub. L. 106–472, §307(b)(2), substituted "not more than 20 local agencies" for "at least 20 local agencies" in introductory provisions.

1999—Subsecs. (d)(2)(A)(i), (g)(1), (p)(2)(A). Pub. L. 106–78 made technical amendment to references in original act which appear in text as references to sections 1752, 1758, and 1760 of this title.

Subsec. (q). Pub. L. 106–65 added subsec. (q).

1998—Subsec. (d)(3)(C) to (E). Pub. L. 105–336, §203(a), added subpars. (C) to (E).

Subsec. (e)(1). Pub. L. 105–336, §203(b), inserted at end "A local agency participating in the program shall provide education or educational materials relating to the effects of drug and alcohol use by a pregnant, postpartum, or breastfeeding woman on the developing child of the woman."

Subsec. (e)(3). Pub. L. 105–336, §203(c), inserted par. heading, designated existing provisions as subpar. (A) and inserted heading, and added subpar. (B).

Subsec. (f)(21). Pub. L. 105–336, §203(d), amended par. (21) generally. Prior to amendment, par. (21) read as follows: "A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program."

Subsec. (f)(23). Pub. L. 105–336, §203(e), added par. (23).

Subsec. (f)(24). Pub. L. 105–336, §203(f)(1), added par. (24).

Subsec. (g)(1). Pub. L. 105–336, §203(g), substituted "2003" for "1998".

Subsec. (h)(1)(C). Pub. L. 105–336, §203(h), inserted subpar. heading, designated existing provisions as cl. (i), inserted heading, substituted "Except as provided in clause (ii), in" for "In", and added cl. (ii).

Subsec. (h)(2)(A). Pub. L. 105–336, §203(i)(1), substituted "2003" for "1998" in introductory provisions.

Subsec. (h)(2)(A)(iv). Pub. L. 105–336, §203(i)(2), struck out ", to the extent funds are not already provided under subparagraph (I)(v) for the same purpose," after "may provide funds".

Subsec. (h)(2)(B)(ii). Pub. L. 105–336, §203(i)(3), substituted "10 percent (except that the Secretary may establish a higher percentage for State agencies that are small)" for "15 percent".

Subsec. (h)(3)(E). Pub. L. 105–336, §203(i)(4)(A), in introductory provisions, substituted "For each fiscal year," for "In the case of fiscal year 1996 (except as provided in subparagraph (G)) and each subsequent fiscal year,".

Subsec. (h)(3)(F), (G). Pub. L. 105–336, §203(i)(4)(B), struck out subpar. (F) which provided for adjusted payments in lieu of required payments for fiscal year 1995 and subpar. (G) which provided for delay of required payments for fiscal year 1996 and for adjusted payments in lieu of required payments for fiscal year 1996.

Subsec. (h)(5)(A). Pub. L. 105–336, §203(i)(5), in introductory provisions, substituted "submits a plan to reduce average food costs per participant and to increase participation above the level estimated for the State agency, the State agency may, with the approval of the Secretary," for "achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may".

Subsec. (h)(8)(A)(iii). Pub. L. 105–336, §203(j), added cl. (iii).

Subsec. (h)(10)(A). Pub. L. 105–336, §203(k), (n)(2)(A), substituted "2003" for "1998" and inserted "and supplemental foods funds" after "nutrition services and administration funds".

Subsec. (h)(11). Pub. L. 105–336, §203(l), added par. (11).

Subsec. (h)(12). Pub. L. 105–336, §203(m), added par. (12).

Subsec. (i)(3)(A). Pub. L. 105–336, §203(n)(1)(A), substituted "subparagraph (B)" for "subparagraphs (B) and (C)" in introductory provisions.

Subsec. (i)(3)(A)(i), (ii). Pub. L. 105–336, §203(n)(1)(B), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

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

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year."

Subsec. (i)(3)(C) to (H). Pub. L. 105–336, §203(n)(2)(B), redesignated subpar. (H) as (C) and struck out former subpars. (C) to (G) which read as follows:

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.

"(D) For State agencies implementing cost containment measures as defined in subsection (h)(9) of this section, not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and not more than 3 percent of the amount of funds allocated to such a State agency for the fiscal year following the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.

"(E) Notwithstanding any other provision in this paragraph and paragraph (2) a State agency may, subject to the approval of the Secretary under subparagraph (F), expend not more than 3 percent of the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991 for expenses incurred under this section for supplemental foods during the fiscal year 1990.

"(F) Each State agency which intends to use the authority provided in subparagraph (E) shall request approval from the Secretary in advance and shall submit a plan showing how the State's caseload will be managed to meet funding limitations. The Secretary shall review and make determinations on such plans on an expedited basis.

"(G) No State can use the authority provided under subparagraph (E) to increase the caseload level above the highest level to date in fiscal year 1990."

Subsec. (k)(4) to (6). Pub. L. 105–362 redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4) which read as follows: "The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations."

Subsec. (m)(3). Pub. L. 105–336, §203(o)(1), inserted "program income or" after "satisfied from" in first sentence.

Subsec. (m)(6)(C). Pub. L. 105–336, §203(o)(2)(A), struck out "serve additional recipients in" after "In providing funds to" in introductory provisions.

Subsec. (m)(6)(C)(ii). Pub. L. 105–336, §203(o)(2)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: "documentation that justifies the need for an increase in participation; and".

Subsec. (m)(6)(C)(iii), (iv). Pub. L. 105–336, §203(o)(2)(C), (D), substituted "; and" for period at end of cl. (iii) and added cl. (iv).

Subsec. (m)(6)(F). Pub. L. 105–336, §203(o)(3), redesignated subpar. (G) as (F) and struck out former subpar. (F) which listed criteria for Secretary to apply in approving and ranking State plans.

Subsec. (m)(6)(F)(i). Pub. L. 105–336, §203(o)(4)(A), in first sentence, substituted "whose State plan" for "that wish to serve additional recipients, and whose State plan to do so" and, in second sentence, struck out "for additional recipients" after "approved State plans".

Subsec. (m)(6)(F)(ii). Pub. L. 105–336, §203(o)(4)(B), struck out "that desire to serve additional recipients, and" after "need of States" in second sentence.

Subsec. (m)(6)(G). Pub. L. 105–336, §203(o)(3)(B), redesignated subpar. (G) as (F).

Subsec. (m)(9)(A). Pub. L. 105–336, §203(o)(5), substituted "2003" for "1998".

Subsec. (o). Pub. L. 105–336, §203(p)(1), added subsec. (o).

Subsec. (p). Pub. L. 105–336, §203(q), added subsec. (p).

1996—Subsec. (b)(15)(B)(iii). Pub. L. 104–193, §729(a)(1), inserted "of not more than 365 days" after "temporary accommodation".

Subsec. (b)(16). Pub. L. 104–193, §729(a)(2), inserted "and" at end of subpar. (A), substituted a period for "; and" at end of subpar. (B), and struck out subpar. (C) which read as follows: "the provision of materials developed by the Secretary under subsection (n) of this section."

Subsec. (c)(5). Pub. L. 104–193, §729(b), struck out par. (5) which read as follows: "The Secretary shall promote the special supplemental nutrition program by producing and distributing materials, including television and radio public service announcements in English and other appropriate languages, that inform potentially eligible individuals of the benefits and services under the program."

Subsec. (d)(2)(A)(ii)(II). Pub. L. 104–193, §109(h), substituted "State program funded" for "program for aid to families with dependent children established" and inserted before semicolon "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

Subsec. (d)(4). Pub. L. 104–193, §729(c), struck out par. (4) which read as follows: "The Secretary shall report biennially to Congress and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k) of this section on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate."

Subsec. (e)(2). Pub. L. 104–193, §729(d)(1), struck out at end "Nutrition education and breastfeeding promotion and support shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education and breastfeeding promotion and support they have received."

Subsec. (e)(4). Pub. L. 104–193, §729(d)(2), struck out "shall" after "State agency" in introductory provisions, struck out subpar. (A), redesignated subpars. (B) and (C) as (A) and (B), respectively, inserted "shall" before "provide" in subpars. (A) and (B), and added subpar. (C). Prior to amendment, subpar. (A) read as follows: "ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program;".

Subsec. (e)(5). Pub. L. 104–193, §729(d)(3), substituted "Each local agency" for "The State agency shall ensure that each local agency".

Subsec. (e)(6). Pub. L. 104–193, §729(d)(4), struck out par. (6) which read as follows: "Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes."

Subsec. (f)(1)(A). Pub. L. 104–193, §729(e)(1)(A), substituted "to the Secretary, by a date specified by the Secretary, an initial" for "annually to the Secretary, by a date specified by the Secretary, a" and inserted at end "After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan."

Subsec. (f)(1)(C)(iii). Pub. L. 104–193, §729(e)(1)(B)(i), added cl. (iii) and struck out former cl. (iii) which read as follows: "a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, local programs for breastfeeding promotion, prenatal care, well-child care, family planning, drug abuse education, alcohol and drug abuse counseling and treatment, child abuse counseling, and with the aid to families with dependent children, food stamp, maternal and child health care, and medicaid programs, including medicaid programs that use coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program);".

Subsec. (f)(1)(C)(vi). Pub. L. 104–193, §729(e)(1)(B)(ii), inserted "(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)" after "in the State".

Subsec. (f)(1)(C)(vii). Pub. L. 104–193, §729(e)(1)(B)(iii), substituted "for reaching and enrolling" for "to provide program benefits under this section to eligible individuals most in need of the benefits and to provide eligible individuals not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on reaching and enrolling".

Subsec. (f)(1)(C)(ix). Pub. L. 104–193, §729(e)(1)(B)(vii), inserted "and" at end.

Pub. L. 104–193, §729(e)(1)(B)(iv), (vi), redesignated cl. (xi) as (ix) and struck out former cl. (ix) which read as follows: "if the State agency chooses to provide program benefits under this section to some or all eligible individuals who are incarcerated in prisons or juvenile detention facilities that do not receive Federal assistance under any program specifically established to assist pregnant women regarding their nutrition and health needs, a plan for the provision of such benefits to, and to meet the special nutrition education needs of, such individuals, which may include—

"(I) providing supplemental foods to such individuals that are different from those provided to other participants in the program under this section;

"(II) providing such foods to such individuals in a different manner than to other participants in the program under this section in order to meet the special needs of such individuals; and

"(III) the development of nutrition education materials appropriate for the special needs of such individuals;".

Subsec. (f)(1)(C)(x). Pub. L. 104–193, §729(e)(1)(B)(iv), (vi), redesignated cl. (xiii) as (x) and struck out former cl. (x) which read as follows: "a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend

away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers;".

Subsec. (f)(1)(C)(xi). Pub. L. 104–193, §729(e)(1)(B)(vi), redesignated cl. (xi) as (ix).

Subsec. (f)(1)(C)(xii). Pub. L. 104–193, §729(e)(1)(B)(iv), struck out cl. (xii) which read as follows: "if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and".

Subsec. (f)(1)(C)(xiii). Pub. L. 104–193, §729(e)(1)(B)(vi), redesignated cl. (xiii) as (x).

Pub. L. 104–193, §729(e)(1)(B)(v), substituted "may reasonably require" for "may require".

Subsec. (f)(1)(D), (E). Pub. L. 104–193, §729(e)(1)(C), (D), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: "The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years."

Subsec. (f)(5). Pub. L. 104–193, §729(e)(3), substituted "be available at any reasonable time" for "at all times be available" in second sentence.

Subsec. (f)(6). Pub. L. 104–193, §729(e)(2), (10), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: "The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application."

Subsec. (f)(7), (8). Pub. L. 104–193, §729(e)(10), redesignated pars. (8) and (9) as (7) and (8), respectively. Former par. (7) redesignated (6).

Subsec. (f)(9). Pub. L. 104–193, §729(e)(10), redesignated par. (10) as (9). Former par. (9) redesignated (8).

Subsec. (f)(9)(B). Pub. L. 104–193, §729(e)(4), struck out at end "Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage."

Subsec. (f)(10). Pub. L. 104–193, §729(e)(10), redesignated par. (11) as (10). Former par. (10) redesignated (9).

Subsec. (f)(11). Pub. L. 104–193, §729(e)(10), redesignated par. (12) as (11). Former par. (11) redesignated (10).

Pub. L. 104–193, §729(e)(5), struck out ", including standards that will ensure sufficient State agency staff" after "program" in first sentence.

Subsec. (f)(12). Pub. L. 104–193, §729(e)(10), redesignated par. (13) as (12). Former par. (12) redesignated (11).

Pub. L. 104–193, §729(e)(6), struck out at end "Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary."

Subsec. (f)(13). Pub. L. 104–193, §729(e)(10), redesignated par. (14) as (13). Former par. (13) redesignated (12).

Subsec. (f)(14). Pub. L. 104–193, §729(e)(10), redesignated par. (15) as (14). Former par. (14) redesignated (13).

Pub. L. 104–193, §729(e)(7), substituted "State agency may" for "State agency shall".

Subsec. (f)(15), (16). Pub. L. 104–193, §729(e)(10), redesignated pars. (16) and (17) as (15) and (16), respectively. Former par. (15) redesignated (14).

Subsec. (f)(17). Pub. L. 104–193, §729(e)(10), redesignated par. (18) as (17). Former par. (17) redesignated (16).

Pub. L. 104–193, §729(e)(8), struck out "and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities" before period at end.

Subsec. (f)(18). Pub. L. 104–193, §729(e)(10), redesignated par. (19) as (18). Former par. (18) redesignated (17).

Subsec. (f)(19). Pub. L. 104–193, §729(e)(10), redesignated par. (20) as (19). Former par. (19) redesignated (18).

Pub. L. 104–193, §729(e)(9), substituted "may provide information" for "shall provide information".

Subsec. (f)(20), (21). Pub. L. 104–193, §729(e)(10), redesignated pars. (23) and (21) as (21) and (20), respectively. Former par. (20) redesignated (19).

Subsec. (f)(22). Pub. L. 104–193, §729(e)(10), redesignated par. (24) as (22).

Pub. L. 104–193, §729(e)(2), struck out par. (22) which read as follows: "In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary."

Subsec. (f)(23), (24). Pub. L. 104–193, §729(e)(10), redesignated pars. (23) and (24) as (21) and (22), respectively.

Subsec. (g)(5). Pub. L. 104–193, §729(f)(1), substituted "reports on program participant characteristics" for "the report required under subsection (d)(4) of this section".

Subsec. (g)(6). Pub. L. 104–193, §729(f)(2), struck out par. (6) which read as follows: "Upon the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program under this section."

Subsec. (h)(4)(E). Pub. L. 104–193, §729(g)(1)(A), struck out "and, on development of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4) of this section" before period at end.

Subsec. (h)(8)(A). Pub. L. 104–193, §729(g)(1)(B)(i), (iv), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: "No State may receive its allocation under this subsection unless on or before August 30, 1989 (or a subsequent date established by the Secretary for any State) such State has—

"(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula, and, where practicable, other foods necessary to carry out the program under this section; and

"(ii) initiated action to implement such measures unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program."

Subsec. (h)(8)(A)(i). Pub. L. 104–193, §729(g)(1)(B)(v), in introductory provisions substituted "subparagraphs (B) and (C)(iii)," for "subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A),".

Subsec. (h)(8)(B). Pub. L. 104–193, §729(g)(1)(B)(iv), redesignated subpar. (D) as (B). Former subpar. (B) redesignated (A).

Subsec. (h)(8)(B)(i). Pub. L. 104–193, §729(g)(1)(B)(vi), substituted "subparagraph (A)" for "subparagraph (B)" in two places.

Subsec. (h)(8)(C). Pub. L. 104–193, §729(g)(1)(B)(i), (iv), redesignated subpar. (E) as (C) and struck out former subpar. (C) which read as follows: "In the case of any State that has a contract in effect on November 10, 1989, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract, as such term is specified by the contract as in effect on November 10, 1989, expires. In the case of any State that has more than 1 such contract in effect on November 10, 1989, subparagraph (B) shall not apply until the term of the contract with the latest expiration date, as such term is specified by such contract as in effect on November 10, 1989, expires."

Subsec. (h)(8)(C)(iii). Pub. L. 104–193, §729(g)(1)(B)(vii), substituted "subparagraph (A)" for "subparagraph (B)".

Subsec. (h)(8)(D) to (F). Pub. L. 104–193, §729(g)(1)(B)(iv), redesignated subpars. (F) to (H) as (D) to (F). Former subpars. (D) and (E) redesignated (B) and (C), respectively.

Subsec. (h)(8)(G). Pub. L. 104–193, §729(g)(1)(B)(iv), redesignated subpar. (I) as (G). Former subpar. (G) redesignated (E).

Pub. L. 104–193, §729(g)(1)(B)(ii), designated cl. (i) as subpar. (G) and struck out cls. (ii) to (ix) which related to procedures for soliciting bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula and cereal manufacturers and State agencies.

Subsec. (h)(8)(H). Pub. L. 104–193, §729(g)(1)(B)(iv), redesignated subpar. (J) as (H). Former subpar. (H) redesignated (F).

Subsec. (h)(8)(I). Pub. L. 104–193, §729(g)(1)(B)(iv), redesignated subpar. (K) as (I). Former subpar. (I) redesignated (G).

Pub. L. 104–193, §729(g)(1)(B)(iii), substituted "Secretary may" for "Secretary—

"(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) shall inform State agencies of the benefits of cost containment and provide assistance and

technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

"(III) the procedures would be consistent with the purposes of the program; and

"(v) may".

Subsec. (h)(8)(J) to (L). Pub. L. 104–193, §729(g)(1)(B)(iv), redesignated subpars. (J) to (L) as (H) to (J), respectively.

Subsec. (h)(8)(M). Pub. L. 104–193, §729(g)(1)(B)(i), struck out subpar. (M) which read as follows:

"(M)(i) The Secretary shall establish pilot projects in at least 1 State, with the consent of the State, to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) The Secretary shall provide a notification to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the system is feasible, is cost-effective, reduces the incidence of incorrect redemptions described in clause (i), and results in any additional costs to States.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes."

Subsec. (k)(3). Pub. L. 104–193, §729(h), substituted "Council shall elect" for "Secretary shall designate".

Subsec. (n). Pub. L. 104–193, §729(i), (j), added heading and text of subsec. (n) and struck out former subsec. (n) which related to study of methods of drug abuse education instruction.

Subsecs. (o), (p). Pub. L. 104–193, §729(i), struck out subsecs. (o) and (p) which related, respectively, to demonstration program for establishment of clinics at community colleges offering nursing education programs and grants for improvement and updating of information and data systems.

1995—Subsec. (m)(9) to (11). Pub. L. 104–66 redesignated pars. (10) and (11) as (9) and (10), respectively, and struck out former par. (9) which read as follows:

"(9)(A) The Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a compilation of the information collected under paragraph (8).

"(B) The compilation required by subparagraph (A) shall be submitted on or before April 1, 1994."

1994—Pub. L. 103–448, §204(w)(1)(A), substituted "Special supplemental nutrition program for women, infants, and children" for "Special supplemental food program" in section catchline.

Subsec. (b)(8)(D). Pub. L. 103–448, §204(a)(2), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (b)(8)(E). Pub. L. 103–448, §204(a)(1), (3), redesignated subpar. (D) as (E) and substituted "homelessness and migrancy" for "alcoholism and drug addiction, homelessness, and migrancy".

Subsec. (c)(1). Pub. L. 103–448, §204(w)(1)(B), substituted "special supplemental nutrition program" for "special supplemental food program" in first sentence.

Subsec. (c)(5). Pub. L. 103–448, §204(b), added par. (5).

Subsec. (d)(2)(C). Pub. L. 103–448, §204(c)(1), added subpar. (C).

Subsec. (d)(3). Pub. L. 103–448, §204(c)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(4). Pub. L. 103–448, §204(t)(1), inserted "and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k) of this section" after "Congress" in introductory provisions.

Subsec. (e)(3) to (6). Pub. L. 103–448, §204(d), redesignated par. (3) relating to State agency providing information and materials as par. (4) and former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f)(1)(C)(iii). Pub. L. 103–448, §204(e), inserted before semicolon at end ", including medicaid programs that use coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)".

Subsec. (f)(3). Pub. L. 103–448, §204(f), inserted before period at end "and shall ensure that local programs

provide priority consideration to serving migrant participants who are residing in the State for a limited period of time".

Subsec. (f)(18). Pub. L. 103–448, §204(g), amended par. (18) generally. Prior to amendment, par. (18) read as follows:

"(18)(A) Except as provided in subparagraph (B), a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medicaid program.

"(B) Income eligibility guidelines under this section shall be implemented not later than July 1 of each year."

Subsec. (f)(23), (24). Pub. L. 103–448, §204(h), (i), added pars. (23) and (24).

Subsec. (g). Pub. L. 103–448, §204(j)(1), (k), in par. (1) substituted "fiscal years 1995 through 1998" for "fiscal years 1991, 1992, 1993, and 1994" and in par. (5) struck out "and" before "administration" and inserted before period at end ", and carrying out technical assistance and research evaluation projects of the programs under this section".

Subsec. (h)(2)(A). Pub. L. 103–448, §204(j)(2), substituted "fiscal years 1995 through 1998" for "fiscal years 1990, 1991, 1992, 1993 and 1994".

Subsec. (h)(3). Pub. L. 103–448, §204(l), substituted "except as otherwise provided in subparagraphs (F) and (G), an amount" for "an amount" and "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E)" for "$8,000,000" in subpar. (A)(i)(II) and added subpars. (E) to (G).

Subsec. (h)(4)(E). Pub. L. 103–448, §204(m), added subpar. (E).

Subsec. (h)(8). Pub. L. 103–448, §204(n), (o)(1), (p), (q), substituted "on a timely basis" for "at 6-month intervals" in subpar. (D)(iii) and added subpars. (G)(ix), (L), and (M).

Subsec. (h)(10). Pub. L. 103–448, §204(r), added par. (10).

Subsec. (i)(3). Pub. L. 103–448, §204(s), inserted "(except as provided in subparagraph (H))" after "1 percent" in subpar. (A)(i) and added subpar. (H).

Subsec. (j). Pub. L. 103–448, §204(t)(2), (u), added subsec. (j) and struck out former subsec. (j) which read as follows: "By October 1 of every other year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition."

Subsec. (k)(1). Pub. L. 103–448, §204(w)(1)(C), substituted "special supplemental nutrition program" for "special supplemental food program" in two places.

Subsec. (m)(3). Pub. L. 103–448, §204(v)(1), inserted at end "The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council."

Subsec. (m)(5)(F)(i). Pub. L. 103–448, §204(v)(2)(A), substituted "17 percent" for "15 percent".

Subsec. (m)(5)(F)(ii). Pub. L. 103–448, §204(v)(2)(B), added cl. (ii) and struck out former cl. (ii) which read as follows: "During the first fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i). During any fiscal year other than the first fiscal year for which a State receives assistance under this subsection, upon the showing by the State of financial need, the Secretary may permit the State to use not more than 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i)."

Subsec. (m)(5)(F)(iii). Pub. L. 103–448, §204(v)(2)(C), struck out "for the administration of the program" after "use of program funds".

Subsec. (m)(6)(A). Pub. L. 103–448, §204(v)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "Each State that received assistance under the demonstration program authorized by this subsection in a fiscal year ending before October 1, 1991, shall receive assistance under this subsection if the State complies with the requirements established by this subsection, as determined by the Secretary."

Subsec. (m)(6)(B)(ii). Pub. L. 103–448, §204(v)(4), substituted "$75,000" for "$50,000" in two places.

Subsec. (m)(6)(D)(i). Pub. L. 103–448, §204(v)(5), substituted "by November 15 of each year" for "at such time and in such manner as the Secretary may reasonably require".

Subsec. (m)(6)(G). Pub. L. 103–448, §204(v)(6), substituted "75 percent" for "45 to 55 percent" in cl. (i) and "25 percent" for "45 to 55 percent" in cl. (ii).

Subsec. (m)(8)(D), (E). Pub. L. 103–448, §204(v)(7), added subpars. (D) and (E) and struck out former subpars. (D) and (E) which read as follows:

"(D) when practicable, the impact on the nutritional status of recipients by determining the change in

consumption of fresh fruits and vegetables by recipients;

"(E) the effects of the program on the use of farmers' markets and the marketing of agricultural products at such markets and when practicable, the effects of the program on recipients' awareness regarding farmers' markets; and".

Subsec. (m)(10)(A). Pub. L. 103–448, §204(v)(8), struck out "$3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and" after "to carry out this subsection" and inserted before period at end ", $10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998".

Subsec. (m)(10)(B). Pub. L. 103–448, §204(v)(9), (10), substituted "Each" for "Except as provided in subclause (II), each" in cl. (i)(I), struck out "or may be retained by the State to reimburse expenses expected to be incurred for such a program during the succeeding fiscal year" before period at end of cl. (i)(II), and struck out "Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner." at end of cl. (ii).

Subsec. (m)(11)(D). Pub. L. 103–448, §204(v)(11), inserted before period at end "and any other agency approved by the chief executive officer of the State".

Subsec. (o)(1)(B). Pub. L. 103–448, §204(w)(1)(D), substituted "special supplemental nutrition program" for "special supplemental food program".

1992—Subsec. (b)(8)(D). Pub. L. 102–342 inserted before period at end ", homelessness, and migrancy".

Subsec. (b)(17) to (20). Pub. L. 102–512, §203, added pars. (17) to (20) and struck out former par. (17) which read as follows: " 'Competitive bidding' means a procurement process under which the State agency selects the single source offering the lowest price, as determined by the submission of sealed bids, for the product for which bids are sought."

Subsec. (f)(22). Pub. L. 102–512, §205, added par. (22).

Subsec. (h)(2)(A). Pub. L. 102–512, §206, struck out "shall" after "Such formula", inserted "shall" after cl. designation in cls. (i) to (iii), and added cl. (iv).

Subsec. (h)(8)(E)(ii). Pub. L. 102–512, §207, struck out "that do not have large caseloads and" after "State agencies".

Subsec. (h)(8)(G) to (K). Pub. L. 102–512, §204, added subpars. (G) to (K) and struck out former subpar. (G) which read as follows: "Not later than the expiration of the 120-day period beginning on November 10, 1989, the Secretary shall prescribe regulations to carry out this paragraph. Such regulations shall address issues involved in comparing savings from different cost containment measures, as provided under subparagraph (B)."

Subsec. (m). Pub. L. 102–314 amended subsec. (m) generally, substituting provisions relating to farmers' market nutrition program to benefit women, infants, and children nutritionally at risk for provisions relating to farmers' market food coupons demonstration project.

1990—Subsec. (i)(3)(E) to (G). Pub. L. 101–330 added subpars. (E) to (G).

1989—Subsec. (b)(17). Pub. L. 101–147, §123(a)(1), added par. (17).

Subsec. (c)(3). Pub. L. 101–147, §326(b)(1), substituted "section 4 of the Agriculture and Consumer Protection Act of 1973" for "section 1304 of the Food and Agriculture Act of 1977".

Subsec. (c)(4). Pub. L. 101–147, §326(a)(1), amended par. (4), as added by Pub. L. 99–591, §342(a), and Pub. L. 99–661, §4302(a), to read as if the addition by Pub. L. 99–661 had not been enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (d)(2). Pub. L. 101–147, §123(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school meals under section 1758 of this title."

Subsec. (d)(4). Pub. L. 101–147, §326(b)(2), realigned margins of par. (4) and subpars. (A) to (C).

Pub. L. 101–147, §326(a)(2), amended par. (4), as added by Pub. L. 99–591, §343(a), and Pub. L. 99–661, §4303(a), to read as if the addition by Pub. L. 99–661 had not been enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (e)(1). Pub. L. 101–147, §123(a)(3)(A), struck out at end "The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received."

Subsec. (e)(2). Pub. L. 101–147, §123(a)(3)(B), (C), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 101–147, §123(a)(3)(D), added par. (3) relating to State agency providing information and materials.

Pub. L. 101–147, §123(a)(3)(B), redesignated former par. (2), relating to Secretary issuing materials, as (3).

Subsec. (e)(4). Pub. L. 101–147, §123(a)(3)(D), added par. (4).

Subsec. (e)(5). Pub. L. 101–147, §213(a)(1), added par. (5).

Subsec. (f)(1)(C)(iii). Pub. L. 101–147, §123(a)(4)(A)(i), inserted "local programs for breastfeeding promotion," after "immunization programs," and "and treatment" after "alcohol and drug abuse counseling".

Subsec. (f)(1)(C)(vii). Pub. L. 101–147, §123(a)(4)(A)(ii), amended cl. (vii) generally. Prior to amendment, cl. (vii) read as follows: "a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable;".

Subsec. (f)(1)(C)(viii) to (xiii). Pub. L. 101–147, §123(a)(4)(A)(iii), (iv), added cls. (viii) to (xi) and redesignated former cls. (viii) and (ix) as (xii) and (xiii), respectively.

Subsec. (f)(7). Pub. L. 101–147, §213(a)(2)(A), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (f)(8)(A), (C). Pub. L. 101–147, §326(b)(3)(A), substituted "individuals" for "persons".

Subsec. (f)(8)(D). Pub. L. 101–147, §123(a)(4)(B), added subpar. (D).

Subsec. (f)(9). Pub. L. 101–147, §123(a)(4)(C), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (f)(10). Pub. L. 101–147, §326(b)(3)(B), substituted "an individual" for "a person", "individual's" for "person's", and "the individual" for "the person".

Subsec. (f)(14)(A). Pub. L. 101–147, §123(a)(4)(D), inserted ", breastfeeding promotion," after "nutrition education".

Subsec. (f)(17). Pub. L. 101–147, §§123(a)(4)(E), 326(b)(3)(C), realigned margin of par. (17) and inserted before period at end "and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities".

Subsec. (f)(18) to (20). Pub. L. 101–147, §123(a)(4)(F), added pars. (18) to (20).

Subsec. (f)(21). Pub. L. 101–147, §213(a)(2)(B), added par. (21).

Subsec. (g)(1). Pub. L. 101–147, §123(a)(5)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "There are authorized to be appropriated to carry out this section $1,570,000,000 for the fiscal year ending September 30, 1986, and such sums as may be necessary for each of the fiscal years ending September 30, 1987, September 30, 1988, and September 30, 1989."

Subsec. (g)(2), (3). Pub. L. 101–147, §123(a)(5)(B), (C), added pars. (2) and (3). Former pars. (2) and (3) redesignated (4) and (5), respectively.

Subsec. (g)(4). Pub. L. 101–147, §123(a)(5)(B), redesignated former par. (2) as (4).

Subsec. (g)(5). Pub. L. 101–147, §123(a)(5)(D), substituted "$5,000,000" for "$3,000,000".

Pub. L. 101–147, §123(a)(5)(B), redesignated former par. (3) as (5).

Subsec. (g)(6). Pub. L. 101–147, §123(a)(5)(E), added par. (6).

Subsec. (h). Pub. L. 101–147, §123(a)(6), amended subsec. (h) generally, substituting provisions regarding the establishment and administration of national average participant grants for purposes of funding nutrition services and administration and provisions on breastfeeding promotion and procurement of infant formula, for provisions limiting funding for nutrition services and administration to 20% of the total funding for the section, providing a formula for distributing funds to States and setting forth various administrative duties.

Subsec. (i)(1). Pub. L. 101–147, §123(a)(7)(A), substituted "amounts made available for food benefits under subsection (h)(1)(C)" for "funds provided in accordance with this section".

Subsec. (i)(3)(D). Pub. L. 101–147, §123(a)(7)(B), substituted "cost containment measures as defined in subsection (h)(9)" for "approved cost-savings strategies as identified in subsection (h)(5)(A)" and "not more than 3 percent" for "at the discretion of the Secretary, up to 5 percent".

Subsec. (i)(7). Pub. L. 101–147, §123(a)(7)(C), added par. (7).

Subsec. (j). Pub. L. 101–147, §123(a)(8), substituted "every other year" for "each year".

Subsec. (k)(1). Pub. L. 101–147, §123(a)(9), substituted "24" for "twenty-three" and inserted "1 member shall be an expert in the promotion of breast feeding;" after "the Secretary;".

Subsec. (m)(7)(B). Pub. L. 101–147, §326(b)(4)(A), struck out "(7 U.S.C. 2011 et seq.)" after "Food Stamp Act of 1977".

Subsec. (m)(11)(A). Pub. L. 101–147, §326(b)(4)(B), substituted "individual" for "person".

Subsec. (n)(1). Pub. L. 101–147, §326(b)(5), substituted "the date of enactment of the Anti-Drug Abuse Act of 1988" for "the date of enactment of this Act" in the original, which for purposes of codification was translated as "November 18, 1988", resulting in no change in text.

Subsecs. (o), (p). Pub. L. 101–147, §123(a)(10), added subsecs. (o) and (p).

1988—Subsec. (a). Pub. L. 100–690, §3201(1), substituted "health problems, including drug abuse," for

"health problems".

Subsec. (b)(15). Pub. L. 100–435, §212(a), added par. (15).

Subsec. (b)(16). Pub. L. 100–690, §3201(2), added par. (16).

Subsec. (c)(1). Pub. L. 100–435, §212(b), amended last sentence generally, designating existing provisions as cls. (A) and (B) and adding cl. (C).

Subsec. (e)(1). Pub. L. 100–690, §3201(3), substituted "nutrition education and drug abuse education" for "nutrition education" in first and second sentences.

Subsec. (f)(1)(C)(iii). Pub. L. 100–690, §3201(4)(A), inserted "drug abuse education," after "family planning,".

Pub. L. 100–237, §9, substituted "maternal and child health care, and medicaid programs" for "and maternal and child health care programs".

Subsec. (f)(1)(C)(iv). Pub. L. 100–435, §212(c)(1), substituted "migrants, homeless individuals," for "migrants".

Subsec. (f)(1)(C)(vii) to (ix). Pub. L. 100–237, §8(b), struck out "and" at end of cl. (vii), added cl. (viii), and redesignated former cl. (viii) as (ix).

Subsec. (f)(8)(A). Pub. L. 100–435, §212(c)(2), inserted "organizations and agencies serving homeless individuals and shelters for victims of domestic violence," after "Indian tribal organizations,".

Subsec. (f)(13). Pub. L. 100–435, §212(c)(3), inserted ", and, in the case of homeless individuals, the special needs and problems of such individuals" before period at end.

Subsec. (f)(14)(A). Pub. L. 100–690, §3201(4)(B), inserted "and drug abuse education" after "education".

Subsec. (f)(16). Pub. L. 100–237, §11, added par. (16).

Subsec. (f)(17). Pub. L. 100–435, §212(c)(4), added par. (17).

Subsec. (h)(5). Pub. L. 100–237, §8(a), added par. (5).

Subsec. (h)(5)(D), (E). Pub. L. 100–356, §3(a), added subpars. (D) and (E).

Subsec. (i)(3)(A). Pub. L. 100–237, §12(1), inserted "and subject to subparagraphs (B) and (C)" after "paragraph (2)", and substituted "and" for "or" at end of cl. (i).

Subsec. (i)(3)(C). Pub. L. 100–237, §12(2), added subpar. (C).

Subsec. (i)(3)(D). Pub. L. 100–356, §3(b), added subpar. (D).

Subsec. (k)(1). Pub. L. 100–690, §3201(5)(A), (B), increased membership of Council to twenty-three from twenty-one members and included experts in drug abuse education and prevention and alcohol abuse education and prevention.

Subsec. (m). Pub. L. 100–435, §501(b), added subsec. (m).

Subsec. (n). Pub. L. 100–690, §3201(6), added subsec. (n).

1987—Subsec. (g)(1). Pub. L. 100–71 inserted "and" after "September 30, 1986," and substituted "September 30, 1988, and September 30, 1989" for "and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989".

1986—Subsec. (b)(1) to (4). Pub. L. 99–500 and Pub. L. 99–591, §341(a), and Pub. L. 99–661, §4301(a), amended subsec. (b) identically, redesignating pars. (2) to (4) as (1) to (3), respectively, adding par. (4), and striking out former par. (1) which defined "Administrative costs".

Subsec. (b)(6), (13). Pub. L. 99–500 and Pub. L. 99–591, §372(b)(1), and Pub. L. 99–661, §4502(b)(1), amended pars. (6) and (13) identically, substituting "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (c)(2). Pub. L. 99–500 and Pub. L. 99–591, §314(1), and Pub. L. 99–661, §4104(1), amended par. (2) identically, substituting "Subject to amounts appropriated to carry out this section under subsection (g)" for "Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984".

Subsec. (c)(4). Pub. L. 99–500 and Pub. L. 99–591, §342(a), and Pub. L. 99–661, §4302(a), amended subsec. (c) identically, adding par. (4).

Subsec. (d)(4). Pub. L. 99–500 and Pub. L. 99–591, §343(a), and Pub. L. 99–661, §4303(a), amended subsec. (d) identically, adding par. (4).

Subsec. (e)(2). Pub. L. 99–500 and Pub. L. 99–591, §372(b)(1), and Pub. L. 99–661, §4502(b)(1), amended par. (2) identically, substituting "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (f)(1). Pub. L. 99–500 and Pub. L. 99–591, §344(a), and Pub. L. 99–661, §4304(a), generally amended par. (1) identically, substituting subpars. (A) to (E) for former subpars. (A) to (L) and concluding provisions.

Subsec. (f)(2). Pub. L. 99–500 and Pub. L. 99–591, §345, and Pub. L. 99–661, §4305, generally amended

par. (2) identically. Prior to amendment, par. (2) read as follows: "Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan."

Subsec. (f)(8). Pub. L. 99–500 and Pub. L. 99–591, §346, and Pub. L. 99–661, §4306, generally amended par. (8) identically. Prior to amendment, par. (8) read as follows: "The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas."

Subsec. (f)(11). Pub. L. 99–500 and Pub. L. 99–591, §341(b)(1), and Pub. L. 99–661, §4301(b)(1), amended par. (11) identically, substituting "funds for nutrition services and administration" for "administrative funds".

Subsec. (f)(15). Pub. L. 99–500 and Pub. L. 99–591, §347, and Pub. L. 99–661, §4307, amended subsec. (f) identically, adding par. (15).

Subsec. (g)(1). Pub. L. 99–661, §4104(2), designated existing provision authorizing appropriations of $550,000,000 for fiscal year ending Sept. 30, 1979, $750,000,000 for fiscal year ending Sept. 30, 1980, $900,000,000 for fiscal year ending Sept. 30, 1981, $1,017,000,000 for fiscal year ending Sept. 30, 1982, $1,060,000,000 for fiscal year ending Sept. 30, 1983, and $1,126,000,000 for fiscal year ending Sept. 30, 1984 as par. (1), and substituted provision authorizing appropriations of $1,570,000,000 for fiscal year ending Sept. 30, 1986, such sums as may be necessary for each of fiscal years ending Sept. 30, 1987, and Sept. 30, 1988, and $1,782,000,000 for fiscal year ending Sept. 30, 1989.

Pub. L. 99–500 and Pub. L. 99–591, §314(2), designated existing provision authorizing appropriations of $550,000,000 for fiscal year ending Sept. 30, 1979, $750,000,000 for fiscal year ending Sept. 30, 1980, $900,000,000 for fiscal year ending Sept. 30, 1981, $1,017,000,000 for fiscal year ending Sept. 30, 1982, $1,060,000,000 for fiscal year ending Sept. 30, 1983, and $1,126,000,000 for fiscal year ending Sept. 30, 1984, as par. (1), and in par. (1) as so designated, substituted provision authorizing appropriations of $1,580,494,000 for fiscal year ending Sept. 30, 1986, such sums as may be necessary for each of fiscal years ending Sept. 30, 1987, and Sept. 30, 1988, and $1,782,000,000 for fiscal year ending Sept. 30, 1989.

Subsec. (g)(2). Pub. L. 99–500 and Pub. L. 99–591, §348(a), and Pub. L. 99–661, §4308(a), amended subsec. (g) identically, adding par. (2).

Subsec. (g)(3). Pub. L. 99–500 and Pub. L. 99–591, §§314(2)(A), 343(b), 349, and Pub. L. 99–661, §§4104(2)(A), 4303(b), 4309, amended subsec. (g) identically, designating provisions as par. (3) and inserting "preparing the report required under subsection (d)(4) of this section, providing technical assistance to improve State agency administrative systems,".

Subsec. (h)(1). Pub. L. 99–500 and Pub. L. 99–591, §§341(b)(2), 350, and Pub. L. 99–661, §§4301(b)(2), 4310, amended par. (1) identically, substituting "costs for nutrition services and administration" for "administrative costs" in three places and inserting at end "The Secretary shall limit to a minimal level any documentation required under the preceding sentence."

Subsec. (h)(2). Pub. L. 99–500 and Pub. L. 99–591, §§314(3), 341(b)(1), and Pub. L. 99–661, §§4104(3), 4301(b)(1), amended par. (2) identically, substituting "1989" for "1984" and "funds for nutrition services and administration" for "administrative funds".

Subsec. (h)(3). Pub. L. 99–500 and Pub. L. 99–591, §§341(b), 351, and Pub. L. 99–661, §§4301(b), 4311, amended par. (3) identically, substituting "funds for nutrition services and administration" for "administrative funds" in two places and "costs for nutrition services and administration" for "administrative costs" and striking out ", which satisfy allocation guidelines established by the Secretary" after "several local agencies" and last sentence which read as follows: "These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section."

Subsec. (h)(4). Pub. L. 99–500 and Pub. L. 99–591, §352, and Pub. L. 99–661, §4312, amended par. (4) identically, substituting "may" for "shall".

Pub. L. 99–500 and Pub. L. 99–591, §341(b)(1), and Pub. L. 99–661, §4301(b)(1), amended par. (4) identically, substituting "funds for nutrition services and administration" for "administrative funds".

Subsec. (i). Pub. L. 99–500 and Pub. L. 99–591, §353(a), and Pub. L. 99–661, §4313, amended subsec. (i) identically, designating existing provisions as pars. (1), (2), and (4) to (6) and adding par. (3).

Subsec. (k)(1), (2). Pub. L. 99–500 and Pub. L. 99–591, §372(b)(1), and Pub. L. 99–661, §4502(b)(1),

amended pars. (1) and (2) identically, substituting "Health and Human Services" for "Health, Education, and Welfare" in two places in par. (1) and in one place in par. (2).

1981—Subsec. (g). Pub. L. 97–35 inserted provisions setting forth specific appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

1980—Subsec. (c)(2). Pub. L. 96–499, §203(d)(1), substituted "for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984" for "for the fiscal years ending September 30, 1981, and September 30, 1982".

Subsec. (g). Pub. L. 96–499, §203(d)(2), substituted "such sums as may be necessary for the three subsequent fiscal years" for "$950,000,000 for the fiscal year ending September 30, 1982".

Subsec. (h)(2). Pub. L. 96–499, §203(d)(3), substituted "1984" for "1982".

1979—Subsec. (g). Pub. L. 96–108 substituted "$750,000,000" for "$800,000,000".

1978—Subsec. (a). Pub. L. 95–627 expanded provisions of this section to include postpartum and breastfeeding women.

Subsec. (b). Pub. L. 95–627 substituted provisions defining terms for purposes of this section for provisions relating to cash grants to State health departments, Indians, and other agencies for supplemental food to pregnant and lactating women and infants.

Subsec. (c). Pub. L. 95–627 substituted provisions authorizing grants-in-aid by the Secretary, prohibiting ratable reductions of amounts of food an agency may distribute, authorizing affirmative actions to institute the program where needed, and authorizing the issuance of regulations relating to dual receipt of benefits under a commodity supplemental food program for provisions authorizing appropriations to carry out the food program for each fiscal year during the period ending Sept. 30, 1978.

Subsec. (d). Pub. L. 95–627 substituted provisions specifying persons eligible to participate in the food program for provisions prescribing administrative cost limitations and calling for approval by the Secretary of the manner of expenditure by the recipient agencies.

Subsec. (e). Pub. L. 95–627 substituted provisions relating to nutrition education for program participants for provisions relating to persons eligible to participate in the program. See subsec. (d) of this section.

Subsec. (f). Pub. L. 95–627 substituted provisions relating to submittal of State operational and administrative plans, participation in the program by eligible migrants, recordkeeping, certain types of notification, hearings, certification of eligibility, withholding of funds, issuance of regulations, and use of foreign languages for provisions relating to the maintenance of adequate medical records, the establishment of an advisory committee to study methods of evaluating the health benefits of the program, and the submittal of a report to Congress based upon such study no later than June 1, 1976.

Subsec. (g). Pub. L. 95–627 substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979, 1980, 1981, and 1982 for provisions defining terms for purposes of this section. See subsec. (b) of this section.

Subsec. (h). Pub. L. 95–627 substituted provisions relating to allocation of funds for administrative costs for provisions relating to establishment of the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

Subsecs. (i) to (l). Pub. L. 95–627 added subsecs. (i) to (l).

1977—Subsec. (d). Pub. L. 95–166, §20(6), substituted "each year by not later than a date specified by the Secretary" for "by January 1 of each year (by December 1 in the case of fiscal year 1976)".

Subsec. (h)(8). Pub. L. 95–166, §18, inserted proviso respecting compensation of parent recipient members of the Council.

1975—Subsec. (a). Pub. L. 94–105 added subsec. (a). Former subsec. (a) redesignated (b).

Pub. L. 94–28, §1(a), inserted "and for the period July 1, 1975, through September 30, 1975," after "1975,".

Subsec. (b)(1), (2). Pub. L. 94–105 redesignated former subsec. (a) as (b)(1), added (b)(2), and in (b)(1) as so redesignated, extended the program from Sept. 30, 1975 through the fiscal year ending Sept. 30, 1978 and made minor changes in phraseology. Former subsec. (b) redesignated (c).

Pub. L. 94–28, §1(b), inserted "and for the period July 1, 1975, through September 30, 1975," after "1975,".

Subsec. (c). Pub. L. 94–105 redesignated former subsec. (b) as (c), and in subsec. (c) as so redesignated, authorized the appropriation of $250,000,000 during each fiscal year during the period ending Sept. 30, 1977, authorized the amount of $250,000,000 which the Secretary can use out of the funds appropriated by section 612c of Title 7 in the event that less than $250,000,000 has been appropriated by the beginning of each fiscal year and authorized the appropriation of not to exceed $250,000,000 during the fiscal year ending Sept. 30, 1978. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94–105 redesignated former subsec. (c) as (d), and in subsec. (d) as so redesignated, increased from 10 to 20 per centum the amount of administrative costs the Secretary is authorized to pay except that in the first 3 months or until the projected caseload level has been reached the Secretary shall pay those administrative costs necessary to commence the program successfully, inserted provision relating to

submission for approval of a description of the manner in which administrative funds shall be spent, and directed the Secretary to take affirmative action to insure that programs begin in the most needy areas. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 94–105 redesignated former subsec. (d) as (e) and in subsec. (e) as so redesignated, substituted "under this section" for "under subsection (a) of this section" and inserted "or members of populations" after "residents of areas". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94–105 redesignated former subsec. (e) as (f), and in subsec. (f) as so redesignated, substituted provisions relating to the convention of an advisory committee to study methods available to evaluate the health benefits of the program with a report to the Secretary who shall report to Congress no later than June 1, 1976, for provision that the Secretary and Comptroller General of the United States submit preliminary reports to Congress no later than Oct. 1, 1974 and submit no later than March 30, 1975 evaluations of the program and recommendations with regard to its continuation. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 94–105 redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, substituted "includes women from" for "includes mothers from", and expanded definition of lactating women who are breast feeding an infant up to one year of age and all women for a period of six months post partum, in par. (1); substituted "5 years" for "four years" wherever appearing and inserted "(at the discretion of the Secretary)" after "may also include", in par. (2); struck out "food product" before "commercially formulated", inserted "women or" before "infants" and inserted provision relating to the availability of the contents of the food package, in par. (3).

Subsec. (h). Pub. L. 94–105 added subsec. (h).

1974—Subsec. (b). Pub. L. 93–326 increased from $40,000,000 to $100,000,000 appropriation authorization for fiscal year ending June 30, 1975, and increased from $40,000,000 to $100,000,000 amount which Secretary can use out of funds appropriated by section 612c of Title 7 in event that less than $100,000,000 has been appropriated by Aug. 1, 1974, for carrying out special supplemental food program for fiscal year ending June 30, 1975.

1973—Subsec. (a). Pub. L. 93–150, §6(a), provided for cash grants during fiscal year ending June 30, 1975, substituted in first sentence in two places "State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare" for "State", and substituted in second sentence provision for operation of the program for a "three-year" rather than a "two-year" period.

Subsec. (b). Pub. L. 93–150, §6(b), authorized appropriation of $40,000,000 for fiscal year ending June 30, 1975, and provided that in the event such sum was not appropriated by August 1, 1974, the Secretary was to use $40,000,000, or, if any amount had been appropriated, the difference, if any, between the amount directly appropriated and $40,000,000, out of funds appropriated by section 612c of title 7.

Subsec. (e). Pub. L. 93–150, §6(c), extended dates for submission of preliminary and final evaluation reports from Oct. 1, 1973, to Oct. 1, 1974, and from Mar. 30, 1974, to Mar. 30, 1975, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as a note under section 1751 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (E), (J), (2)(AA) of Pub. L. 110–246 effective Oct. 1, 2008, see

section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 203 of Pub. L. 108–265 effective June 30, 2004, except as otherwise provided, see section 502(a) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

Amendment by sections 203(a)–(c)(1), (5), (e)(8), (10), (13), (f) of Pub. L. 108–265 effective Oct. 1, 2004, see section 502(b)(2) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

Pub. L. 108–265, title II, §203(c)(4)(B), June 30, 2004, 118 Stat. 773, provided that: "The amendment made by subparagraph (A) [amending this section] applies to infant formula provided under a contract resulting from a bid solicitation issued on or after October 1, 2004."

Pub. L. 108–265, title II, §203(e)(4)(B), June 30, 2004, 118 Stat. 774, provided that: "The amendments made by subparagraph (A) [amending this section] apply to a contract resulting from a bid solicitation issued on or after October 1, 2004."

Pub. L. 108–265, title II, §203(e)(6)(B), June 30, 2004, 118 Stat. 775, provided that: "The amendment made by this paragraph [amending this section] applies to a bid solicitation issued on or after October 1, 2004."

Pub. L. 108–265, title II, §203(e)(7)(C), June 30, 2004, 118 Stat. 775, provided that: "The amendments made by this paragraph [amending this section] apply to a bid solicitation issued on or after October 1, 2004."

Amendment by section 203(e)(9) of Pub. L. 108–265 effective Oct. 1, 2005, see section 502(b)(5) of Pub. L. 108–265, as amended, set out as an Effective Date note under section 1754 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title IV, §4306(b), May 13, 2002, 116 Stat. 332, provided that: "The amendments made by this section [amending this section] take effect on the date of enactment of this Act [May 13, 2002]."

Pub. L. 107–171, title IV, §4307(b), May 13, 2002, 116 Stat. 333, provided that: "The amendments made by this section [amending this section] take effect on the date of enactment of this Act [May 13, 2002]."

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–472, title III, §307(b)(2), Nov. 9, 2000, 114 Stat. 2073, provided that the amendment made by section 307(b)(2) is effective Oct. 1, 2000.

Amendment by section 242(b)(1), (2) of Pub. L. 106–224 effective Oct. 1, 2000, see section 242(c) of Pub. L. 106–224, set out as a note under section 1758 of this title.

Pub. L. 106–224, title II, §244(f), June 20, 2000, 114 Stat. 422, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] take effect on the date of the enactment of this Act [June 20, 2000].

"(2) ALLOCATION OF FUNDS.—The amendments made by subsections (d) and (e) [amending this section] take effect on October 1, 2000."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(h) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of this title.

Pub. L. 104–193, title VII, §729(g)(2), Aug. 22, 1996, 110 Stat. 2305, provided that: "The amendments made by paragraph (1) [amending this section] shall not apply to a contract for the procurement of infant formula under section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) that is in effect on the date of enactment of this subsection [Aug. 22, 1996]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE AND TERMINATION DATES OF 1992 AMENDMENTS

Pub. L. 102–512, title II, §209, Oct. 24, 1992, 106 Stat. 3369, which provided that the authority provided and the amendments made by title II of Pub. L. 102–512, amending this section and enacting provisions set out as notes under this section and section 1771 of this title, would terminate on Sept. 30, 1994, except with regard to subsec. (h)(8)(J) of this section, as amended by section 204 of Pub. L. 102–512, was repealed, eff. Oct. 1, 1994, by Pub. L. 103–448, title II, §204(o)(2), title IV, §401, Nov. 2, 1994, 108 Stat. 4742, 4751.

Pub. L. 102–314, §4, July 2, 1992, 106 Stat. 285, provided that: "The amendment made by section 3 [amending this section] shall be effective as of October 1, 1991."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–147, title I, §123(f)(2), Nov. 10, 1989, 103 Stat. 905, provided that: "The amendments made by subsections (a)(5), (a)(6), and (a)(7) [amending this section] shall be effective as of October 1, 1989."

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as a note under section 2012 of Title 7, Agriculture.

Pub. L. 100–237, §8(d), Jan. 8, 1988, 101 Stat. 1741, provided that: "The amendment made by subsections (a), (b), and (c) [amending this section and enacting provisions set out below] shall take effect October 1, 1987."

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99–500, title III, §342(b), Oct. 18, 1986, 100 Stat. 1783–364, Pub. L. 99–591, title III, §342(b), Oct. 30, 1986, 100 Stat. 3341–367, and Pub. L. 99–661, div. D, title III, §4302(b), Nov. 14, 1986, 100 Stat. 4075, provided that: "The amendment made by subsection (a) [amending this section] shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this title [Oct. 18, 1986]."

Pub. L. 99–500, title III, §344(b), Oct. 18, 1986, 100 Stat. 1783–365, Pub. L. 99–591, title III, §344(b), Oct. 30, 1986, 100 Stat. 3341–368, and Pub. L. 99–661, div. D, title III, §4304(b), Nov. 14, 1986, 100 Stat. 4077, provided that: "The amendment made by subsection (a) [amending this section] shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 [subsec. (f)(1) of this section] for the fiscal year ending September 30, 1987, and each fiscal year thereafter."

Pub. L. 99–500, title III, §347, Oct. 18, 1986, 100 Stat. 1783–366, Pub. L. 99–591, title III, §347, Oct. 30, 1986, 100 Stat. 3341–369, and Pub. L. 99–661, div. D, title III, §4307, Nov. 14, 1986, 100 Stat. 4077, provided that the amendment made by section 347 of Pub. L. 99–500 and Pub. L. 99–591 and by section 4307 of Pub. L. 99–661 is effective Oct. 1, 1986.

Pub. L. 99–500, title III, §348(a), Oct. 18, 1986, 100 Stat. 1783–366, Pub. L. 99–591, title III, §348(a), Oct. 30, 1986, 100 Stat. 3341–369, and Pub. L. 99–661, div. D, title III, §4308(a), Nov. 14, 1986, 100 Stat. 4077, provided that the amendment made by section 348(a) of Pub. L. 99–500 and Pub. L. 99–591 and by section 4308(a) of Pub. L. 99–661 is effective Oct. 1, 1986.

Pub. L. 99–500, title III, §352, Oct. 18, 1986, 100 Stat. 1783–367, Pub. L. 99–591, title III, §352, Oct. 30, 1986, 100 Stat. 3341–370, and Pub. L. 99–661, div. D, title III, §4312, Nov. 14, 1986, 100 Stat. 4078, provided that the amendment made by section 352 of Pub. L. 99–500 and Pub. L. 99–591 and by section 4312 of Pub. L. 99–661 is effective Oct. 1, 1986.

Pub. L. 99–500, title III, §353(b), Oct. 18, 1986, 100 Stat. 1783–367, Pub. L. 99–591, title III, §353(b), Oct. 30, 1986, 100 Stat. 3341–370, and Pub. L. 99–661, div. D, title III, §4313(b), Nov. 14, 1986, 100 Stat. 4078, were substantially identical in providing that: "Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 [subsec. (i)(3)(A)(i) of this section] (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this title [Oct. 18, 1986]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 820(a)(7)(B) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–166, §20, Nov. 10, 1977, 91 Stat. 1346, provided that the amendment made by that section is effective July 1, 1977.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94–105, §14, Oct. 7, 1975, 89 Stat. 518, provided that the amendment made by that section is effective beginning with the fiscal year ending June 30, 1976.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

REGULATIONS

Pub. L. 108–265, title II, §203(c)(2)(B), June 30, 2004, 118 Stat. 772, provided that: "Not later than 18 months after the date of receiving the review initiated by the National Academy of Sciences, Institute of Medicine in September 2003 of the supplemental foods available for the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Secretary shall promulgate a final rule updating the prescribed supplemental foods available through the program."

Pub. L. 105–336, title II, §203(f)(2), Oct. 31, 1998, 112 Stat. 3160, provided that: "The Secretary of Agriculture shall promulgate—

"(A) not later than March 1, 1999, proposed regulations to carry out section 17(f)(24) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(24)), as added by paragraph (1); and

"(B) not later than March 1, 2000, final regulations to carry out section 17(f)(24) of that Act."

Pub. L. 105–336, title II, §203(l)(2), Oct. 31, 1998, 112 Stat. 3162, provided that: "The Secretary of Agriculture shall promulgate—

"(A) not later than March 1, 1999, proposed regulations to carry out section 17(h)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(11)), as added by paragraph (1); and

"(B) not later than March 1, 2000, final regulations to carry out section 17(h)(11) of that Act."

Pub. L. 105–336, title II, §203(p)(2), Oct. 31, 1998, 112 Stat. 3165, provided that: "The Secretary of Agriculture shall promulgate—

"(A) not later than March 1, 1999, proposed regulations to carry out section 17(o) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(o)), as added by paragraph (1); and

"(B) not later than March 1, 2000, final regulations to carry out section 17(o) of that Act."

Pub. L. 101–147, title I, §123(f)(1), Nov. 10, 1989, 103 Stat. 905, provided that: "Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsections (a)(2), (a)(3), and (a)(4) [amending this section]."

Pub. L. 101–147, title II, §213(b), Nov. 10, 1989, 103 Stat. 913, provided that: "Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (a) [amending this section]."

Pub. L. 95–627, §13, Nov. 10, 1978, 92 Stat. 3625, provided that:

"(a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act [amending this section] within one hundred and twenty days of the date of enactment of this Act [Nov. 10, 1978].

"(b) The provisions of section 17 of the [Richard B. Russell] National School Lunch Act [section 1766 of this title] and section 17 of the Child Nutrition Act of 1966 [this section], in effect prior to the effective date of sections 2 and 3 of this Act [Oct. 1, 1978], which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act.

"(c) Pending proceedings under section 17 of the National School Lunch Act [section 1766 of this title] and section 17 of the Child Nutrition Act of 1966 [this section] shall not be abated by reason of any provision of sections 2 and 3 of this Act [amending this section and section 1766 of this title], but shall be disposed of under the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act [Oct. 1, 1978].

"(d) Appropriations made available to carry out section 17 of the National School Lunch Act [section 1766 of this title] and section 17 of the Child Nutrition Act of 1966 [this section] shall be available to carry out the provisions of sections 2 and 3 of this Act [amending this section and section 1766 of this title]."

IMPROVEMENTS TO WIC BENEFITS

Pub. L. 117–2, title I, §1105, Mar. 11, 2021, 135 Stat. 16, provided that:

"(a) DEFINITIONS.—In this section:

"(1) APPLICABLE PERIOD.—The term 'applicable period' means a period—

"(A) beginning after the date of enactment of this Act [Mar. 11, 2021], as selected by a State agency; and

"(B) ending not later than the earlier of—

"(i) 4 months after the date described in subparagraph (A); or

"(ii) September 30, 2021.

"(2) CASH-VALUE VOUCHER.—The term 'cash-value voucher' has the meaning given the term in section 246.2 of title 7, Code of Federal Regulations (as in effect on the date of the enactment of this Act).

"(3) PROGRAM.—The term 'program' means the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(4) QUALIFIED FOOD PACKAGE.—The term 'qualified food package' means each of the following food packages (as defined in section 246.10(e) of title 7, Code of Federal Regulations (as in effect on the date of the enactment of this Act)):

"(A) Food package III–Participants with qualifying conditions.

"(B) Food Package IV–Children 1 through 4 years.

"(C) Food Package V–Pregnant and partially (mostly) breastfeeding women.

"(D) Food Package VI–Postpartum women.

"(E) Food Package VII–Fully breastfeeding.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(6) STATE AGENCY.—The term 'State agency' has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

"(b) AUTHORITY TO INCREASE AMOUNT OF CASH-VALUE VOUCHER.—During the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to the Coronavirus Disease 2019 (COVID–19), and in response to challenges relating to that public health emergency, the Secretary may, in carrying out the program, increase the amount of a cash-value voucher under a qualified food package to an amount that is less than or equal to $35.

"(c) APPLICATION OF INCREASED AMOUNT OF CASH-VALUE VOUCHER TO STATE AGENCIES.—

"(1) NOTIFICATION.—An increase to the amount of a cash-value voucher under subsection (b) shall apply to any State agency that notifies the Secretary of—

"(A) the intent to use that increased amount, without further application; and

"(B) the applicable period selected by the State agency during which that increased amount shall apply.

"(2) USE OF INCREASED AMOUNT.—A State agency that makes a notification to the Secretary under paragraph (1) shall use the increased amount described in that paragraph—

"(A) during the applicable period described in that notification; and

"(B) only during a single applicable period.

"(d) SUNSET.—The authority of the Secretary under subsection (b), and the authority of a State agency to increase the amount of a cash-value voucher under subsection (c), shall terminate on September 30, 2021.

"(e) FUNDING.—In addition to amounts otherwise made available, there is appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, $490,000,000 to carry out this section, to remain available until September 30, 2022."

PHYSICAL PRESENCE WAIVER UNDER WIC DURING CERTAIN PUBLIC HEALTH EMERGENCIES

Pub. L. 116–127, div. B, title II, §2203, Mar. 18, 2020, 134 Stat. 186, as amended by Pub. L. 116–159, div. D, title VI, §4602(b), Oct. 1, 2020, 134 Stat. 745, provided that:

"(a) WAIVER AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may grant a request described in paragraph (2) to—

"(A) waive the requirement under section 17(d)(3)(C)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(i)); and

"(B) defer anthropometric and bloodwork requirements necessary to determine nutritional risk.

"(2) REQUEST.—A request described in this paragraph is a request made to the Secretary by a State

agency to waive, on behalf of the local agencies served by such State agency, the requirements described in paragraph (1) during any portion of the emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) (beginning on or after the date of the enactment of this section [Mar. 18, 2020]).

"(b) REPORTS.—

"(1) LOCAL AGENCY REPORTS.—Each local agency that uses a waiver pursuant to subsection (a) shall, not later than 1 year after the date such local agency uses such waiver, submit a report to the State agency serving such local agency that includes the following:

"(A) A summary of the use of such waiver by the local agency.

"(B) A description of whether such waiver resulted in improved services to women, infants, and children.

"(2) STATE AGENCY REPORTS.—Each State agency that receives a waiver under subsection (a) shall, not later than 18 months after the date such State agency received such waiver, submit a report to the Secretary that includes the following:

"(A) A summary of the reports received by the State agency under paragraph (1).

"(B) A description of whether such waiver resulted in improved services to women, infants, and children.

"(c) SUNSET.—The authority under this section shall expire on September 30, 2021.

"(d) DEFINITIONS.—In this section:

"(1) LOCAL AGENCY.—The term 'local agency' has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

"(2) NUTRITIONAL RISK.—The term 'nutritional risk' has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(4) STATE AGENCY.— The term 'State agency' has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b))."

ADMINISTRATIVE REQUIREMENTS WAIVER UNDER WIC

Pub. L. 116–127, div. B, title II, §2204, Mar. 18, 2020, 134 Stat. 187, as amended by Pub. L. 116–159, div. D, title VI, §4602(c), Oct. 1, 2020, 134 Stat. 745, provided that:

"(a) WAIVER AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture may, if requested by a State agency (as defined in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), modify or waive any qualified administrative requirement with respect to such State agency.

"(2) QUALIFIED ADMINISTRATIVE REQUIREMENT.—In this section, the term 'qualified administrative requirement' means a regulatory requirement issued under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) that the Secretary of Agriculture determines—

"(A) cannot be met by a State agency due to COVID–19; and

"(B) the modification or waiver of which is necessary to provide assistance under such section.

"(b) STATE AGENCY REPORTS.—Each State agency that receives a waiver under subsection (a)(1) shall, not later than 1 year after the date such State agency received such waiver, submit a report to the Secretary of Agriculture that includes the following:

"(1) A summary of the use of such waiver by the State agency.

"(2) A description of whether such waiver resulted in improved services to women, infants, and children.

"(c) SUNSET.—The authority under this section shall expire on September 30, 2021."

STUDY OF COST CONTAINMENT PRACTICES

Pub. L. 105–336, title II, §203(r), Oct. 31, 1998, 112 Stat. 3166, provided that:

"(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study on the effect of cost containment practices established by States under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) for the selection of vendors and approved food items (other than infant formula) on—

"(A) program participation;

"(B) access and availability of prescribed foods;

"(C) voucher redemption rates and actual food selections by participants;

"(D) participants on special diets or with specific food allergies;

"(E) participant use and satisfaction of prescribed foods;

"(F) achievement of positive health outcomes; and

"(G) program costs.

"(2) REPORT.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

"(A) not later than 2 years after the date of enactment of this Act [Oct. 31, 1998], an interim report describing the results of the study conducted under paragraph (1); and

"(B) not later than 3 years after the date of enactment of this Act, a final report describing the results of the study conducted under paragraph (1)."

STUDY OF WIC SERVICES

Pub. L. 105–336, title II, §203(s), Oct. 31, 1998, 112 Stat. 3167, provided that:

"(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study that assesses—

"(A) the cost of delivering services under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), including the costs of implementing and administering cost containment efforts;

"(B) the fixed and variable costs incurred by State and local governments for delivering the services and the extent to which those costs are charged to State agencies;

"(C) the quality of the services delivered, taking into account the effect of the services on the health of participants; and

"(D) the costs incurred for personnel, automation, central support, and other activities to deliver the services and whether the costs meet Federal audit standards for allowable costs under the program.

"(2) REPORT.—Not later than 3 years after the date of enactment of this Act [Oct. 31, 1998], the Comptroller General shall submit to the Secretary of Agriculture, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under paragraph (1)."

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

PROMOTION BY SECRETARY OF USE OF FARMERS' MARKETS

Pub. L. 103–448, title II, §204(v)(12), Nov. 2, 1994, 108 Stat. 4745, provided that: "The Secretary of Agriculture shall promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary."

REFERENCES TO SPECIAL SUPPLEMENTAL FOOD PROGRAM

Pub. L. 103–448, title II, §204(w)(3), Nov. 2, 1994, 108 Stat. 4746, provided that: "Any reference to the special supplemental food program established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) in any provision of law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under such section."

WIC INFANT FORMULA PROTECTION; FINDINGS AND PURPOSES

Pub. L. 102–512, title II, §202, Oct. 24, 1992, 106 Stat. 3364, as amended by Pub. L. 103–448, title II, §204(w)(2)(F), Nov. 2, 1994, 108 Stat. 4746, provided that:

"(a) FINDINGS.—

"(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

"(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

"(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

"(4) improved competition among suppliers of infant formula to the special supplemental food program [special supplemental nutrition program] for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

"(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

"(b) PURPOSES.—It is the purpose of this title [amending this section and enacting provisions set out as notes under this section and section 1771 of this title] to enhance competition among infant formula

manufacturers and to reduce the per unit costs of infant formula for the special supplemental nutrition program for women, infants, and children (WIC)."

STUDY OF INFANT FORMULA BID SOLICITATIONS

Pub. L. 102–512, title II, §208, Oct. 24, 1992, 106 Stat. 3368, directed Secretary of Agriculture, not later than Apr. 1, 1994, to report to Congress on State agencies that request the Secretary of Agriculture to conduct bid solicitations for infant formula under 42 U.S.C. 1786(h)(8)(G)(i), cost reductions achieved by the solicitations, and other matters the Secretary determined to be appropriate regarding title II of Pub. L. 102–512.

WOMEN, INFANTS, AND CHILDREN FARMERS' MARKET NUTRITION PROGRAM; CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 102–314, §2, July 2, 1992, 106 Stat. 280, provided that: "The purpose of this Act [amending this section and enacting provisions set out as notes under this section and section 1771 of this title] is to authorize grants to be made to State programs designed to—

"(1) provide resources to women, infants, and children who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

"(2) expand the awareness and use of farmers' markets and increase sales at such markets."

REVIEW OF PRIORITY SYSTEM; REPORTS TO CONGRESS

Pub. L. 101–147, title I, §123(b), Nov. 10, 1989, 103 Stat. 904, directed Secretary of Agriculture to review relationship between nutritional risk criteria established under this section and priority system used under special supplemental food program under this section, especially as it affected pregnant women, and to submit preliminary and final reports to Congress on results of review by Oct. 1, 1990, and by July 1, 1991, respectively.

REPORT ON WIC FOOD PACKAGE

Pub. L. 101–147, title I, §123(c), Nov. 10, 1989, 103 Stat. 904, directed Secretary of Agriculture to review appropriateness of foods eligible for purchase under special supplemental food program under this section and to submit preliminary and final reports to Congress on findings of review by June 30, 1991, and by June 30, 1992, respectively.

REPORT ON COSTS FOR NUTRITION SERVICES AND ADMINISTRATION

Pub. L. 101–147, title I, §123(d), Nov. 10, 1989, 103 Stat. 905, directed Secretary of Agriculture to review effect on costs for nutrition services and administration incurred by State and local agencies of sections 123 and 213 of Pub. L. 101–647, and the amendments made by such sections, amending this section and enacting provisions set out as notes under this section (including effect of both increases and decreases in requirements imposed on such agencies), and to report results of such review to Congress not later than one year after Nov. 10, 1989.

PAPERWORK REDUCTION

Pub. L. 101–147, title I, §123(e), Nov. 10, 1989, 103 Stat. 905, provided that: "In implementing and monitoring compliance with the provisions of the amendments made by this section [amending this section] (other than the amendment made by subsection (a)(2) to section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)), the Secretary of Agriculture shall not impose any new requirement on a State or local agency that would require the State or local agency to place additional paperwork or documentation in a case file maintained by a local agency."

FARMERS' MARKET COUPONS DEMONSTRATION PROJECT

Pub. L. 100–435, title V, §501(a), Sept. 19, 1988, 102 Stat. 1668, provided that: "The purpose of this section is to authorize the establishment of a grant program to encourage State demonstration projects designed to—

"(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

"(2) expand the awareness and use of farmers' markets and increase sales at such markets."

STUDY OF NUTRITION SERVICES AND ADMINISTRATION FUNDING

Pub. L. 100–237, §8(c), Jan. 8, 1988, 101 Stat. 1741, directed Secretary to conduct a study of appropriateness of percentage of annual appropriation for the program required by 42 U.S.C. 1786(h)(1) to be made available for State and local agency costs for nutrition services and administration, and to report results

of this study to Congress not later than Mar. 1, 1989, such study to include an analysis of the impact in future years on per participant administrative costs if a substantial number of States implement competitive bidding, rebate, direct distribution, or home delivery systems and to examine the impact of percentage provided for nutrition services and administration on quality of such services.

STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM

Pub. L. 100–237, §10, Jan. 8, 1988, 101 Stat. 1741, directed Secretary of Agriculture to study medicaid savings for newborns as result of prenatal participation by mothers in special supplemental food program under this section and to report study results to Congress by Feb. 1, 1990. Similar provisions were contained in Pub. L. 100–202, §101(k) [title III], Dec. 22, 1987, 101 Stat. 1329–349.

ACCOUNTABILITY FOR MIGRANT SERVICES

Pub. L. 99–500, title III, §348(b), Oct. 18, 1986, 100 Stat. 1783–366, Pub. L. 99–591, title III, §348(b), Oct. 30, 1986, 100 Stat. 3341–369, and Pub. L. 99–661, div. D, title III, §4308(b), Nov. 14, 1986, 100 Stat. 4078, provided that: "To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 [subsec. (g)(2) of this section] (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act [Oct. 18, 1986]."

[1] So in original. The "; and" probably should be a period.

[2] See References in Text note below.

§1787. Repealed. Pub. L. 104–193, title VII, §730, Aug. 22, 1996, 110 Stat. 2305

Section, Pub. L. 89–642, §18, as added Pub. L. 94–105, §23, Oct. 7, 1975, 89 Stat. 528, authorized appropriations and directed Secretary to make cash grants for nutrition education.

§1788. Team nutrition network

(a) Purposes

The purposes of the team nutrition network are—

(1) to establish State systems to promote the nutritional health of school children of the United States through nutrition education and the use of team nutrition messages and material developed by the Secretary, and to encourage regular physical activity and other activities that support healthy lifestyles for children, including those based on the most recent Dietary Guidelines for Americans published under section 5341 of title 7;

(2) to provide assistance to States for the development of comprehensive and integrated nutrition education and active living programs in schools and facilities that participate in child nutrition programs;

(3) to provide training and technical assistance and disseminate team nutrition messages to States, school and community nutrition programs, and child nutrition food service professionals;

(4) to coordinate and collaborate with other nutrition education and active living programs that share similar goals and purposes; and

(5) to identify and share innovative programs with demonstrated effectiveness in helping children to maintain a healthy weight by enhancing student understanding of healthful eating patterns and the importance of regular physical activity.

(b) Definition of team nutrition network

In this section, the term "team nutrition network" means a statewide multidisciplinary program for children to promote healthy eating and physical activity based on scientifically valid information and sound educational, social, and marketing principles.

(c) Grants

(1) In general

Subject to the availability of funds for use in carrying out this section, in addition to any other funds made available to the Secretary for team nutrition purposes, the Secretary, in consultation with the Secretary of Education, may make grants to State agencies for each fiscal year, in accordance with this section, to establish team nutrition networks to promote nutrition education through—

(A) the use of team nutrition network messages and other scientifically based information; and

(B) the promotion of active lifestyles.

(2) Form

A portion of the grants provided under this subsection may be in the form of competitive grants.

(3) Funds from nongovernmental sources

In carrying out this subsection, the Secretary may accept cash contributions from nongovernmental organizations made expressly to further the purposes of this section, to be managed by the Food and Nutrition Service, for use by the Secretary and the States in carrying out this section.

(d) Allocation

Subject to the availability of funds for use in carrying out this section, the total amount of funds made available for a fiscal year for grants under this section shall equal not more than the sum of—

(1) the product obtained by multiplying ½ cent by the number of lunches reimbursed through food service programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs; and

(2) the total value of funds received by the Secretary in support of this section from nongovernmental sources.

(e) Requirements for State participation

To be eligible to receive a grant under this section, a State agency shall submit to the Secretary a plan that—

(1) is subject to approval by the Secretary; and

(2) is submitted at such time and in such manner, and that contains such information, as the Secretary may require, including—

(A) a description of the goals and proposed State plan for addressing the health and other consequences of children who are at risk of becoming overweight or obese;

(B) an analysis of the means by which the State agency will use and disseminate the team nutrition messages and material developed by the Secretary;

(C) an explanation of the ways in which the State agency will use the funds from the grant to work toward the goals required under subparagraph (A), and to promote healthy eating and physical activity and fitness in schools throughout the State;

(D) a description of the ways in which the State team nutrition network messages and activities will be coordinated at the State level with other health promotion and education activities;

(E) a description of the consultative process that the State agency employed in the development of the model nutrition and physical activity programs, including consultations with individuals and organizations with expertise in promoting public health, nutrition, or physical activity;

(F) a description of how the State agency will evaluate the effectiveness of each program developed by the State agency;

(G) an annual summary of the team nutrition network activities;

(H) a description of the ways in which the total school environment will support healthy eating and physical activity; and

(I) a description of how all communications to parents and legal guardians of students who are members of a household receiving or applying for assistance under the program shall be in

an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

(f) State coordinator

Each State that receives a grant under this section shall appoint a team nutrition network coordinator who shall—

(1) administer and coordinate the team nutrition network within and across schools, school food authorities, and other child nutrition program providers in the State; and

(2) coordinate activities of the Secretary, acting through the Food and Nutrition Service, and State agencies responsible for other children's health, education, and wellness programs to implement a comprehensive, coordinated team nutrition network program.

(g) Authorized activities

A State agency that receives a grant under this section may use funds from the grant—

(1)(A) to collect, analyze, and disseminate data regarding the extent to which children and youths in the State are overweight, physically inactive, or otherwise suffering from nutrition-related deficiencies or disease conditions; and

(B) to identify the programs and services available to meet those needs;

(2) to implement model elementary and secondary education curricula using team nutrition network messages and material developed by the Secretary to create a comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention program;

(3) to implement pilot projects in schools to promote physical activity and to enhance the nutritional status of students;

(4) to improve access to local foods through farm-to-cafeteria activities that may include the acquisition of food and the provision of training and education;

(5) to implement State guidelines in health (including nutrition education and physical education guidelines) and to emphasize regular physical activity during school hours;

(6) to establish healthy eating and lifestyle policies in schools;

(7) to provide training and technical assistance to teachers and school food service professionals consistent with the purposes of this section;

(8) to collaborate with public and private organizations, including community-based organizations, State medical associations, and public health groups, to develop and implement nutrition and physical education programs targeting lower income children, ethnic minorities, and youth at a greater risk for obesity.

(h) Local nutrition and physical activity grants

(1) In general

Subject to the availability of funds to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall provide assistance to selected local educational agencies to create healthy school nutrition environments, promote healthy eating habits, and increase physical activity, consistent with the Dietary Guidelines for Americans published under section 5341 of title 7, among elementary and secondary education students.

(2) Selection of schools

In selecting local educational agencies for grants under this subsection, the Secretary shall—

(A) provide for the equitable distribution of grants among—

(i) urban, suburban, and rural schools; and

(ii) schools with varying family income levels;

(B) consider factors that affect need, including local educational agencies with significant minority or low-income student populations; and

(C) establish a process that allows the Secretary to conduct an evaluation of how funds were used.

(3) Requirement for participation

To be eligible to receive assistance under this subsection, a local educational agency shall, in consultation with individuals who possess education or experience appropriate for representing the general field of public health, including nutrition and fitness professionals, submit to the Secretary an application that shall include—

(A) a description of the need of the local educational agency for a nutrition and physical activity program, including an assessment of the nutritional environment of the school;

(B) a description of how the proposed project will improve health and nutrition through education and increased access to physical activity;

(C) a description of how the proposed project will be aligned with the local wellness policy required under section 204 of the Child Nutrition and WIC Reauthorization Act of 2004;

(D) a description of how funds under this subsection will be coordinated with other programs under this chapter, the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), or other Acts, as appropriate, to improve student health and nutrition;

(E) a statement of the measurable goals of the local educational agency for nutrition and physical education programs and promotion;

(F) a description of the procedures the agency will use to assess and publicly report progress toward meeting those goals; and

(G) a description of how communications to parents and guardians of participating students regarding the activities under this subsection shall be in an understandable and uniform format, and, to the extent maximum practicable, in a language that parents can understand.

(4) Duration

Subject to the availability of funds made available to carry out this subsection, a local educational agency receiving assistance under this subsection shall conduct the project during a period of 3 successive school years beginning with the initial fiscal year for which the local educational agency receives funds.

(5) Authorized activities

An eligible applicant that receives assistance under this subsection—

(A) shall use funds provided to—

(i) promote healthy eating through the development and implementation of nutrition education programs and curricula based on the Dietary Guidelines for Americans published under section 5341 of title 7; and

(ii) increase opportunities for physical activity through after school programs, athletics, intramural activities, and recess; and

(B) may use funds provided to—

(i) educate parents and students about the relationship of a poor diet and inactivity to obesity and other health problems;

(ii) develop and implement physical education programs that promote fitness and lifelong activity;

(iii) provide training and technical assistance to food service professionals to develop more appealing, nutritious menus and recipes;

(iv) incorporate nutrition education into physical education, health education, and after school programs, including athletics;

(v) involve parents, nutrition professionals, food service staff, educators, community leaders, and other interested parties in assessing the food options in the school environment and developing and implementing an action plan to promote a balanced and healthy diet;

(vi) provide nutrient content or nutrition information on meals served through the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title and items sold a la carte during meal times;

(vii) encourage the increased consumption of a variety of healthy foods, including fruits, vegetables, whole grains, and low-fat dairy products, through new initiatives to creatively

market healthful foods, such as salad bars and fruit bars;

(viii) offer healthy food choices outside program meals, including by making low-fat and nutrient dense options available in vending machines, school stores, and other venues; and

(ix) provide nutrition education, including sports nutrition education, for teachers, coaches, food service staff, athletic trainers, and school nurses.

(6) Report

Not later than 18 months after completion of the projects and evaluations under this subsection, the Secretary shall—

(A) submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation under this subsection; and

(B) make the report available to the public, including through the Internet.

(i) Nutrition education support

In carrying out the purpose of this section to support nutrition education, the Secretary may provide for technical assistance and grants to improve the quality of school meals and access to local foods in schools and institutions.

(j) Limitation

Material prepared under this section regarding agricultural commodities, food, or beverages, must be factual and without bias.

(k) Team nutrition network independent evaluation

(1) In general

Subject to the availability of funds to carry out this subsection, the Secretary shall offer to enter into an agreement with an independent, nonpartisan, science-based research organization—

(A) to conduct a comprehensive independent evaluation of the effectiveness of the team nutrition initiative and the team nutrition network under this section; and

(B) to identify best practices by schools in—

(i) improving student understanding of healthful eating patterns;

(ii) engaging students in regular physical activity and improving physical fitness;

(iii) reducing diabetes and obesity rates in school children;

(iv) improving student nutrition behaviors on the school campus, including by increasing healthier meal choices by students, as evidenced by greater inclusion of fruits, vegetables, whole grains, and lean dairy and protein in meal and snack selections;

(v) providing training and technical assistance for food service professionals resulting in the availability of healthy meals that appeal to ethnic and cultural taste preferences;

(vi) linking meals programs to nutrition education activities;

(vii) successfully involving parents, school administrators, the private sector, public health agencies, nonprofit organizations, and other community partners;

(viii) ensuring the adequacy of time to eat during school meal periods; and

(ix) successfully generating revenue through the sale of food items, while providing healthy options to students through vending, student stores, and other venues.

(2) Report

Not later than 3 years after funds are made available to carry out this subsection, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the findings of the independent evaluation.

(l) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 89–642, §19, as added Pub. L. 95–166, §15, Nov. 10, 1977, 91 Stat. 1340; amended Pub. L. 96–499, title II, §213, Dec. 5, 1980, 94 Stat. 2603; Pub. L. 97–35, title VIII, §§806, 817(f), Aug. 13, 1981, 95 Stat. 527, 532; Pub. L. 99–500, title III, §§315, 362, 372(b), 373(b), Oct. 18, 1986, 100 Stat. 1783–360, 1783–368, 1783–369, and Pub. L. 99–591, title III, §§315, 362, 372(b), 373(b), Oct. 30, 1986, 100 Stat. 3341–363, 3341–371, 3341–372; Pub. L. 99–661, div. D, title I, §4105, title IV, §4402, title V, §§4502(b), 4503(b), Nov. 14, 1986, 100 Stat. 4071, 4079–4081; Pub. L. 101–147, title I, §124, title II, §214, title III, §327, Nov. 10, 1989, 103 Stat. 905, 913, 918; Pub. L. 103–448, title II, §205, Nov. 2, 1994, 108 Stat. 4746; Pub. L. 104–193, title VII, §731(a)–(f), Aug. 22, 1996, 110 Stat. 2305–2307; Pub. L. 105–336, title II, §204, Oct. 31, 1998, 112 Stat. 3167; Pub. L. 106–78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 108–265, title II, §205(a), June 30, 2004, 118 Stat. 782.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsecs. (d)(1) and (h)(3)(D), (5)(B)(vi), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004, referred to in subsec. (h)(3)(C), is section 204 of Pub. L. 108–265, which is set out as a note under section 1751 of this title.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2004—Pub. L. 108–265 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (i) relating to the establishment of a system of grants to State educational agencies for the development of comprehensive nutrition education and training programs, which would include, but not be limited to, instructing students with regard to the nutritional value of foods and the relationship between food and health, training child nutrition program personnel in the principles and practices of food service management, instructing teachers in principles of nutrition education, developing and using classroom materials and curricula, and providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health.

1999—Subsec. (d). Pub. L. 106–78 made technical amendment to references in original act which appear in text as references to sections 1761 and 1769b–1 of this title.

1998—Subsec. (i). Pub. L. 105–336 inserted subsec. heading and par. (1)(A) and struck out former subsec. heading and pars. (1) to (3)(A) which provided for grants to States for nutrition education and information programs based on rate of 50 cents for each child enrolled in schools, minimum amounts to be received by States, and authorizations of appropriations; redesignated par. (3)(B) as (1)(B); and redesignated pars. (4) and (5) as (2) and (3), respectively.

1996—Subsec. (a). Pub. L. 104–193, §731(a)(1), substituted "that effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged." for "that—" and pars. (1) to (5) which related to priority of proper nutrition, lack of understanding of principles of good nutrition, training school employees, role of parents, and opportunities for children to learn about importance of good nutrition.

Subsec. (b). Pub. L. 104–193, §731(a)(2), substituted "establish" for "encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing".

Subsec. (f)(1). Pub. L. 104–193, §731(b)(1)(B), struck out "(A)" before "The funds made available" in introductory provisions, redesignated cls. (i) to (viii) and (xx) as subpars. (A) to (H) and (I), respectively, added subpar. (J), and struck out cls. (ix) to (xix) which related to use of funds for a nutrition component usable in consumer, homemaking and health education programs, instructing staff on working with children from different backgrounds, developing means of providing nutrition education in materials to children through after-school programs, training about healthy and nutritious meals, creating instructional programming for school staff and parents, aspects of the Strategic Plan for Nutrition and Education, encouraging public service advertisements, coordinating and promoting nutrition activities in local school

districts, contracting with public and private nonprofit educational institutions for nutrition education, increasing awareness of importance of breakfasts, and coordinating and promoting nutrition education under child nutrition programs.

Pub. L. 104–193, §731(b)(1)(A), struck out subpar. (B) which read as follows: "As used in this paragraph, the term 'language appropriate' used with respect to materials, programming, or advertisements means materials, programming, or advertisements, respectively, using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program."

Subsec. (f)(2), (3). Pub. L. 104–193, §731(b)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities."

Subsec. (f)(4). Pub. L. 104–193, §731(b)(2), struck out par. (4) which read as follows: "Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section."

Subsec. (g)(1). Pub. L. 104–193, §731(c), substituted "be available at any reasonable time" for "at all times be available" in second sentence.

Subsec. (h)(1). Pub. L. 104–193, §731(d)(1), in second sentence, struck out "as provided in paragraph (2) of this subsection" after "needs in the State" and "as provided in paragraph (3) of this subsection" after "prepare a State plan".

Subsec. (h)(2). Pub. L. 104–193, §731(d)(2), struck out at end "Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education."

Subsec. (h)(3). Pub. L. 104–193, §731(d)(3), struck out par. (3) which related to comprehensive nutrition education plan to be submitted by State coordinator within 9 months of award of planning and assessment grant and reviews in light of plan.

Subsec. (i)(2)(A). Pub. L. 104–193, §731(e)(1), struck out "and each succeeding fiscal year" after "fiscal year 1996".

Subsec. (i)(3) to (5). Pub. L. 104–193, §731(e)(2), (3), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (j). Pub. L. 104–193, §731(f), struck out subsec. (j) which read as follows:

"(1) The Secretary shall assess the nutrition education and training program carried out under this section to determine what nutrition education needs are for children participating under the National School Lunch Act in the school lunch program, the summer food service program, and the child care food program.

"(2) The assessment required by paragraph (1) shall be completed not later than October 1, 1990."

1994—Subsec. (b). Pub. L. 103–448, §205(a), substituted "education and training programs" for "information and education programs".

Subsec. (c). Pub. L. 103–448, §205(a), (b), substituted "education and training program" for "information and education program" in first sentence, substituted "child nutrition program personnel" for "school food service personnel" in subpar. (B), and added subpar. (E).

Subsec. (d)(1). Pub. L. 103–448, §205(a), (c)(1), substituted "education and training program" for "information and education program" in introductory provisions and inserted ", and the provision of nutrition education to parents and caregivers" before period at end of subpar. (C).

Subsec. (d)(4). Pub. L. 103–448, §205(c)(2), substituted "educational, school food service, child care, and summer food service personnel" for "educational and school food service personnel".

Subsec. (d)(5). Pub. L. 103–448, §205(c)(3), in first sentence inserted ", and in child care institutions and summer food service institutions," after "schools".

Subsec. (f)(1)(A). Pub. L. 103–448, §205(d)(1), designated existing provisions of par. (1) as subpar. (A). Former subpar. (A) redesignated cl. (i).

Subsec. (f)(1)(A)(i) to (viii). Pub. L. 103–448, §205(d)(2)–(4), redesignated subpars. (A) to (H) as cls. (i) to (viii), respectively, of subpar. (A) and realigned margins.

Subsec. (f)(1)(A)(ix). Pub. L. 103–448, §205(d)(5), (7), added cl. (ix). Former cl. (ix) redesignated (xx).

Pub. L. 103–448, §205(d)(3), (4), redesignated subpar. (I) as cl. (ix) of subpar. (A) and realigned margins.

Subsec. (f)(1)(A)(x) to (xix). Pub. L. 103–448, §205(d)(7), added cls. (x) to (xix).

Subsec. (f)(1)(A)(xx). Pub. L. 103–448, §205(d)(6), redesignated cl. (ix) as (xx).

Subsec. (f)(1)(B). Pub. L. 103–448, §205(d)(8), added subpar. (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Subsec. (f)(1)(C) to (F). Pub. L. 103–448, §205(d)(3), redesignated subpars. (C) to (F) as cls. (iii) to (vi) of subpar. (A).

Subsec. (f)(1)(G). Pub. L. 103–448, §205(d)(3), redesignated subpar. (G) as cl. (vii) of subpar. (A).

Pub. L. 103–448, §205(a), substituted "education and training" for "information and education".

Subsec. (f)(1)(H), (I). Pub. L. 103–448, §205(d)(3), redesignated subpars. (H) and (I) as cls. (viii) and (ix), respectively, of subpar. (A).

Subsec. (f)(3). Pub. L. 103–448, §205(e), added par. (3) and struck out former par. (3) which read as follows: "An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section."

Subsec. (h). Pub. L. 103–448, §205(f), substituted "nutrition education and training needs" for "nutrition education needs" in par. (2) and added subpar. (F) in par. (3).

Subsec. (i)(2)(A). Pub. L. 103–448, §205(g), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "There is authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs—

"(i) $10,000,000 for the fiscal year 1990;

"(ii) $15,000,000 for the fiscal year 1991;

"(iii) $20,000,000 for the fiscal year 1992; and

"(iv) $25,000,000 for each of the fiscal years 1993 and 1994."

Subsec. (i)(3), (4). Pub. L. 103–448, §205(h), added par. (3) and redesignated former par. (3) as (4).

Subsec. (j)(1). Pub. L. 103–448, §205(a), substituted "education and training program" for "information and education program".

1989—Subsec. (d)(1)(B). Pub. L. 101–147, §124(1)(A)(i), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the food service management training of school food service personnel, and".

Subsec. (d)(1)(C). Pub. L. 101–147, §124(1)(A)(ii), substituted "schools, child care institutions, and institutions offering summer food service programs under section 13 of the National School Lunch Act" for "schools and child care institutions".

Subsec. (d)(2). Pub. L. 101–147, §§124(1)(B), 327(1)(A), substituted "recommendations of State educational agencies, the Department of Health and Human Services, and other" for "recommendation of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health and Human Services; and other".

Subsec. (d)(4). Pub. L. 101–147, §§124(1)(C), 327(1)(B), struck out "(12 Stat. 503, as amended; 7 U.S.C. 301–305, 307 and 308)" after "Act of July 2, 1862" and "(26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328)" after "Act of August 30, 1890" and inserted ", in coordination with the activities authorized under section 21 of the National School Lunch Act".

Subsec. (d)(5). Pub. L. 101–147, §327(1)(C), struck out "(12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308)" after "Act of July 2, 1862" and "(26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328)" after "act of August 30, 1890".

Subsec. (h)(3). Pub. L. 101–147, §327(2), in subpar. (E), struck out "(12 Stat. 503; 7 U.S.C. 301–305, 307, and 308)" after "Act of July 2, 1862" and "(26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328)" after "act of August 30, 1890".

Pub. L. 101–147, §214, inserted at end "Each plan developed as required by this section shall be updated on an annual basis."

Pub. L. 101–147, §124(2), in subpar. (C), struck out "the National Advisory Council on Child Nutrition," after "recommendations of".

Subsec. (i)(2). Pub. L. 101–147, §124(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1989, there is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs, an amount equal to the higher of (A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) $50,000 for each State. There is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000 for fiscal year 1981, and not more than $5,000,000 for each subsequent fiscal year. Grants to each State from such appropriations shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than $50,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the second

preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced."

Subsec. (j). Pub. L. 101–147, §124(4), added subsec. (j).

1986—Subsec. (d)(2), (3). Pub. L. 99–500 and Pub. L. 99–591, §372(b)(1), and Pub. L. 99–661, §4502(b)(1), amended pars. (2) and (3) identically, substituting "Health and Human Services" for "Health, Education, and Welfare" in one place in par. (2) and in two places in par. (3).

Subsecs. (i), (j). Pub. L. 99–500 and Pub. L. 99–591, §§315, 362, 372(b)(2), 373(b), and Pub. L. 99–661, §§4105, 4402, 4502(b)(2), 4503(b), amended section identically, redesignating subsec. (j) as (i), substituting "1989" for "1984" in one place and "$50,000" for "$75,000" in two places in par. (2), and substituting "Department of Education" for "Office of Education of the Department of Health, Education, and Welfare" in par. (3).

1981—Subsec. (d)(6). Pub. L. 97–35, §817(f), struck out par. (6) relating to State prohibition on administration of program in nonprofit private schools and institutions.

Subsec. (j)(2). Pub. L. 97–35, §806, substituted provisions authorizing $15,000,000 for fiscal year 1981 and not more than $5,000,000 for each subsequent fiscal year for provisions authorizing $15,000,000 for the fiscal year beginning Oct. 1, 1980, and each subsequent fiscal year.

1980—Subsec. (j)(2). Pub. L. 96–499 substituted "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1984" for "For the fiscal year beginning October 1, 1979" and "second preceding sentence" for "preceding sentence" and inserted provision authorizing appropriations for the fiscal year beginning October 1, 1980, and subsequent fiscal years, for the grants referred to in the preceding sentence, not more than $15,000,000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–336 effective Oct. 1, 1998, see section 401 of Pub. L. 105–336, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–193, title VII, §731(g), Aug. 22, 1996, 110 Stat. 2307, provided that: "The amendments made by subsection (e) [amending this section] shall become effective on October 1, 1996."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

§1789. Department of Defense overseas dependents' schools

(a) Purpose of program; availability of payments and commodities

For the purpose of obtaining Federal payments and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the school breakfast program in the United States.

(b) Administration of program; eligibility determinations and regulations

The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and reduced-price breakfasts under the criteria published by the

Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

(c) Nutritional standards for meals; noncompliance with standards

The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

(d) Authorization of appropriations

Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

(e) Technical assistance for administration of program

The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section.

(Pub. L. 89–642, §20, as added Pub. L. 95–561, title XIV, §1408(b)(2), Nov. 1, 1978, 92 Stat. 2368; amended Pub. L. 99–500, title III, §328(b), Oct. 18, 1986, 100 Stat. 1783–362, and Pub. L. 99–591, title III, §328(b), Oct. 30, 1986, 100 Stat. 3341–365; Pub. L. 99–661, div. D, title II, §4208(b), Nov. 14, 1986, 100 Stat. 4073.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (d) identically, striking out "and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each breakfast for each student eligible for a free breakfast, and (2) the full cost of each breakfast, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price breakfast" after "this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1978, and no provisions to be construed to impair or to prevent the taking of effect of any other Act providing for the transfer of the described functions to an executive department having responsibility for education, see section 1415 of Pub. L. 95–561, set out as a note under section 921 of Title 20, Education.

§1790. Breastfeeding promotion program

(a) In general

The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

(b) Conduct of program

In carrying out the program described in subsection (a), the Secretary may—

(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting

breastfeeding;

(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

(c) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

(d) Gifts, bequests, and devises

(1) In general

The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

(2) Criteria for acceptance

The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.

(Pub. L. 89–642, §21, as added Pub. L. 102–342, title II, §201, Aug. 14, 1992, 106 Stat. 912.)

§1791. Bill Emerson Good Samaritan Food Donation Act

(a) Short title

This section may be cited as the "Bill Emerson Good Samaritan Food Donation Act".

(b) Definitions

As used in this section:

(1) Apparently fit grocery product

The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(2) Apparently wholesome food

The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(3) Donate

The term "donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit

organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value or is charged a good Samaritan reduced price.

(4) Food

The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(5) Gleaner

The term "gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(6) Good Samaritan reduced price

The term "good Samaritan reduced price" means, with respect to the price of an apparently wholesome food or apparently fit grocery product, a price that is an amount not greater than the cost of handling, administering, harvesting, processing, packaging, transporting, and distributing the apparently wholesome food or apparently fit grocery product.

(7) Grocery product

The term "grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(8) Gross negligence

The term "gross negligence" means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.

(9) Intentional misconduct

The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(10) Nonprofit organization

The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

(11) Person

The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(12) Qualified direct donor

The term "qualified direct donor" means a retail grocer, wholesaler, agricultural producer, agricultural processor, agricultural distributor, restaurant, caterer, school food authority, or institution of higher education (as defined in section 1002 of title 20).

(c) Liability for damages from donated food and grocery products

(1) Liability of person or gleaner

A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to

needy individuals at zero cost or at a good Samaritan reduced price.

(2) Liability of nonprofit organization

A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals at zero cost or at a good Samaritan reduced price.

(3) Direct donations to needy individuals

A qualified direct donor shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the qualified direct donor donates in good faith to a needy individual at zero cost.

(4) Exception

Paragraphs (1), (2), and (3) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.

(d) Collection or gleaning of donations

A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(e) Partial compliance

If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this section if the nonprofit organization that receives the donated food or grocery products—

(1) is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(2) agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(3) is knowledgeable of the standards to properly recondition the donated food or grocery product.

(f) Construction

This section shall not be construed to create any liability. Nothing in this section shall be construed to supercede State or local health regulations.

(Pub. L. 89–642, §22, formerly Pub. L. 101–610, title IV, §402, Nov. 16, 1990, 104 Stat. 3183; renumbered §22 and amended Pub. L. 104–210, §1(a)(2), (b), Oct. 1, 1996, 110 Stat. 3011, 3012; Pub. L. 117–362, §1, Jan. 5, 2023, 136 Stat. 6295.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12672 of this title prior to renumbering by Pub. L. 104–210.

AMENDMENTS

2023—Subsec. (b)(3). Pub. L. 117–362, §1(1)(A), inserted "or is charged a good Samaritan reduced price" before period at end.

Subsec. (b)(6) to (11). Pub. L. 117–362, §1(1)(B), (C), added par. (6) and redesignated former pars. (6) to (10) as (7) to (11), respectively.

Subsec. (b)(12). Pub. L. 117–362, §1(1)(D), added par. (12).

Subsec. (c)(1), (2). Pub. L. 117–362, §1(2)(A), inserted "at zero cost or at a good Samaritan reduced price" after "needy individuals".

Subsec. (c)(3). Pub. L. 117–362, §1(2)(C), added par. (3). Former par. (3) redesignated (4).

Subsec. (c)(4). Pub. L. 117–362, §1(2)(B), (D), redesignated par. (3) as (4) and substituted ", (2), and (3)" for "and (2)".

1996—Pub. L. 104–210, §1(a)(2)(A), substituted "Bill Emerson" for "Model" in section catchline.

Subsec. (a). Pub. L. 104–210, §1(a)(2)(B), inserted "Bill Emerson" before "Good".

Subsec. (b)(7). Pub. L. 104–210, §1(a)(2)(C), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "The term 'gross negligence' means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person."

Subsec. (c). Pub. L. 104–210, §1(a)(2)(D), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this paragraph shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct."

Subsec. (f). Pub. L. 104–210, §1(a)(2)(E), inserted at end "Nothing in this section shall be construed to supercede State or local health regulations."

§1792. Promoting Federal food donation

(a) In general

Not later than 180 days after June 20, 2008, the Federal Acquisition Regulation issued in accordance with section 1303 of title 41 shall be revised to provide that all contracts above $25,000 for the provision, service, or sale of food in the United States, or for the lease or rental of Federal property to a private entity for events at which food is provided in the United States, shall include a clause that—

(1) encourages the donation of excess, apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in the United States; and

(2) states the terms and conditions described in subsection (b).

(b) Terms and conditions

(1) Costs

In any case in which a contractor enters into a contract with an executive agency under which apparently wholesome food is donated to food-insecure people in the United States, the head of the executive agency shall not assume responsibility for the costs and logistics of collecting, transporting, maintaining the safety of, or distributing excess, apparently wholesome food to food-insecure people in the United States under this section.

(2) Liability

An executive agency (including an executive agency that enters into a contract with a contractor) and any contractor making donations pursuant to this section shall be exempt from civil and criminal liability to the extent provided under section 1791 of this title.

(Pub. L. 110–247, §4, June 20, 2008, 122 Stat. 2314.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 110–247, June 20, 2008, 122 Stat. 2314, which enacted this section and provisions set out as notes under this section and section 1771 of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note

set out under section 1771 of this title and Tables.

CODIFICATION

Section was enacted as part of the Federal Food Donation Act of 2008, and not as part of the Child Nutrition Act of 1966 which comprises this chapter.

In subsec. (a), "section 1303 of title 41" substituted for "section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PURPOSE

Pub. L. 110–247, §2, June 20, 2008, 122 Stat. 2314, provided that: "The purpose of this Act [enacting this section and provisions set out as notes under this section and section 1771 of this title] is to encourage executive agencies and contractors of executive agencies, to the maximum extent practicable and safe, to donate excess, apparently wholesome food to feed food-insecure people in the United States."

DEFINITIONS

Pub. L. 110–247, §3, June 20, 2008, 122 Stat. 2314, provided that: "In this Act [enacting this section and provisions set out as notes under this section and section 1771 of this title]:

"(1) APPARENTLY WHOLESOME FOOD.—The term 'apparently wholesome food' has the meaning given the term in section 2(b) [probably means subsec. (b)] of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)).

"(2) EXCESS.—The term 'excess', when applied to food, means food that—

"(A) is not required to meet the needs of executive agencies; and

"(B) would otherwise be discarded.

"(3) FOOD-INSECURE.—The term 'food-insecure' means inconsistent access to sufficient, safe, and nutritious food.

"(4) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that is—

"(A) described in section 501(c) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)]; and

"(B) exempt from tax under section 501(a) of that Code [26 U.S.C. 501(a)]."

§1793. Grants for expansion of school breakfast programs

(a) Definition of qualifying school

In this section, the term "qualifying school" means a school in severe need, as described in section 1773(d)(1) of this title.

(b) Establishment

Subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this section, the Secretary shall establish a program under which the Secretary shall provide grants, on a competitive basis, to State educational agencies for the purpose of providing subgrants to local educational agencies for qualifying schools to establish, maintain, or expand the school breakfast program in accordance with this section.

(c) Grants to State educational agencies

(1) Application

To be eligible to receive a grant under this section, a State educational agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) Administration

In carrying out this section, the Secretary shall—

(A) develop an appropriate competitive application process; and

(B) make information available to State educational agencies concerning the availability of

funds under this section.

(3) Allocation

The amount of grants provided by the Secretary to State educational agencies for a fiscal year under this section shall not exceed the lesser of—

(A) the product obtained by multiplying—

(i) the number of qualifying schools receiving subgrants or other benefits under subsection (d) for the fiscal year; and

(ii) the maximum amount of a subgrant provided to a qualifying school under subsection (d)(4)(B); or

(B) $2,000,000.

(d) Subgrants to qualifying schools

(1) In general

A State educational agency receiving a grant under this section shall use funds made available under the grant to award subgrants to local educational agencies for a qualifying school or groups of qualifying schools to carry out activities in accordance with this section.

(2) Priority

In awarding subgrants under this subsection, a State educational agency shall give priority to local educational agencies with qualifying schools in which at least 75 percent of the students are eligible for free or reduced price school lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(3) State and district training and technical support

A local educational agency or State educational agency may allocate a portion of each subgrant to provide training and technical assistance to the staff of qualifying schools to carry out the purposes of this section.

(4) Amount; term

(A) In general

Except as otherwise provided in this paragraph, a subgrant provided by a State educational agency to a local educational agency or qualifying school under this section shall be in such amount, and shall be provided for such term, as the State educational agency determines appropriate.

(B) Maximum amount

The amount of a subgrant provided by a State educational agency to a local educational agency for a qualifying school or a group of qualifying schools under this subsection shall not exceed $10,000 for each school year.

(C) Maximum grant term

A local educational agency or State educational agency shall not provide subgrants to a qualifying school under this subsection for more than 2 fiscal years.

(e) Best practices

(1) In general

Prior to awarding grants under this section, the Secretary shall make available to State educational agencies information regarding the most effective mechanisms by which to increase school breakfast participation among eligible children at qualifying schools.

(2) Preference

In awarding subgrants under this section, a State educational agency shall give preference to local educational agencies for qualifying schools or groups of qualifying schools that have adopted, or provide assurances that the subgrant funds will be used to adopt, the most effective

mechanisms identified by the Secretary under paragraph (1).

(f) Use of funds

(1) In general

A qualifying school may use a grant provided under this section—

(A) to establish, promote, or expand a school breakfast program of the qualifying school under this section, which shall include a nutritional education component;

(B) to extend the period during which school breakfast is available at the qualifying school;

(C) to provide school breakfast to students of the qualifying school during the school day; or

(D) for other appropriate purposes, as determined by the Secretary.

(2) Requirement

Each activity of a qualifying school under this subsection shall be carried out in accordance with applicable nutritional guidelines and regulations issued by the Secretary.

(g) Maintenance of effort

Grants made available under this section shall not diminish or otherwise affect the expenditure of funds from State and local sources for the maintenance of the school breakfast program.

(h) Reports

Not later than 18 months following the end of a school year during which subgrants are awarded under this section, the Secretary shall submit to Congress a report describing the activities of the qualifying schools awarded subgrants.

(i) Evaluation

Not later than 180 days before the end of a grant term under this section, a local educational agency that receives a subgrant under this section shall—

(1) evaluate whether electing to provide universal free breakfasts under the school breakfast program in accordance with Provision 2 as established under subsections (b) through (k) of section 245.9 of title 7, Code of Federal Regulations (or successor regulations), would be cost-effective for the qualified schools based on estimated administrative savings and economies of scale; and

(2) submit the results of the evaluation to the State educational agency.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2010 through 2015.

(Pub. L. 89–642, §23, as added Pub. L. 111–296, title I, §105, Dec. 13, 2010, 124 Stat. 3201.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111–296, set out as an Effective Date of 2010 Amendment note under section 1751 of this title.

CHAPTER 14—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

§§1801 to 1819. Transferred

EDITORIAL NOTES

CODIFICATION

The Atomic Energy Act of 1946, which was formerly classified to sections 1801 to 1819 of this title, was act Aug. 1, 1946, ch. 724, 60 Stat. 755. Act Aug. 1, 1946, was renamed the Atomic Energy Act of 1954 and completely amended by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, and is classified principally to chapter 23 (§2011 et seq.) of this title. Provisions enacted in the Aug. 30, 1954, amendment largely corresponded to and expanded upon the provisions in the original Atomic Energy Act of 1946, as described below.

Section 1801, act Aug. 1, 1946, ch. 724, §1, 60 Stat. 755, related to declaration of policy and purpose of chapter. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2011 to 2013 of this title.

Section 1802, acts Aug. 1, 1946, ch. 724, §2, 60 Stat. 756; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; July 3, 1948, ch. 828, 62 Stat. 1259; Oct. 11, 1949, ch. 673, §§1–3, 63 Stat. 762; Sept. 23, 1950, ch. 1000, §§1, 2, 64 Stat. 979; July 31, 1953, ch. 283, §1, 67 Stat. 240, related to establishment of Atomic Energy Commission, its membership, tenure, compensation, and appointment of certain officers and committees. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2031 to 2038 of this title.

Section 1803, act Aug. 1, 1946, ch. 724, §3, 60 Stat. 758, related to research and development activities by Commission. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2051 to 2053 of this title.

Section 1804, act Aug. 1, 1946, ch. 724, §4, 60 Stat. 759, related to production of fissionable material, prohibited acts, ownership and operation of production facilities, irradiation of materials, and manufacture of production facilities. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2061 to 2112 of this title.

Section 1805, acts Aug. 1, 1946, ch. 724, §5, 60 Stat. 760; Oct. 30, 1951, ch. 633, 65 Stat. 692; Aug. 13, 1954, ch. 730, §10(a)–(c), 68 Stat. 715, 716, related to control of fissionable materials. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2061 to 2112 of this title.

Section 1806, act Aug. 1, 1946, ch. 724, §6, 60 Stat. 763, related to military application of atomic energy. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2121 and 2122 of this title.

Section 1807, act Aug. 1, 1946, ch. 724, §7, 60 Stat. 764, related to license requirements for utilization of atomic energy, reports to Congress, and issuance of licenses. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2131 to 2140 of this title.

Section 1808, act Aug. 1, 1946, ch. 724, §8, 60 Stat. 765, related to force and effect of international agreements. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2151 to 2154 of this title.

Section 1809, act Aug. 1, 1946, ch. 724, §9, 60 Stat. 765, related to property of Commission and its exempt status from taxation. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2015 and 2208 of this title.

Section 1810, acts Aug. 1, 1946, ch. 724, §10, 60 Stat. 766; Oct. 30, 1951, ch. 633, 65 Stat. 692; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43, related to control of information. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2161 to 2166 of this title.

Section 1811, act Aug. 1, 1946, ch. 724, §11, 60 Stat. 768, related to patents and inventions. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2181 to 2190 of this title.

Section 1812, acts Aug. 1, 1946, ch. 724, §12, 60 Stat. 770; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972, related to authority, powers and duties of Commission. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2201 to 2209 of this title.

Section 1813, act Aug. 1, 1946, ch. 724, §13, 60 Stat. 772, related to compensation for acquisition of private property. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2221 to 2224 of this title.

Section 1814, act Aug. 1, 1946, ch. 724, §14, 60 Stat. 772, related to judicial review. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2231 to 2239 of this title.

Section 1815, acts Aug. 1, 1946, ch. 724, §15, 60 Stat. 772; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972, related to Joint Committee of Congress on Atomic Energy. For corresponding provisions from the Aug. 30, 1954, amendment, see sections 2251 to 2257 of this title.

Section 1816, act Aug. 1, 1946, ch. 724, §16, 60 Stat. 773, related to penalties for violation of certain provisions of this chapter, injunctions, subpoena of witnesses, and production of documents. For

corresponding provisions from the Aug. 30, 1954, amendment, see sections 2271 to 2281 of this title.

Section 1817, act Aug. 1, 1946, ch. 724, §17, 60 Stat. 774, related to reports and recommendations to Congress. Corresponding provisions from the Aug. 30, 1954, amendment were contained in former section 2016 of this title prior to its repeal.

Section 1818, act Aug. 1, 1946, ch. 724, §18, 60 Stat. 774, related to definitions. For corresponding provisions from the Aug. 30, 1954, amendment, see section 2014 of this title.

Section 1819, act Aug. 1, 1946, ch. 724, §19, 60 Stat. 775, related to authorization of appropriations. For corresponding provisions from the Aug. 30, 1954, amendment, see section 2017 of this title.

CHAPTER 15—DISASTER RELIEF

SUBCHAPTER I—FEDERAL ASSISTANCE PROGRAMS

§§1851 to 1854. Repealed. Sept. 30, 1950, ch. 1125 §9, 64 Stat. 1111

Section 1851, act July 25, 1947, ch. 320, §1, 61 Stat. 422, related to transfer of surplus personal property between War Assets Administration and Federal Works Agency to be utilized in alleviation of suffering caused by flood or other catastrophe.

Section 1852, acts July 25, 1947, ch. 320, §2, 61 Stat. 422; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, related to loan or transfer of property to States and local governments.

Section 1853, acts July 25, 1947, ch. 320, §3, 61 Stat. 423; June 30, 1949, ch. 288, title I, §§103, 105, 63 Stat. 380, related to utilization of government and State officers and employees and cooperation of Federal agencies with Administrator.

Section 1854, acts July 25, 1947, ch. 320, §4, 61 Stat. 423; June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, related to authorization of appropriations.

For provisions relating to disaster relief, see section 5121 et seq.) of this title.

§§1855 to 1855g. Repealed. Pub. L. 91–606, title III, §302(1), Dec. 31, 1970, 84 Stat. 1759

Section 1855, act Sept. 30, 1950, ch. 1125 §1, 64 Stat. 1109, set out Congressional declaration of intent in enacting act of Sept. 30, 1950, covering major disasters.

Section 1855a, acts Sept. 30, 1950, ch. 1125, §2, 64 Stat. 1109; June 27, 1962, Pub. L. 87–502, §1, 76 Stat. 111; Nov. 6, 1966, Pub. L. 89–769, §6(a), 80 Stat. 1317, defined "major disasters", "United States", "State", "governor", "local government", and "Federal agency".

Section 1855b, acts Sept. 30, 1950, ch. 1125, §3, 64 Stat. 1110; Aug. 3, 1951, ch. 293, §2, 65 Stat. 173; July 17, 1953, ch. 225, 67 Stat. 180; June 27, 1962, Pub. L. 87–502, §2, 76 Stat. 111, authorized and directed Federal agencies to render assistance in event of major disasters.

Section 1855c, act Sept. 30, 1950, ch. 1125, §4, 64 Stat. 1110, directed Federal agencies to cooperate with each other and with other agencies in providing assistance.

Section 1855d, act Sept. 30, 1950, ch. 1125, §5, 64 Stat. 1110, directed the President to coordinate disaster assistance and to issue rules and regulations covering disaster relief.

Section 1855e, act Sept. 30, 1950, ch. 1125, §6, 64 Stat. 1111, dealt with repair and reconstruction of damaged United States facilities.

Section 1855f, act Sept. 30, 1950, ch. 1125, §7, 64 Stat. 1111, provided for utilization of services and facilities of other agencies, employment of temporary personnel, incurring of obligations, and reimbursements.

Section 1855g, act Sept. 30, 1950, ch. 1125, §8, 64 Stat. 1111, authorized an appropriation of $5,000,000 and required by the President to submit a report to Congress at beginning of each session covering expenditure of amounts appropriated.

For provisions relating to disaster relief, see section 5121 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

SUBCHAPTER II—ADJUSTMENT AND COORDINATION OF FEDERAL PROGRAMS

§§1855aa to 1855ii. Repealed. Pub. L. 91–606, title III, §302(2), Dec. 31, 1970, 84 Stat. 1759

Section 1855aa, Pub. L. 89–769, §2, Nov. 6, 1966, 80 Stat. 1316, defined "major disaster."

Pub. L. 89–769, §§1, 14, Nov. 6, 1966, 80 Stat. 1316, 1321, set out as notes under section 1855aa of this title, gave the name "Disaster Relief Act of 1966" to Pub. L. 89–769, and provided for effective date of such act.

Section 1855bb, Pub. L. 89–769, §3(a), Nov. 6, 1966, 80 Stat. 1316, called for rescheduling and refinancing of Federal loans in event of a major disaster. See section 3538 of this title and section 912a of Title 7, Agriculture.

Section 1855cc, Pub. L. 89–769, §5, Nov. 6, 1966, 80 Stat. 1317, authorized Secretary of Defense to make available facilities of civil defense communications system in case of imminent natural disasters.

Section 1855dd, Pub. L. 89–769, §8, Nov. 6, 1966, 80 Stat. 1320, set out order of priorities to be followed in processing applications for public facility and public housing assistance in major disaster areas.

Section 1855ee, Pub. L. 89–769, §9, Nov. 6, 1966, 80 Stat. 1320, provided for reimbursement of costs of reconstruction of public facilities, eligible costs, and agencies and parties entitled to reimbursement.

Section 1855ff, Pub. L. 89–769, §10, Nov. 6, 1966, 80 Stat. 1320, directed department heads to administer programs covering major disasters so that there is no duplication of efforts between various programs.

Section 1855gg, Pub. L. 89–769, §11, Nov. 6, 1966, 80 Stat. 1321, provided for extension of time to leaseholders, etc., of public lands in disaster areas.

Section 1855hh, Pub. L. 89–769, §12, Nov. 6, 1966, 80 Stat. 1321, directed the President to coordinate and review all assistance programs.

Section 1855ii, Pub. L. 89–769, §13, Nov. 6, 1966, 80 Stat. 1321, called for a study of air operation facilities for disaster assistance and for a report of findings of such study to Congress with recommendations by May 6, 1967.

For provisions relating to disaster relief, see section 5121 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

SUBCHAPTER III—ADDITIONAL FEDERAL ASSISTANCE PROGRAMS

§§1855aaa to 1855nnn. Repealed. Pub. L. 91–606, title III, §302(3), Dec. 31, 1970, 84 Stat. 1759

Section 1855aaa, Pub. L. 91–79, §1, Oct. 1, 1969, 83 Stat. 125, set out Congressional statement of policy in enacting Pub. L. 91–79.

Pub. L. 91–79, §16, Oct. 1, 1969, 83 Stat. 125, set out as a note under section 1855aaa of the title, gave the name "Disaster Relief Act of 1969" to Pub. L. 91–79.

Section 1855bbb, Pub. L. 91–79, §2, Oct. 1, 1969, 83 Stat. 126, authorized the President to allocate funds for permanent repair and reconstruction of non-Federal streets, roads, and highway facilities destroyed or damaged as a result of a major disaster.

Section 1855ccc, Pub. L. 91–79, §3, Oct. 1, 1969, 83 Stat. 126, covered allowable alterations in timber sales contracts between Secretary of Agriculture or Secretary of the Interior and a timber purchaser in event of a major disaster causing major physical changes.

Section 1855ddd, Pub. L. 91–79, §4, Oct. 1, 1969, 83 Stat. 126, authorized Secretary of the Interior to give public land entrymen additional time to comply with requirements of law.

Section 1855eee, Pub. L. 91–79, §6, Oct. 1, 1969, 83 Stat. 127, made provision for Small Business Administration disaster loans.

Section 1855fff, Pub. L. 91–79, §7, Oct. 1, 1969, 83 Stat. 127, provided for emergency farm loans by Secretary of Agriculture.

Section 1855ggg, Pub. L. 91–79, §8, Oct. 1, 1969, 83 Stat. 128, provided for development of State disaster relief programs, development of State agencies to administer disaster relief programs, and reports to Congress.

Section 1855hhh, Pub. L. 91–79, §9, Oct. 1, 1969, 83 Stat. 128, made provision for appointment and duties of a Federal coordinating officer to operate under Office of Emergency Preparedness in any area designated a major disaster area.

Section 1855iii, Pub. L. 91–79, §10, Oct. 1, 1969, 83 Stat. 128, authorized the President to provide on a temporary basis dwelling accommodations for individuals and families displaced by a major disaster.

Section 1855jjj, Pub. L. 91–79, §11, Oct. 1, 1969, 83 Stat. 129, authorized the President to set up a food stamp and surplus commodities program to distribute food to persons in low-income households unable to purchase food as result of a major disaster.

Section 1855kkk, Pub. L. 91–79, §12, Oct. 1, 1969, 83 Stat. 129, provided for unemployment assistance to persons unemployed as result of a major disaster.

Section 1855lll, Pub. L. 91–79, §13, Oct. 1, 1969, 83 Stat. 129, covered grants and loans for funds used in the suppression of fire on forest or grass lands which threatens destruction as to constitute a major disaster.

Section 1855mmm, Pub. L. 91–79, §14, Oct. 1, 1969, 83 Stat. 130, authorized grants for removal of debris.

Section 1855nnn, Pub. L. 91–79, §15, Oct. 1, 1969, 83 Stat. 130, defined "major disaster" and provided termination date of sections 1855aaa et seq. of this title on Dec. 31, 1970.

For provisions relating to disaster relief, see section 5121 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

CHAPTER 15A—RECIPROCAL FIRE PROTECTION AGREEMENTS

SUBCHAPTER I—PROTECTION OF UNITED STATES PROPERTY

Sec.
1856. Definitions.
1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements.
1856a–1. Authority to enter into contracts with State and local governmental entities.
1856b. Emergency assistance.
1856c. Service in line of duty.
1856d. Funds.
1856e. Reimbursement of fire funds.

SUBCHAPTER II—WILDFIRE SUPPRESSION WITH FOREIGN FIRE ORGANIZATION

1856m. Definitions.
1856n. Implementation.

1856n–1. Reciprocal agreements with liability coverage.
1856*o*. Funds.
1856p. Repealed.

SUBCHAPTER I—PROTECTION OF UNITED STATES PROPERTY

§1856. Definitions

As used in this subchapter—

(a) The term "agency head" means the head of any executive department, military department, agency, or independent establishment in the executive branch of the Government;

(b) The term "fire protection" includes personal services and equipment required for fire prevention, the protection of life and property from fire,,[1] fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions; and

(c) The term "fire organization" means any governmental entity or public or private corporation or association maintaining fire protection facilities within the United States, its Territories and possessions, and any governmental entity or public or private corporation or association which maintains fire protection facilities in any foreign country in the vicinity of any installation of the United States.

(May 27, 1955, ch. 105, §1, 69 Stat. 66; Pub. L. 109–163, div. A, title X, §1060, Jan. 6, 2006, 119 Stat. 3444.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted ", fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions" for "and fire fighting".

[1] *So in original.*

§1856a. Authority to enter into reciprocal agreement; waiver of claims; reimbursement; ratification of prior agreements

(a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

(b) Any agreement heretofore executed which would have been authorized by this subchapter, if this subchapter had been in effect on the date of execution thereof, is ratified and confirmed.

(May 27, 1955, ch. 105, §2, 69 Stat. 66.)

§1856a–1. Authority to enter into contracts with State and local governmental entities

Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Army, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

(Pub. L. 102–154, title III, §309, Nov. 13, 1991, 105 Stat. 1034; Pub. L. 110–114, title II, §2012, Nov. 8, 2007, 121 Stat. 1075.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1992, and not as part of act May 27, 1955, which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act: Pub. L. 101–512, title III, §310, Nov. 5, 1990, 104 Stat. 1959.

AMENDMENTS

2007—Pub. L. 110–114 inserted "the Secretary of the Army," after "the Secretary of Energy,".

§1856b. Emergency assistance

In the absence of any agreement authorized or ratified by section 1856a of this title, each agency head is authorized to render emergency assistance in extinguishing fires and in preserving life and property from fire, within the vicinity of any place at which such agency maintains fire-protection facilities, when the rendition of such assistance is determined, under regulations prescribed by the agency head, to be in the best interest of the United States.

(May 27, 1955, ch. 105, §3, 69 Stat. 67.)

§1856c. Service in line of duty

Any service performed under section 1856a or section 1856b of this title, by any officer or employee of the United States or any member of any armed force of the United States shall constitute service rendered in line of duty in such office, employment, or force. The performance of such service by any other individual shall not constitute such individual an officer or employee of the United States for the purposes of subchapter I of chapter 81 of title 5.

(May 27, 1955, ch. 105, §4, 69 Stat. 67.)

EDITORIAL NOTES

CODIFICATION

"Subchapter I of chapter 81 of title 5" substituted for "the Federal Employees' Compensation Act, as amended" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§1856d. Funds

(a) Funds available to any agency head for fire protection on installations or in connection with

activities under the jurisdiction of such agency may be used to carry out the purposes of this subchapter. All sums received by any agency head for fire protection rendered pursuant to this subchapter shall be covered into the Treasury as miscellaneous receipts.

(b) Notwithstanding subsection (a), all sums received as reimbursements for costs incurred by any Department of Defense or Department of Agriculture activity for fire protection rendered pursuant to this subchapter shall be credited to the same appropriation or fund from which the expenses were paid or, if the period of availability for obligation for that appropriation has expired, to the appropriation or fund that is currently available to the activity for the same purpose. Amounts so credited shall be subject to the same provisions and restrictions as the appropriation or account to which credited.

(May 27, 1955, ch. 105, §5, 69 Stat. 67; Pub. L. 110–181, div. A, title X, §1080, Jan. 28, 2008, 122 Stat. 335; Pub. L. 112–81, div. A, title III, §364(a), Dec. 31, 2011, 125 Stat. 1380; Pub. L. 113–79, title VIII, §8304(f), Feb. 7, 2014, 128 Stat. 924.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (b). Pub. L. 113–79 inserted "or Department of Agriculture" after "Department of Defense".

2011—Subsec. (b). Pub. L. 112–81 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this subchapter shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged."

2008—Pub. L. 110–181 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–81, div. A, title III, §364(b), Dec. 31, 2011, 125 Stat. 1380, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to reimbursements for expenditures of funds appropriated after the date of the enactment of this Act [Dec. 31, 2011]."

§1856e. Reimbursement of fire funds

(a) Definition of State

In this section, the term "State" means—

(1) a State; and

(2) the Commonwealth of Puerto Rico.

(b) In general

If a State seeks reimbursement for amounts expended for resources and services provided to another State for the management and suppression of a wildfire, the Secretary, subject to subsections (c) and (d)—

(1) may accept the reimbursement amounts from the other State; and

(2) shall pay those amounts to the State seeking reimbursement.

(c) Mutual assistance agreement

As a condition of seeking and providing reimbursement under subsection (b), the State seeking reimbursement and the State providing reimbursement must each have a mutual assistance agreement with the Forest Service or another Federal agency for providing and receiving wildfire management and suppression resources and services.

(d) Terms and conditions

The Secretary may prescribe the terms and conditions determined to be necessary to carry out subsection (b).

(e) Effect on prior reimbursements

Any acceptance of funds or reimbursements made by the Secretary before February 7, 2014, that otherwise would have been authorized under this section shall be considered to have been made in accordance with this section.

(Pub. L. 113–79, title VIII, §8304, Feb. 7, 2014, 128 Stat. 924.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Agricultural Act of 2014, and not as part of act May 27, 1955, which comprises this subchapter.

Section is comprised of section 8304 of Pub. L. 113–79. Subsec. (f) of section 8304 of Pub. L. 113–79 amended section 1856d of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITION OF "SECRETARY"

"Secretary" means the Secretary of Agriculture, see section 9001 of Title 7, Agriculture.

SUBCHAPTER II—WILDFIRE SUPPRESSION WITH FOREIGN FIRE ORGANIZATION

§1856m. Definitions

In this subchapter:

(1) Assume any and all liability

The term "assume any and all liability" means—

(A) the payment of—

(i) any judgment, settlement, fine, penalty, or cost assessment (including prevailing party legal fees) associated with the applicable litigation; and

(ii) any cost incurred in handling the applicable litigation (including legal fees); and

(B) with respect to a Federal firefighter, arranging for, and paying the costs of, representation in the applicable litigation.

(2) Federal firefighter

The term "Federal firefighter" means an individual furnished by the Secretary of Agriculture or the Secretary of the Interior under an agreement entered into under section 1856n of this title.

(3) Foreign fire organization

The term "foreign fire organization" means any foreign governmental, public, or private entity that has wildfire protection resources.

(4) Foreign firefighter

The term "foreign firefighter" means an individual furnished by a foreign fire organization under an agreement entered into under section 1856n of this title.

(5) Wildfire

The term "wildfire" means any forest or range fire.

(6) Wildfire protection resources

The term "wildfire protection resources" means any personnel, supplies, equipment, or other resources required for wildfire presuppression and suppression activities.

(Pub. L. 100–428, §2, as added Pub. L. 112–74, div. E, title IV, §411(2), Dec. 23, 2011, 125 Stat. 1039.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1856m, Pub. L. 100–428, §2, Sept. 9, 1988, 102 Stat. 1615, related to definitions, prior to repeal by Pub. L. 112–74, div. E, title IV, §411(2), Dec. 23, 2011, 125 Stat. 1039.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–11, §1, Apr. 7, 1989, 103 Stat. 15, provided that: "This Act [repealing section 1856p of this title] may be cited as the 'Wildfire Suppression Assistance Act'."

SHORT TITLE

Pub. L. 100–428, §1, Sept. 9, 1988, 102 Stat. 1615, as amended by Pub. L. 112–74, div. E, title IV, §411(1), Dec. 23, 2011, 125 Stat. 1039, provided that: "This Act [enacting this subchapter] may be cited as the 'Emergency Wildfire Suppression Act'."

§1856n. Implementation

(a) Exchange of wildfire protection resources under a reciprocal agreement with a foreign fire organization

(1) Authority to enter into a reciprocal agreement

The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Requirements for a reciprocal agreement

Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) Exchange of wildfire protection resources without a reciprocal agreement

In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States; and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Reimbursement under agreements with Canada

Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under—

(1) the memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982; and

(2) the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982.

(d) Service performed under this subchapter by Federal employees

(1) In general

Any service performed by any employee of the United States under an agreement or otherwise under this subchapter shall constitute service rendered in the line of duty in such employment.

(2) Effect

Except as provided in section 1856n–1 of this title, the performance of such service by any other individual shall not make such individual an employee of the United States.

(Pub. L. 100–428, §3, Sept. 9, 1988, 102 Stat. 1615; Pub. L. 112–74, div. E, title IV, §411(3), Dec. 23, 2011, 125 Stat. 1040.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (a). Pub. L. 112–74, §411(3)(A), inserted headings for subsec. (a) and pars. (1) and (2).
Subsec. (b). Pub. L. 112–74, §411(3)(B)(i), inserted heading.
Subsec. (b)(1). Pub. L. 112–74, §411(3)(B)(ii), substituted "United States; and" for "United States, and".
Subsec. (c). Pub. L. 112–74, §411(3)(C), inserted heading.
Subsec. (d). Pub. L. 112–74, §411(3)(D), inserted subsec. heading, designated first and second sentences as pars. (1) and (2), respectively, inserted par. headings, and substituted "Except as provided in section 1856n–1 of this title, the" for "The" in par. (2).

§1856n–1. Reciprocal agreements with liability coverage

(a) Protection from liability for foreign firefighters and foreign fire organizations

Subject to subsection (b), in an agreement with a foreign fire organization entered into under section 1856n of this title, the Secretary of Agriculture and the Secretary of the Interior may provide that—

(1) a foreign firefighter shall be considered to be an employee of the United States for purposes of tort liability while the foreign firefighter is acting within the scope of an official duty under the agreement; and

(2) any claim against the foreign fire organization or any legal organization associated with the foreign firefighter that arises out of an act or omission of the foreign firefighter in the performance of an official duty under the agreement, or that arises out of any other act, omission, or occurrence for which the foreign fire organization or legal organization associated with the foreign firefighter is legally responsible under applicable law, may be prosecuted only—

(A) against the United States; and

(B) as if the act or omission were the act or omission of an employee of the United States.

(b) Protection from liability for Federal firefighters and the Federal Government

The Secretary of Agriculture and the Secretary of the Interior may provide the protections under subsection (a) if the foreign fire organization agrees—

(1) to assume any and all liability for any legal action brought against the Federal firefighter for

an act or omission of the Federal firefighter while acting within the scope of an official duty under the agreement; and

(2) to the extent the United States or any legal organization associated with the Federal firefighter is not entitled to immunity from the jurisdiction of the courts having jurisdiction over the foreign fire organization receiving the services of the Federal firefighters, to assume any and all liability for any legal action brought against the United States or the legal organization arising out of—

(A) an act or omission of the Federal firefighter in the performance of an official duty under the agreement; or

(B) any other act, omission, or occurrence for which the United States or the legal organization associated with the Federal firefighter is legally responsible under the laws applicable to the foreign fire organization.

(Pub. L. 100–428, §4, as added Pub. L. 112–74, div. E, title IV, §411(5), Dec. 23, 2011, 125 Stat. 1040.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 4 of Pub. L. 100–428 was renumbered section 5 and is classified to section 1856o of this title.

§1856*o*. Funds

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this subchapter, or for reimbursements authorized under this subchapter: *Provided*, That no such funds may be expended for wildfire protection resources (including personnel) provided by a foreign fire organization for wildfire suppression activities unless the Secretary determines that no wildfire protection resources (including personnel) within the United States are reasonably available to provide wildfire suppression.

(Pub. L. 100–428, §5, formerly §4, Sept. 9, 1988, 102 Stat. 1616; renumbered §5 and amended Pub. L. 112–74, div. E, title IV, §411(4), (6), Dec. 23, 2011, 125 Stat. 1040, 1041.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 5 of Pub. L. 100–428 was classified to section 1856p of this title prior to repeal by Pub. L. 101–11.

AMENDMENTS

2011—Pub. L. 112–74, §411(6), substituted "under this subchapter" for "under section 1856n(c) of this title", "wildfire protection resources (including personnel)" for "wildfire protection resources or personnel" in two places, and "provide wildfire suppression" for "provide wildfire protection" and inserted "for wildfire suppression activities" before "unless".

§1856p. Repealed. Pub. L. 101–11, §2, Apr. 7, 1989, 103 Stat. 15

Section, Pub. L. 100–428, §5, Sept. 9, 1988, 102 Stat. 1616, provided that authority to enter into agreements, to furnish or accept emergency wildfire protection resources, or to incur obligations for reimbursement under section 1856n of this title was to terminate Dec. 31, 1988.

CHAPTER 15B—AIR POLLUTION CONTROL

SUBCHAPTER I—AIR POLLUTION PREVENTION AND CONTROL

§§1857 to 1857c–9. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857, act July 14, 1955, ch. 360, title I, §101, formerly §1, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 392; renumbered title I, §101, and amended Oct. 20, 1965, Pub. L. 89–272, title I, §101(2), (3), 79 Stat. 992; Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 485, which related to Congressional findings and declaration of purpose, was transferred to section 7401 of this title.

Section 1857a, act July 14, 1955, ch. 360, title I, §102, formerly §2, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 393; renumbered title I, §102, Oct. 20, 1965, Pub. L. 89–272, title I, §101(3), 79 Stat. 992; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 485; Dec. 31, 1970, Pub. L. 91–604, §15(c)(2), 84 Stat. 1713, which related to cooperative activities, was transferred to section 7402 of this title.

Section 1857b, act July 14, 1955, ch. 360, title I, §103, formerly §3, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 394; renumbered title I, §103, and amended Oct. 20, 1965, Pub. L. 89–272, title I, §§101(3), 103, 79 Stat. 992, 996; Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 486; Dec. 31, 1970, Pub. L. 91–604, §§2(a), 4(2), 15(a)(2), (c)(2), 84 Stat. 1676, 1689, 1710, 1713, which related to research, investigations, training, and other activities, was transferred to section 7403 of this title.

Section 1857b–1, act July 14, 1955, ch. 360, title I, §104, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 487; amended Dec. 5, 1969, Pub. L. 91–137, 83 Stat. 283; Dec. 31, 1970, Pub. L. 91–604, §§2(b), (c), 13(a), 15(c)(2), 84 Stat. 1676, 1677, 1709, 1713; Apr. 9, 1973, Pub. L. 93–15, §1(a), 87 Stat. 11; June 22, 1974, Pub. L. 93–319, §13(a), 88 Stat. 265, which provided for research relating to fuels and vehicles, was transferred to section 7404 of this title.

Section 1857c, act July 14, 1955, ch. 360, title I, §105, formerly §4, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 395; renumbered and amended §104, Oct. 20, 1965, Pub. L. 89–272, title I, §101(2)–(4), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89–675, §3, 80 Stat. 954; renumbered title I, §105, and amended §105, Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 489; Dec. 31, 1970, Pub. L. 91–604, §§3(a), (b)(1), 15(c)(2), 84 Stat. 1677, 1713, which related to grants for support of air pollution planning and control programs, was transferred to section 7405 of this title.

Section 1857c–1, act July 14, 1955, ch. 360, title I, §106, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 490; amended Dec. 31, 1970, Pub. L. 91–604, §3(c), 84 Stat. 1677, which related to interstate air quality agencies and program cost limitations, was transferred to section 7406 of this title.

Section 1857c–2, act July 14, 1955, ch. 360, title I, §107, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1678, which related to air quality control regions, was transferred to section 7407 of this title.

Section 1857c–3, act July 14, 1955, ch. 360, title I, §108, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1678, which related to air quality criteria and control techniques, was transferred to section 7408 of this title.

Section 1857c–4, act July 14, 1955, ch. 360, title I, §109, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1679, which related to procedure for and promulgation of national primary and secondary ambient air quality standards, was transferred to section 7409 of this title.

Section 1857c–5, act July 14, 1955, ch. 360, title I, §110, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1680; amended June 22, 1974, Pub. L. 93–319, §4, 88 Stat. 256; S. Res. 4, Feb. 4, 1977, which related to State implementation plans for national primary and secondary ambient air quality standards, was transferred to section 7410 of this title.

Section 1857c–6, act July 14, 1955, ch. 360, title I, §111, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1683; amended Nov. 18, 1971, Pub. L. 92–157, title III, §302(f), 85 Stat. 464, which related to standards of performance for new stationary sources, was transferred to section 7411 of this title.

Section 1857c–7, act July 14, 1955, ch. 360, title I, §112, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84

Stat. 1685, which related to national emission standards for hazardous air pollutants, was transferred to section 7412 of this title.

Section 1857c–8, act July 14, 1955, ch. 360, title I, §113, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1686; amended Nov. 18, 1971, Pub. L. 92–157, title III, §302(b), (c), 85 Stat. 464; June 22, 1974, Pub. L. 93–319, §6(a)(1)–(3), 88 Stat. 259, which related to Federal enforcement procedures, was transferred to section 7413 of this title.

Section 1857c–9, act July 14, 1955, ch. 360, title I, §114, as added Dec. 31, 1970, Pub. L. 91–604, §4(a), 84 Stat. 1687; amended June 22, 1974, Pub. L. 93–319, §6(a)(4), 88 Stat. 259, which related to recordkeeping, inspections, monitoring, and entry, was transferred to section 7414 of this title.

§1857c–10. Repealed. Pub. L. 95–95, title I, §112(b)(1), Aug. 7, 1977, 91 Stat. 709

Section, act July 14, 1955, ch. 360, title I, §119, as added June 22, 1974, Pub. L. 93–319, §3, 88 Stat. 248, related to the authority of the Administrator of the Environmental Protection Agency to deal with energy shortages. See section 7413 of this title.

References to section 1857c–10 appearing in section 792 of Title 15, Commerce and Trade, shall be construed to refer to section 7413(d) of Title 42, The Public Health and Welfare, see Compliance Orders note set out under section 792 of Title 15.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 7, 1977, see section 406 of Pub. L. 95–95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§§1857d to 1857f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857d, act July 14, 1955, ch. 360, title I, §115, formerly §5, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 396; renumbered §105 and amended Oct. 20, 1965, Pub. L. 89–272, title I, §§101(2), (3), 102, 79 Stat. 992, 995; renumbered §108 and amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 491; renumbered §115 and amended Dec. 31, 1970, Pub. L. 91–604, §§4(a), (b)(2)–(10), 15(c)(2), 84 Stat. 1678, 1688, 1689, 1713, which related to abatement of air pollution by means of conference procedure, was transferred to section 7415 of this title.

Section 1857d–1, act July 14, 1955, ch. 360, title I, §116, formerly §109 as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 497; renumbered and amended Dec. 31, 1970, Pub. L. 91–604, §4(a), (c), 84 Stat. 1678, 1689; June 22, 1974, Pub. L. 93–319, §6(b), 88 Stat. 259, which related to retention of State authority concerning air pollution, was transferred to section 7416 of this title.

Section 1857e, act July 14, 1955, ch. 360, title I, §117, formerly §6, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 399; renumbered §106, Oct. 20, 1965, Pub. L. 89–272, title I, §101(3), 79 Stat. 992; renumbered §110 and amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 498; renumbered §117 and amended Dec. 31, 1970, Pub. L. 91–604, §§4(a), (d), 15(c)(2), 84 Stat. 1678, 1689, 1713, which related to an Air Quality Advisory Board and to advisory committees, was transferred to section 7417 of this title.

Section 1857f, act July 14, 1955, ch. 360, title I, §118, formerly §7, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 399; renumbered §107, Oct. 20, 1965, Pub. L. 89–272, title I, §101(3), 79 Stat. 992; renumbered §111 and amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 499; renumbered §118 and amended Dec. 31, 1970, Pub. L. 91–604, §§4(a), 5, 84 Stat. 1678, 1689, which related to control and abatement of air pollution from Federal facilities, Presidential exemption, and report to Congress on Presidential exemptions, was transferred to section 7418 of this title.

SUBCHAPTER II—EMISSION STANDARDS FOR MOVING SOURCES

§§1857f–1 to 1857f–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857f–1, act July 14, 1955, ch. 360, title II, §202, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 992; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91–604, §6(a), 84 Stat. 1690; June 22, 1974, Pub. L. 93–319, §5, 88 Stat. 258, which related to establishment of motor vehicle emission and fuel standards, was transferred to section 7521 of this title.

Section 1857f–2, act July 14, 1955, ch. 360, title II, §203, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 993; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 499; Dec. 31, 1970, Pub. L. 91–604, §§7(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1693, 1705, 1713, which related to prohibited acts with regard to motor vehicle emissions, was transferred to section 7522 of this title.

Section 1857f–3, act July 14, 1955, ch. 360, title II, §204, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 994; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91–604, §7(b), 84 Stat. 1694, which related to subpenas and to jurisdiction of district courts to restrain violations, was transferred to section 7523 of this title.

Section 1857f–4, act July 14, 1955, ch. 360, title II, §205, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 994; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 500; Dec. 31, 1970, Pub. L. 91–604, §7(c), 84 Stat. 1694, which related to penalties for violations, was transferred to section 7524 of this title.

Section 1857f–5, act July 14, 1955, ch. 360, title II, §206, as added Dec. 31, 1970, Pub. L. 91–604, §8(a), 84 Stat. 1694, which related to motor vehicle and motor vehicle engine compliance testing and certification, was transferred to section 7525 of this title.

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

§§1857f–5a to 1857f–6c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857f–5a, act July 14, 1955, ch. 360, title II, §207, as added Dec. 31, 1970, Pub. L. 91–604, §8(a), 84 Stat. 1696, which related to compliance by vehicles and engines in actual use, was transferred to section 7541 of this title.

Section 1857f–6, act July 14, 1955, ch. 360, title II, §208, formerly §207, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 994; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 501; renumbered and amended Dec. 31, 1970, Pub. L. 91–604, §§8(a), 10(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1700, 1705, 1713, which related to reports, records, and information required, access to and copying records, availability of records to the public, and disclosure of trade secrets, was transferred to section 7542 of this title.

Section 1857f–6a, act July 14, 1955, ch. 360, title II, §209, formerly §208, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 501; renumbered and amended Dec. 31, 1970, Pub. L. 91–604, §§8(a), 11(a)(2)(A), 15(c)(2), 84 Stat. 1694, 1705, 1713, which related to State standards regarding control of emissions from new motor vehicles or new motor vehicle engines, was transferred to section 7543 of this title.

Section 1857f–6b, act July 14, 1955, ch. 360, title II, §210, formerly §209, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 502; renumbered and amended Dec. 31, 1970, Pub. L. 91–604, §§8(a), 10(b), 84 Stat. 1694, 1700, which related to Federal assistance in developing and maintaining vehicle emission devices and systems inspection and emission testing and control programs, was transferred to section 7544 of this title.

Section 1857f–6c, act July 14, 1955, ch. 360, title II, §211, formerly §210, as added Nov. 21, 1967, Pub. L.

90–148, §2, 81 Stat. 502; renumbered and amended Dec. 31, 1970, Pub. L. 91–604, §§8(a), 9(a), 84 Stat. 1694, 1698; Nov. 18, 1971, Pub. L. 92–157, title III, §302(d), (e), 85 Stat. 464, which related to regulation of fuels, was transferred to section 7545 of this title.

§1857f–6d. Repealed. Pub. L. 91–604, §8(a), Dec. 31, 1970, 84 Stat. 1694

Section, act July 14, 1955, ch. 360, title II, §211, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 503, provided for a national emissions standards study for stationary sources to be conducted by the Secretary, with a report and recommendations to be submitted to the Congress by Nov. 21, 1969, and for a study of the feasibility of controls for jet and piston aircraft engines, with a report thereon to Congress by Nov. 21, 1968.

§§1857f–6e to 1857f–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857f–6e, act July 14, 1955, ch. 360, title II, §212, as added Dec. 31, 1970, Pub. L. 91–604, §10(c), 84 Stat. 1700; amended Apr. 9, 1973, Pub. L. 93–15, §1(b), 87 Stat. 11; June 22, 1974, Pub. L. 93–319, §13(b), 88 Stat. 265, which related to low emission vehicles, was transferred to section 7546 of this title.

Section 1857f–6f, act July 14, 1955, ch. 360, title II, §213, as added June 22, 1974, Pub. L. 93–319, §10, 88 Stat. 261; amended S. Res. 4, Feb. 4, 1977, which related to fuel economy for new vehicles, was transferred to section 7547 of this title.

Section 1857f–7, act July 14, 1955, ch. 360, title II, §214, formerly §208, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 994; renumbered §212 and amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 503; renumbered §213 and amended Dec. 31, 1970, Pub. L. 91–604, §§8(a), 10(d), 11(a)(2)(A), 84 Stat. 1694, 1703, 1705; renumbered §214, June 22, 1974, Pub. L. 93–319, §10, 88 Stat. 261, which related to definitions concerning motor vehicle emission and fuel standards, was transferred to section 7550 of this title.

§1857f–8. Repealed. Pub. L. 89–675, §2(b), Oct. 15, 1966, 80 Stat. 954

Section, act July 14, 1955, ch. 360, title II, §209, as added Oct. 20, 1965, Pub. L. 89–272, title I, §101(8), 79 Stat. 995, authorized appropriations for the fiscal years ending June 30, 1966, 1967, 1968, and 1969, to carry out sections 1857f–1 to 1857f–7. See section 1857l of this title.

PART B—AIRCRAFT EMISSION STANDARDS

§§1857f–9 to 1857f–12. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857f–9, act July 14, 1955, ch. 360, title II, §231, as added Dec. 31, 1970, Pub. L. 91–604, §11(a)(1), 84 Stat. 1703, which related to the establishment of aircraft emission standards, was transferred to section 7571 of this title.

Section 1857f–10, act July 14, 1955, ch. 360, title II, §232, as added Dec. 31, 1970, Pub. L. 91–604, §11(a)(1), 84 Stat. 1704, which related to enforcement of aircraft emission standards, was transferred to section 7572 of this title.

Section 1857f–11, act July 14, 1955, ch. 360, title II, §233, as added Dec. 31, 1970, Pub. L. 91–604, §11(a)(1), 84 Stat. 1704, which related to State standards and controls regarding aircraft emissions, was

transferred to section 7573 of this title.

Section 1857f–12, act July 14, 1955, ch. 360, title II, §234, as added Dec. 31, 1970, Pub. L. 91–604, §11(a)(1), 84 Stat. 1705, related to definitions concerning aircraft emissions standards, was transferred to section 7574 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§§1857g to 1857k. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1857g, act July 14, 1955, ch. 360, title III, §301, formerly §8, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 400; renumbered title III, §301, Oct. 20, 1965, Pub. L. 89–272, title I, §101(4), 79 Stat. 992; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91–604, §§3(b)(2), 15(c)(2), 84 Stat. 1677, 1713, which related to administration of air pollution control, was transferred to section 7601 of this title.

Section 1857h, act July 14, 1955, ch. 360, title III, §302, formerly §9, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 400; renumbered title III, §302, Oct. 20, 1965, Pub. L. 89–272, title I, §101(4), 79 Stat. 992; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 504; Dec. 31, 1970, Pub. L. 91–604, §15(a)(1), (c)(1), 84 Stat. 1710, 1713, which related to definitions concerning air pollution control, was transferred to section 7602 of this title.

Section 1857h–1, act July 14, 1955, ch. 360, title III, §303, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1705, which related to emergency powers of the Administrator, was transferred to section 7603 of this title.

Section 1857h–2, act July 14, 1955, ch. 360, title III, §304, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1706, which related to citizen suits, was transferred to section 7604 of this title.

Section 1857h–3, act July 14, 1955, ch. 360, title III, §305, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1707, which related to legal representation of the Administrator and appearance by the Attorney General, was transferred to section 7605 of this title.

Section 1857h–4, act July 14, 1955, ch. 360, title III, §306, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1707, which related to Federal procurement, was transferred to section 7606 of this title.

Section 1857h–5, act July 14, 1955, ch. 360, title III, §307, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1707; amended Nov. 18, 1971, Pub. L. 92–157, title III, §302(a), 85 Stat. 464; June 22, 1974, Pub. L. 93–319, §6(c), 88 Stat. 259, which related to administrative proceedings and judicial review, was transferred to section 7607 of this title.

Section 1857h–6, act July 4, 1955, ch. 360, title III, §308, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1708, which related to mandatory licensing, was transferred to section 7608 of this title.

Section 1857h–7, act July 14, 1955, ch. 360, title III, §309, as added Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1709, which related to policy review, was transferred to section 7609 of this title.

Section 1857i, act July 14, 1955, ch. 360, title III, §310, formerly §10, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 401; renumbered title III, §303, Oct. 20, 1965, Pub. L. 89–272, title I, §101(4), 79 Stat. 992; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 505; renumbered §310 and amended Dec. 31, 1970, Pub. L. 91–604, §§12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to application to other laws and nonduplication of appropriations, was transferred to section 7610 of this title.

Section 1857j, act July 14, 1955, ch. 360, title III, §311, formerly §11, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 401; renumbered title III, §304, Oct. 20, 1965, Pub. L. 89–272, title I, §101(4), 79 Stat. 992; amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 505; renumbered §311 and amended Dec. 31, 1970, Pub. L. 91–604, §§12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to records and audits, was transferred to section 7611 of this title.

Section 1857j–1, act July 14, 1955, ch. 360, title III, §312, formerly §305, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 505; renumbered §312 and amended Dec. 31, 1970, Pub. L. 91–604, §§12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to cost studies, was transferred to section 7612 of this title.

Section 1857j–2, act July 14, 1955, ch. 360, title III, §313, formerly §306, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 506; renumbered §313 and amended Dec. 31, 1970, Pub. L. 91–604, §§12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to additional reports to Congress, was transferred to section 7613 of this title.

Section 1857j–3, act July 14, 1955, ch. 360, title III, §314, formerly §307, as added Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 506; renumbered §314 and amended Dec. 31, 1970, Pub. L. 91–604, §§12(a), 15(c)(2), 84 Stat. 1705, 1713, which related to labor standards, was transferred to section 7614 of this title.

Section 1857k, act July 14, 1955, ch. 360, title III, §315, formerly §12, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 401; renumbered title III, §305, Oct. 20, 1965, Pub. L. 89–272, title I, §101(4), 79 Stat. 992; renumbered §308 and amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 506; renumbered §315, Dec. 31, 1970, Pub. L. 91–604, §12(a), 84 Stat. 1705, which related to separability of provisions, was transferred to section 7615 of this title.

§1857*l*. Repealed. Pub. L. 95–95, title III, §306, Aug. 7, 1977, 91 Stat. 777

Section, act July 14, 1955, ch. 360, title III, §316, formerly §13, as added Dec. 17, 1963, Pub. L. 88–206, §1, 77 Stat. 401; renumbered title III, §306, and amended Oct. 20, 1965, Pub. L. 89–272, title I, §101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89–675, §2(a), 80 Stat. 954; renumbered §309 and amended Nov. 21, 1967, Pub. L. 90–148, §2, 81 Stat. 506; renumbered §316 and amended Dec. 31, 1970, Pub. L. 91–604, §§12(a), 13(b), 84 Stat. 1705, 1709; Apr. 9, 1973, Pub. L. 93–15, §1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93–319, §13(c), 88 Stat. 265, authorized appropriations for air pollution control. See section 7626 of this title.

SUBCHAPTER IV—NOISE POLLUTION

§§1858, 1858a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1858, act July 14, 1955, ch. 360, title IV, §402, as added Dec. 31, 1970, Pub. L. 91–604, §14, 84 Stat. 1709, which established Office of Noise Abatement and Control and authorized investigation of noise and its effects on public health and welfare and a report to Congress on results of this investigation, was transferred to section 7641 of this title.

Section 1858a, act July 14, 1955, ch. 360, title IV, §403, as added Dec. 31, 1970, Pub. L. 91–604, §14, 84 Stat. 1710, which authorized appropriations concerning noise pollution, was transferred to section 7642 of this title.

CHAPTER 16—NATIONAL SCIENCE FOUNDATION

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§1861. Establishment; composition

There is established in the executive branch of the Government an independent agency to be known as the National Science Foundation (hereinafter referred to as the "Foundation"). The Foundation shall consist of a National Science Board (hereinafter referred to as the "Board") and a Director.

(May 10, 1950, ch. 171, §2, 64 Stat. 149.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 116–339, §1, Jan. 13, 2021, 134 Stat. 5126, provided that: "This Act [enacting section 1862v of this title and provisions set out as a note under section 1862v of this title] may be cited as the 'Advancing Research to Prevent Suicide Act'."

Pub. L. 116–335, §1(a), Jan. 13, 2021, 134 Stat. 5117, provided that: "This Act [enacting section 1862u of this title and provisions set out as a note under section 1862u of this title] may be cited as the 'Expanding Findings for Federal Opioid Research and Treatment Act' or the 'EFFORT Act'."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–115, §1, Feb. 11, 2020, 134 Stat. 106, provided that: "This Act [enacting section 1862t of this title, amending sections 1862n–1 and 1862n–1a of this title and section 7404 of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 1862t of this title] may be cited as the 'Supporting Veterans in STEM Careers Act'."

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116–102, §1, Dec. 24, 2019, 133 Stat. 3263, provided that: "This Act [amending sections 1862s–5 and 1862s–7 of this title and enacting provisions set out as notes under section 1862s–5 of this title] may be cited as the 'Building Blocks of STEM Act'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–402, §1, Dec. 31, 2018, 132 Stat. 5343, provided that: "This Act [amending section 1862i of this title and enacting provisions set out as notes under sections 1862i and 1862p of this title] may be cited as the 'Innovations in Mentoring, Training, and Apprenticeships Act'."

Pub. L. 115–303, §1, Dec. 11, 2018, 132 Stat. 4399, provided that: "This Act [amending sections 1862n–1 and 1862n–1a of this title and enacting provisions set out as notes under section 1862n–1 of this title and preceding section 40901 of Title 51, National and Commercial Space Programs] may be cited as the 'Women in Aerospace Education Act'."

SHORT TITLE OF 2017 AMENDMENT

Pub. L. 115–6, §1, Feb. 28, 2017, 131 Stat. 11, provided that: "This Act [amending section 1885a of this title and enacting provisions set out as a note under section 1885a of this title] may be cited as the 'Promoting Women in Entrepreneurship Act'."

Pub. L. 114–329, §1(a), Jan. 6, 2017, 130 Stat. 2969, provided that: "This Act [see Tables for classification] may be cited as the 'American Innovation and Competitiveness Act'."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–124, §1, Feb. 18, 2016, 130 Stat. 120, provided that: "This Act [enacting sections 1862r and 1862r–1 of this title and provisions set out as notes under sections 1862r and 1862r–1 of this title] may be cited as the 'Research Excellence and Advancements for Dyslexia Act' or the 'READ Act'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–59, §1, Oct. 7, 2015, 129 Stat. 540, provided that: "This Act [enacting section 1862q of this title, amending sections 1862n–1 and 1862n–1a of this title, and enacting provisions set out as a note under

section 6621 of this title] may be cited as the 'STEM Education Act of 2015'."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–358, §1(a), Jan. 4, 2011, 124 Stat. 3982, provided that: "this [probably should be "This"] Act [see Tables for classification] may be cited as the 'America COMPETES Reauthorization Act of 2010' or the 'America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010'."

Pub. L. 111–358, title V, §501, Jan. 4, 2011, 124 Stat. 4005, provided that: "This subtitle [subtitle A (§§501–527) of title V of Pub. L. 111–358, enacting sections 1862p to 1862p–15 of this title, amending sections 1862n–1a, 1862n–5, 1863, and 1869 of this title, and enacting provisions set out as notes under sections 1862p and 1869 of this title] may be cited as the 'National Science Foundation Authorization Act of 2010'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–368, §1, Dec. 19, 2002, 116 Stat. 3034, provided that: "This Act [enacting sections 1862n to 1862n–10 of this title, amending sections 1862i, 1862l, 1863, 1873, and 1885 of this title, enacting provisions set out as notes under sections 1862b, 1862g, 1862n, 1864, and 1885c of this title, and amending provisions set out as a note under section 1862k of this title] may be cited as the 'National Science Foundation Authorization Act of 2002'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–207, §1, July 29, 1998, 112 Stat. 869, provided that: "This Act [enacting sections 1862k to 1862m of this title, amending sections 1862, 1863, 1864, 1873, 1874, 1881a, 1881b, 1885b, 1885c, and 6686 of this title, and enacting provisions set out as notes under sections 1862k and 6686 of this title] may be cited as the 'National Science Foundation Authorization Act of 1998'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–476, §1, Oct. 23, 1992, 106 Stat. 2297, provided that: "This Act [enacting sections 1862h to 1862j of this title and amending section 1862 of this title] may be cited as the 'Scientific and Advanced-Technology Act of 1992'."

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–570, §1, Oct. 31, 1988, 102 Stat. 2865, provided that: "This Act [enacting sections 1862a to 1862g, 1870a, and 1881b of this title, amending sections 1863, 1873, 1874, and 1885c of this title and sections 3011 to 3013 of Title 20, Education, repealing former sections 1862a and 1862b of this title, enacting provisions set out as notes under sections 1861, 1875, and 7704 of this title and section 3911 of Title 20, and repealing provisions set out as a note under section 1861 of this title] may be cited as the 'National Science Foundation Authorization Act of 1988'."

Pub. L. 100–570, title II, §201, Oct. 31, 1988, 102 Stat. 2873, provided that: "This title [enacting sections 1862a to 1862d of this title, repealing former sections 1862a and 1862b of this title, and repealing provisions set out as a note under section 1861 of this title] may be cited as the 'Academic Research Facilities Modernization Act of 1988'."

Pub. L. 100–418, title VI, §6401, Aug. 23, 1988, 102 Stat. 1542, which provided that subtitle E (§§6401–6403) of title VI of Pub. L. 100–418, enacting sections 1862a and 1862b of this title, was to be cited as the "National Science Foundation University Infrastructure Act of 1988", was repealed by Pub. L. 100–570, title II, §206, Oct. 31, 1988, 102 Stat. 2878.

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–383, §1, Aug. 21, 1986, 100 Stat. 813, provided: "That this Act [amending sections 1862, 1864a, 1869, and 1870 of this title and section 5316 of Title 5, Government Organization and Employees, repealing sections 1876 to 1879 of this title, and enacting provisions set out as notes under sections 1885a and 6614 of this title] may be cited as the 'National Science Foundation Authorization Act for Fiscal Year 1987'."

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–159, title I, §101, Nov. 22, 1985, 99 Stat. 887, provided that: "This title [enacting section 1886 of this title, amending sections 1862, 1863, 1864, 1868 to 1872, 1873, 1874, 1881a, 1882, and 1885 to 1885d of this title, repealing sections 1873a and 1884 of this title, and amending provisions set out as notes under sections 1861 and 1882 of this title] may be cited as the 'National Science Foundation Authorization Act for Fiscal Year 1986'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–516, §1, Dec. 12, 1980, 94 Stat. 3007, as amended by Pub. L. 99–159, title I, §111(a), Nov. 22, 1985, 99 Stat. 892, provided: "That this Act [enacting sections 1885 to 1885d of this title, amending sections 1863, 1874, 1875, 1881, and 1881a of this title, and enacting provisions set out as notes under sections 1861, 1864, 1866, and 1885 of this title] may be cited as the 'National Science Foundation Authorization and Science and Engineering Equal Opportunities Act'."

Pub. L. 96–516, §31, Dec. 12, 1980, 94 Stat. 3010, as amended by Pub. L. 99–159, title I, §111(b)(1), Nov. 22, 1985, 99 Stat. 892, provided that: "This part [part B (§§31–39), enacting sections 1885 to 1885d of this title, and provisions set out as notes under section 1885 of this title] may be cited as the 'Science and Engineering Equal Opportunities Act'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–99, §1, Aug. 15, 1977, 91 Stat. 831, provided: "That this Act [enacting sections 1869b, 1873a, and 1884 of this title, amending sections 1862, 1863, 1873, and 1882 of this title, and enacting provisions set out as a note under section 1862 of this title] may be cited as the 'National Science Foundation Authorization Act, Fiscal Year 1978'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–471, §1, Oct. 11, 1976, 90 Stat. 2053, provided: "That this Act [enacting sections 1882 and 1883 of this title, amending section 1863 of this title, and enacting provisions set out as notes under sections 1862, 1864, 1873, and 5820 of this title] may be cited as the 'National Science Foundation Authorization Act, 1977'."

SHORT TITLE

Act May 10, 1950, ch. 171, §1, 64 Stat. 149, provided: "That this Act [enacting this chapter] may be cited as the 'National Science Foundation Act of 1950'."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION

Amendments by Pub. L. 90–407, July 18, 1868, 82 Stat. 360, intended to continue in effect the existing offices, procedures, and organization of the Foundation as provided by this chapter, part II of Reorg. Plan No. 2 of 1962 [set out below], and Reorg. Plan, No. 5 of 1965 [set out in Appendix to Title 5, Government Organization and Employees], but on and after July 18, 1968, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, as being of no force or affect, and nothing in Pub. L. 90–407 as altering or affecting any transfers of functions made by part I of Reorg. Plan No. 2 of 1962, see section 16 of Pub. L. 90–407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Science and Technology, including offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorg. Plan No. 2 of 1962, abolished and all functions vested by law in Office of Science and Technology or Director or Deputy Director of Office of Science and Technology transferred to Director of National Science Foundation by sections 2 and 3(a)(5) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

REORGANIZATION PLAN NO. 2 OF 1962

Eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, as amended Pub. L. 88–426, title III, §305(41), Aug. 14, 1964, 78 Stat. 427; Pub. L. 94–282, title V, §502, May 11, 1976, 90 Stat. 472

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 29, 1962, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

CERTAIN SCIENCE AGENCIES AND FUNCTIONS

PART I—OFFICE OF SCIENCE AND TECHNOLOGY

Sec. 1. [Repealed. Pub. L. 94–282, title V, §502, May 11, 1976, 90 Stat. 472. Section established, in Executive Office of the President, the Office of Science and Technology.]

Sec. 2. [Repealed. Pub. L. 94–282, title V, §502, May 11, 1976, 90 Stat. 472. Section as amended by Pub.

L. 88–426, title III, §305(41)(A), (B), Aug. 14, 1964, 78 Stat. 427, 428, authorized appointment of Director and Deputy Director of Office of Science and Technology by the President by and with the advice and consent of the Senate.]

Sec. 3. [Repealed. Pub. L. 94–282, title V, §502, May 11, 1976, 90 Stat. 472. Section transferred to Director of the Office of Science and Technology, from National Science Foundation, certain functions formerly conferred upon the Foundation.]

Sec. 4. [Repealed. Pub. L. 94–282, title V, §502, May 11, 1976, 90 Stat. 472. Section authorized Director of the Office of Science and Technology to appoint employees necessary for work of the Office under classified civil service and to fix their compensation in accordance with the classification laws.]

PART II—NATIONAL SCIENCE FOUNDATION

SECTION 21. EXECUTIVE COMMITTEE

(a) There is hereby established the Executive Committee of the National Science Board, hereafter in this Part referred to as the Executive Committee, which shall be composed of five voting members. Four of the members shall be elected as hereinafter provided. The Director provided for in section 22 of this reorganization plan, ex officio, shall be the fifth member and the chairman of the Executive Committee.

(b) At its annual meeting held in 1964 and at each of its succeeding annual meetings the National Science Board, hereafter in this Part referred to as the Board, shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person who has been a member of the Executive Committee (established by this reorganization plan) for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) At its first meeting held after the effective date of this section the Board shall elect four of its members as members of the Executive Committee. As designated by the Board, two of the Executive Committee members so elected shall hold office as such members until the date of the annual meeting of the Board held in 1964 and the other two members so elected shall hold such office until the annual meeting of the Board held in 1965.

(d) Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(e) The functions conferred upon the Executive Committee now existing under the provisions of the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.], by the provisions of section 6 of the National Science Foundation Act of 1950 (42 U.S.C. 1865) or otherwise, are hereby transferred to the Executive Committee established by the provisions of this Part; and the authority of the National Science Board to assign its powers and functions to the now-existing Executive Committee, and statutory limitations upon such assignment, shall hereafter be applicable to the Executive Committee established by the provisions of this Part.

SEC. 22. DIRECTOR

(a) There is hereby established in the National Science Foundation a new office with the title of Director of the National Science Foundation. The Director of the National Science Foundation, hereafter in this Part referred to as the Director, shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall serve for a term of six years unless sooner removed by the President. The Director shall not engage in any business, vocation or employment other than that of serving as such Director, nor shall he, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any contract or other arrangement under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.].

(b) Except to the extent inconsistent with the provisions of section 23(b)(2) of this reorganization plan, all functions of the office of Director of the National Science Foundation abolished by the provisions of 23(a)(2) hereof are hereby transferred to the office of Director established by the provisions of subsection (a) of this section.

(c) The Director, ex officio, shall be an additional member of the Board and, except in respect of compensation and tenure, shall be coordinate with other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as chairman or vice chairman of the Board. [As amended Pub. L. 88–426, title III, §305(41)(C), Aug. 14, 1964, 78 Stat. 428.]

SEC. 23. ABOLITIONS

(a) The following agencies, now existing under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.], are hereby abolished:

(1) The Executive Committee of the National Science Board (section 6 of Act; 42 U.S.C. 1865).

(2) The office of Director of the National Science Foundation (sections 2 and 5 of Act; 42 U.S.C. 1861, 1864).

(b) There are also hereby abolished:

(1) The functions conferred upon the National Science Board by that part of section 6(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1865(a)) which reads "The Board is authorized to appoint from among its members an Executive Committee".

(2) The functions of the Director of the National Science Foundation provided for in sections 4(a) and 5(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(a), 1864(a)) with respect to serving as a nonvoting member of the Board and his functions with respect to serving as a nonvoting member of the Executive Committee provided for in section 6(b) of that Act (42 U.S.C. 1865(b)).

(3) So much of the functions conferred upon divisional committees by the provisions of section 8(d) of the National Science Foundation Act of 1950 (42 U.S.C. 1867(d)) as consists of making recommendations to, and advising and consulting with, the Board.

(c) The provisions of sections 23(a)(1) and 23(b)(1) hereof shall become effective on the date of the first meeting of the Board held after the effective date of the other provisions of this reorganization plan.

PART III. TRANSITIONAL PROVISIONS

SECTION 31. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions transferred by the provisions of section 3 of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Science and Technology at such time or times as the said Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 32. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of Part I of the reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Science and Technology until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may authorize any person who immediately prior to the effective date of section 22 of this reorganization plan holds any office existing under the provisions of the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.] to act as Director of the National Science Foundation until the Office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

[Amendments by Pub. L. 90–407, July 18, 1968, 82 Stat. 360, intended to continue in effect the existing offices, procedures, and organization of the National Science Foundation as provided by this chapter, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, but on and after July 18, 1968, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, as being of no force or effect, and nothing in Pub. L. 90–407 as altering or affecting any transfers of functions made by part I of Reorg. Plan No. 2 of 1962, see section 16 of Pub. L. 90–407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of this title.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1962, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for certain reorganizations in the field of science and technology.

Part I of the reorganization plan establishes the Office of Science and Technology as a new unit within the Executive Office of the President; places at the head thereof a Director appointed by the President by and with the advice and consent of the Senate and makes provision for a Deputy Director similarly appointed; and transfers to the Director certain functions of the National Science Foundation under sections 3(a)(1) and 3(a)(6) of the National Science Foundation Act of 1950.

The new arrangements incorporated in part I of the reorganization plan will constitute an important development in executive branch organization for science and technology. Under those arrangements the President will have permanent staff resources capable of advising and assisting him on matters of national policy affected by or pertaining to science and technology. Considering the rapid growth and far-reaching scope of Federal activities in science and technology, it is imperative that the President have adequate staff support in developing policies and evaluating programs in order to assure that science and technology are used most effectively in the interests of national security and general welfare.

To this end it is contemplated that the Director will assist the President in discharging the responsibility of the President for the proper coordination of Federal science and technology functions. More particularly, it is expected that he will advise and assist the President as the President may request with respect to—

(1) Major policies, plans, and programs of science and technology of the various agencies of the Federal Government, giving appropriate emphasis to the relationship of science and technology to national security and foreign policy, and measures for furthering science and technology in the Nation.

(2) Assessment of selected scientific and technical developments and programs in relation to their impact on national policies.

(3) Review, integration, and coordination of major Federal activities in science and technology, giving due consideration to the effects of such activities on non-Federal resources and institutions.

(4) Assuring that good close relations exist with the Nation's scientific and engineering communities so as to further in every appropriate way their participation in strengthening science and technology in the United States and the free world.

(5) Such other matters consonant with law as may be assigned by the President to the Office.

The ever-growing significance and complexity of Federal programs in science and technology have in recent years necessitated the taking of several steps for improving the organizational arrangements of the executive branch in relation to science and technology:

(1) The National Science Foundation was established in 1950. The Foundation was created to meet a widely recognized need for an organization to develop and encourage a national policy for the promotion of basic research and education in the sciences, to support basic research, to evaluate research programs undertaken by Federal agencies, and to perform related functions.

(2) The Office of the Special Assistant to the President for Science and Technology was established in 1957. The Special Assistant serves as Chairman of both the President's Science Advisory Committee and the Federal Council for Science and Technology, mentioned below.

(3) At the same time, the Science Advisory Committee, composed of eminent non-Government scientists and engineers, and located within the Office of Defense Mobilization, was reconstituted in the White House Office as the President's Science Advisory Committee.

(4) The Federal Council for Science and Technology, composed of policy officials of the principal agencies engaged in scientific and technical activities, was established in 1959.

The National Science Foundation has proved to be an effective instrument for administering sizable programs in support of basic research and education in the sciences and has set an example for other agencies through the administration of its own programs. However, the Foundation, being at the same organizational level as other agencies, cannot satisfactorily coordinate Federal science policies or evaluate programs of other agencies. Science policies, transcending agency lines, need to be coordinated and shaped at the level of the Executive Office of the President drawing upon many resources both within and outside of Government. Similarly, staff efforts at that higher level are required for the evaluation of Government programs in science and technology.

Thus, the further steps contained in part I of the reorganization plan are now needed in order to meet most effectively new and expanding requirements brought about by the rapid and far-reaching growth of the Government's research and development programs. These requirements call for the further strengthening of science organization at the Presidential level and for the adjustment of the Foundation's role to reflect changed conditions. The Foundation will continue to originate policy proposals and recommendations concerning the support of basic research and education in the sciences, and the new Office will look to the Foundation to provide studies and information on which sound national policies in science and technology can be based.

Part I of the reorganization plan will permit some strengthening of the staff and consultant resources now available to the President in respect of scientific and technical factors affecting executive branch policies and

will also facilitate communication with the Congress.

Part II of the reorganization plan provides for certain reorganizations within the National Science Foundation which will strengthen the capability of the Director of the Foundation to exert leadership and otherwise further the effectiveness of administration of the Foundation. Specifically:

(1) There is established a new office of Director of the National Science Foundation and that Director, ex officio, is made a member of the National Science Board on a basis coordinate with that of other Board members.

(2) There is substituted for the now-existing Executive Committee of the National Science Board a new Executive Committee composed of the Director of the National Science Foundation, ex officio, as a voting member and Chairman of the Committee, and of four other members elected by the National Science Board from among its appointive members.

(3) Committees advisory to each of the divisions of the Foundation will make their recommendations to the Director only rather than to both the Director and the National Science Board.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1962 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have found and hereby declare that it is necessary to include in the reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of the Director and Deputy Director of the Office of Science and Technology and of the Director of the National Science Foundation. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The functions abolished by the provisions of section 23(b) of the reorganization plan are provided for in sections 4(a), 5(a), 6(a), 6(b), and 8(d) of the National Science Foundation Act of 1950.

The taking effect of the reorganizations included in the reorganization plan will provide sound organizational arrangements and will make possible more effective and efficient administration of Government programs in science and technology. It is, however, impracticable to itemize at this time the reductions in expenditures which it is probable will be brought about by such taking effect.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, March 29, 1962.

§1862. Functions

(a) Initiation and support of studies and programs; scholarships; current register of scientific and engineering personnel

The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, social, and other sciences, and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific, engineering, and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 1869 of this title, scholarships and graduate fellowships for study and research in the sciences or in engineering;

(3) to foster the interchange of scientific and engineering information among scientists and engineers in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific and engineering methods and technologies, primarily for research and education in the sciences and engineering;

(5) to evaluate the status and needs of the various sciences and fields of engineering as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such

consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

(6) to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal Government;

(7) to initiate and maintain a program for the determination of the total amount of money for scientific and engineering research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress; and

(8) to take a leading role in fostering and supporting research and education activities to improve the security of networked information systems.

(b) Contracts, grants, loans, etc., for scientific and engineering activities; financing of programs

The Foundation is authorized to initiate and support specific scientific and engineering activities in connection with matters relating to international cooperation, national security, and the effects of scientific and engineering applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 1873(f) of this title, and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official.

(c) Scientific and engineering research programs at academic and other nonprofit institutions; applied scientific and engineering research programs by Presidential directive; employment of consulting services; coordination of activities

In addition to the authority contained in subsections (a) and (b), the Foundation is authorized to initiate and support scientific and engineering research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research and engineering research relevant to national problems involving the public interest. In exercising the authority contained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agencies of the Federal Government undertaking similar programs in that field.

(d) Promotion of research and education in science and engineering

The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of research and education in science and engineering.

(e) Balancing of research and educational activities in the sciences and engineering

In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

(f) Annual report to the President and Congress

The Foundation shall render an annual report to the President for submission on or before the 15th day of April of each year to the Congress summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights.

(g) Support of access to computer networks

In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.

(May 10, 1950, ch. 171, §3, 64 Stat. 149; Pub. L. 85–510, §1, July 11, 1958, 72 Stat. 353; Pub. L. 86–232, §1, Sept. 8, 1959, 73 Stat. 467; Pub. L. 90–407, §1, July 18, 1968, 82 Stat. 360; Pub. L. 92–372, §8, Aug. 10, 1972, 86 Stat. 528; Pub. L. 92–484, §10(b), Oct. 13, 1972, 86 Stat. 802; Pub. L. 94–273, §11(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 95–99, §12(a), formerly §14(a), Aug. 15, 1977, 91 Stat. 835, renumbered §12(a), Pub. L. 99–159, title I, §109(h), Nov. 22, 1985, 99 Stat. 890; Pub. L. 99–159, title I, §§109(e)(2), 110(a)(1)–(11), Nov. 22, 1985, 99 Stat. 890, 891; Pub. L. 99–383, §7(a), Aug. 21, 1986, 100 Stat. 814; Pub. L. 102–476, §4, Oct. 23, 1992, 106 Stat. 2300; Pub. L. 102–588, title II, §217, Nov. 4, 1992, 106 Stat. 5117; Pub. L. 105–207, title II, §202(e), July 29, 1998, 112 Stat. 875; Pub. L. 107–305, §7, Nov. 27, 2002, 116 Stat. 2375.)

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a)(8). Pub. L. 107–305 added par. (8).

1998—Subsec. (g). Pub. L. 105–207 struck out the subsec. (g) enacted by Pub. L. 102–588. See 1992 Amendment note below.

1992—Subsec. (g). Pub. L. 102–476 and Pub. L. 102–588 amended section identically, adding subsec. (g).

1986—Subsec. (a)(6). Pub. L. 99–383 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "to maintain a current register of scientific and engineering personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and engineering resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal Government; and".

1985—Subsec. (a)(1). Pub. L. 99–159, §110(a)(1), struck out "engineering," after "biological," and inserted provisions relating to research fundamental to the engineering process, engineering programs, and engineering activities.

Subsec. (a)(2). Pub. L. 99–159, §110(a)(2), substituted "for study and research in the sciences or in engineering" for "in the mathematical, physical, medical, biological, engineering, social, and other sciences".

Subsec. (a)(3). Pub. L. 99–159, §110(a)(3), inserted applicability to engineering and engineers.

Subsec. (a)(4). Pub. L. 99–159, §110(a)(4), inserted applicability to engineering.

Subsec. (a)(5). Pub. L. 99–159, §110(a)(5), inserted applicability to fields of engineering.

Subsec. (a)(6). Pub. L. 99–159, §110(a)(6), substituted "engineering" for "technical" in two places.

Subsec. (a)(7). Pub. L. 99–159, §110(a)(7), inserted applicability to engineering.

Subsec. (b). Pub. L. 99–159, §§109(e)(2), 110(a)(8), inserted reference to engineering in two places and substituted "1873(f)" for "1873(g)".

Subsec. (c). Pub. L. 99–159, §110(a)(9), inserted applicability to engineering research.

Subsec. (d). Pub. L. 99–159, §110(a)(10), substituted "research and education in science and engineering" for "basic research and education in the sciences".

Subsec. (e). Pub. L. 99–159, §110(11), inserted applicability to engineering.

1977—Subsec. (e). Pub. L. 95–99 substituted "an objective" for "one of the objectives".

1976—Subsec. (f). Pub. L. 94–273 substituted "April" for "January".

1972—Subsec. (a)(1). Pub. L. 92–372 inserted support of science education programs at all levels to the functions of the Foundation and substituted "scientific and educational activities" for "scientific activities".

Subsec. (b). Pub. L. 92–484 inserted provisions authorizing the Foundation to initiate and support specific scientific activities in connection with matters relating to the effects of scientific applications upon society, and substituted provisions relating to the initiation or support pursuant to requests of activities by any other Federal department or agency, including the Office of Technology Assessment, for provisions relating to the initiation or support pursuant to requests of activities by the Secretary of State or Secretary of Defense.

1968—Subsec. (a)(1). Pub. L. 90–407 redesignated par. (2) as (1) and added social sciences to the enumerated list of sciences. Former par. (1) redesignated subsec. (d).

Subsec. (a)(2). Pub. L. 90–407 redesignated par. (4) as (2) and added social sciences to the enumerated list of sciences. Former par. (2) redesignated (1).

Subsec. (a)(3). Pub. L. 90–407 redesignated par. (5) as (3). Former par. (3) redesignated subsec. (b).

Subsec. (a)(4). Pub. L. 90–407 added par. (4). Former par. (4) redesignated subsec. (a)(2).

Subsec. (a)(5). Pub. L. 90–407 redesignated par. (6) as (5) and provided for the employment of consulting services, by grant or contract, to assist in the evaluation of the status and needs of the various sciences as evidenced by the programs and studies undertaken by agencies of the government, by individuals, and by public and private research groups, and provided for the consideration of the results of such evaluations in the correlation of the Foundation's programs with those undertaken by agencies of the government, as well as those undertaken by individuals and by public and private research groups. Former par. (5) redesignated (3).

Subsec. (a)(6). Pub. L. 90–407 redesignated par. (8) as (6) and provided that the register of scientific and technical personnel shall be current, and authorized the Foundation to analyze and interpret the collected data on the availability of, and the current and projected need for, scientific and technical resources in the United States and to make such information available to other agencies of the government for policy formulation. Former par. (6) redesignated (5).

Subsec. (a)(7). Pub. L. 90–407 added par. (7). Former par. (7), which provided for the establishment of such special commissions as the Board may from to time deem necessary for the purposes of this chapter, was struck out.

Subsec. (a)(8). Pub. L. 90–407 redesignated par. (8) as (6).

Subsec. (a)(9). Pub. L. 90–407 struck out par. (9) which authorized the Foundation to initiate and support a program of study, research, and evaluation in the field of weather modification, with particular attention to areas experiencing floods, drought, etc., and to report annually to the President and the Congress thereon.

Subsec. (b). Pub. L. 90–407 redesignated former subsec. (a)(3) as (b) and substituted provisions authorizing the Foundation to initiate and support specific scientific activities in matters related to international cooperation or national security for provisions authorizing the Foundation to initiate and support only scientific research activities, only in matters related to national defense and only when requested to do so by the Secretary of Defense, and inserted provisions specifying the manner of financing such scientific activities. Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 90–407 added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (d). Pub. L. 90–407 redesignated former subsec. (a)(1) as (d) and substituted provisions authorizing the Board and the Director to recommend and encourage national policies promoting basic research and education in the sciences for provisions authorizing and directing the Foundation to develop and encourage such policies.

Subsec. (e). Pub. L. 90–407 redesignated former subsec. (b) as (e), substituted "the foregoing subsections" for "subsection (a) of this section", "strengthen research" for "strengthen basic research", and struck out reference to the territories and possessions of the United States.

Subsec. (f). Pub. L. 90–407 redesignated former subsec. (c) as (f) and struck out provision requiring the report to include the minority views and recommendations if any, of members of the Board.

1959—Subsec. (a)(2). Pub. L. 86–232 clarified the Foundation's authority to support programs to strengthen scientific research potential.

1958—Subsec. (a)(9). Pub. L. 85–510 added par. (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF NATIONAL SCIENCE FOUNDATION PROGRAMS

For transfer of all programs relating to science education of the National Science Foundation or the Director thereof under this chapter, with certain exceptions, to the Secretary of Education, see section 3444 of Title 20, Education.

MANAGEMENT OF THE U.S. ANTARCTIC PROGRAM

Pub. L. 114–329, title I, §112, Jan. 6, 2017, 130 Stat. 2992, provided that:

"(a) REVIEW.—

"(1) IN GENERAL.—The Director of the Foundation shall continue to review the efforts by the Foundation to sustain and strengthen scientific efforts in the face of logistical challenges for the United States Antarctic Program.

"(2) ISSUES TO BE EXAMINED.—In conducting the review, the Director shall examine, at a minimum, the following:

"(A) Implementation by the Foundation of issues and recommendations identified by—

"(i) the Inspector General of the National Science Foundation in audit reports and memoranda on the United States Antarctic Program in the last 4 years;

"(ii) the U.S. Antarctic Program Blue Ribbon Panel report, More and Better Science in Antarctica through Increased Logistical Effectiveness, issued July 23, 2012; and

"(iii) the National Research Council report, Future Science Opportunities in Antarctica and the Southern Ocean, issued September 2011.

"(B) Efforts by the Foundation to track its progress in addressing the issues and recommendations under subparagraph (A).

"(C) Efforts by the Foundation to address other opportunities and challenges, including efforts on scientific research, coordination with other Federal agencies and international partners, logistics and transportation, health and safety of participants, oversight and financial management of awardees and contractors, and resources and policy challenges.

"(b) BRIEFING.—Not later than 180 days after the date of enactment of this Act [Jan. 6, 2017], the Director shall brief the appropriate committees of Congress on the ongoing review, including findings and any recommendations."

[For definitions of terms used in section 112 of Pub. L. 114–329, set out above, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.]

NSF STUDY AND REPORT ON THE "DIGITAL DIVIDE"

Pub. L. 106–313, title I, §109, Oct. 17, 2000, 114 Stat. 1255, provided that:

"(a) STUDY.—The National Science Foundation shall conduct a study of the divergence in access to high technology (commonly referred to as the 'digital divide') in the United States.

"(b) REPORT.—Not later than 18 months after the date of enactment of this Act [Oct. 17, 2000], the Director of the National Science Foundation shall submit a report to Congress setting forth the findings of the study conducted under subsection (a)."

IMPROVING UNITED STATES UNDERSTANDING OF SCIENCE, ENGINEERING, AND TECHNOLOGY IN EAST ASIA

Pub. L. 105–244, title VIII, §831, Oct. 7, 1998, 112 Stat. 1820, which provided for an interdisciplinary program of education and research on East Asian science, engineering, and technology, was repealed by Pub. L. 110–315, title IX, §931(3), Aug. 14, 2008, 122 Stat. 3456.

STATUS OF SCIENTIFIC INSTRUMENTATION; CURRENT AND PROJECTED NEEDS FOR SCIENTIFIC AND TECHNOLOGICAL INSTRUMENTATION; DEVELOPMENT OF INDICES, CORRELATES, OR OTHER SUITABLE MEASURES OR INDICATORS

Pub. L. 96–44, §7, Aug. 2, 1979, 93 Stat. 334, provided that: "In partial fulfillment of the established statutory requirement that the National Science Foundation evaluate the status of and current and projected need for scientific resources (section 3(a)(5) and (6) of Public Law 81–507, as amended [subsec. (a)(5) and (6) of this section]), the National Science Foundation shall develop indices, correlates, or other suitable measures or indicators of the status of scientific instrumentation in the United States and of the current and projected need for scientific and technological instrumentation."

FLOOD HAZARD MITIGATION STUDY

Pub. L. 96–44, §8, Aug. 2, 1979, 93 Stat. 334, directed National Science Foundation to conduct a Flood Hazard Mitigation Study and report to Congress with specific program recommendations by end of fiscal year 1980.

AUTHORIZED USE OF FUNDS UNDER SCIENCE AND SOCIETY PROGRAM

Pub. L. 95–99, §5, Aug. 15, 1977, 91 Stat. 832, provided that:

"(a) From the funds authorized under the program 'Science and Society', the National Science Foundation is authorized to provide support which is designed to—

"(1) improve public understanding of public policy issues involving science and technology;

"(2) facilitate the participation of qualified scientists and engineers and of undergraduate and graduate students in public activities aimed at the resolution of public policy issues having significant scientific and technical aspects; and

"(3) assist nonprofit, citizens, and bona fide public interest groups to acquire necessary scientific and technical expertise in order to improve their comprehension of scientific and technical aspects of public policy issues.

"(b) Awards made pursuant to this section shall, to the extent feasible, include support for—

"(1) qualified scientists and engineers to work on public policy issues with significant scientific and technical components in conjunction with units of State and local government, nonprofit organizations, or bona fide public interest groups;

"(2) internship programs for science and engineering undergraduate or graduate students to work on public policy issues with significant scientific and technical components in conjunction with units of State and local government, nonprofit organizations, or bona fide public interest groups as part of their academic training;

"(3) forums, conferences, and workshops on public policy issues with significant scientific and technical components;

"(4) training in the presentation of scientific and technical studies in a manner which (A) improves public understanding of the ways in which science and technology influence contemporary life, (B) improves public access to the results of scientific and technical research, (C) encourages and facilitates interaction between laypersons and scientists on public issues with important scientific and technological components, and (D) increases public knowledge and understanding of the ethical and value implications of scientific and technological developments;

"(5) new and existing programs using radio or television to increase public understanding of public policy issues with significant scientific and technical components; and

"(6) bona fide public interest groups to acquire necessary scientific and technical expertise relating to the scientific and technical aspects of public policy issues and to enable such groups to bring together in appropriate forums experts whose research has been directed to the resolution of such issues."

ESTABLISHMENT OF "SCIENCE FOR CITIZENS PROGRAM" CONDUCTED IN CONJUNCTION WITH "PUBLIC UNDERSTANDING OF SCIENCE PROGRAM"

Pub. L. 94–471, §5, Oct. 11, 1976, 90 Stat. 2054, provided that:

"(a) The National Science Foundation is authorized and directed to conduct an experimental 'Science for Citizens Program' and an augmented Public Understanding of Science Program under which funds will be available for pilot projects to:

"(1) improve public understanding of science, engineering and technology and their impact on public policy issues;

"(2) facilitate the participation of experienced scientists and engineers as well as graduate and undergraduate students in helping the public understand science, engineering and technology and their impact on public policies; and

"(3) assist nationally recognized professional societies and groups serving important public purposes in conducting a limited number of forums, conferences, and workshops to increase public understanding of science and technology, and of their impact on public policy issues, after consideration of the following eligibility factors:

"(A) the extent to which the proposal of the society or group will contribute to the development of facts, issues, and arguments relevant to public policy issues having significant scientific and technical aspects, and

"(B) the ability of the society or group, using its own resources, to conduct such forums, conferences, and workshops.

"(b) One or more review panels shall be established for the purpose of evaluating applications for awards under this section. The membership of each review panel shall have balanced representation from the scientific and nonscientific communities and the public and private sectors.

"(c) No contract, grant or other arrangement shall be made under this Section without the prior approval of the National Science Board.

"(d) To assist the Congress in evaluating activities initiated pursuant to this Section, the Director of the National Science Foundation, in consultation with a review panel having a balanced representation from the scientific and nonscientific community and the public and private sectors, is directed to prepare a comprehensive analysis and assessment of such activities to be submitted to the House Committee on Science and Technology [now Committee on Science, Space, and Technology] and the Senate Committee on Labor and Public Welfare [now Committee on Health, Education, Labor, and Pensions], not later than October 31, 1977. An interim report is required no later than March 1, 1977."

DEVELOPMENT OF PROGRAM PLAN FOR CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

Pub. L. 94–471, §6, Oct. 11, 1976, 90 Stat. 2055, required the National Science Foundation to develop a program plan for continuing education in science and engineering and, not later than Oct. 31, 1977, provide

specific committees of the House of Representatives and Senate a report on the plan developed with recommendations for implementation in fiscal year 1978.

DENIAL OF FINANCIAL ASSISTANCE TO CAMPUS DISRUPTERS

Pub. L. 93–96, §7, Aug. 16, 1973, 87 Stat. 316, provided that:

"(a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act [Aug. 16, 1973] and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act [Aug. 16, 1973], and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(c) The programs referred to in subsections (a) and (b) are as follows:

"(1) The programs authorized by the National Science Foundation Act of 1950 [this chapter]; and

"(2) The programs authorized under title IX of the National Defense Education Act of 1958 [sections 1876 to 1879 of this title] relating to establishing the Science Information Service.

"(d)(1) Nothing in this Act [Pub. L. 93–96], or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions."

Similar provisions were contained in the following National Science Foundation Authorization Acts:

Pub. L. 92–372, §7, Aug. 10, 1972, 86 Stat. 527.

Pub. L. 92–86, §7, Aug. 11, 1971, 85 Stat. 309.

Pub. L. 91–356, §5, July 24, 1970, 84 Stat. 471.

CONTINUATION OF AUTHORIZATION FOR WEATHER MODIFICATION PROGRAMS; REPEAL

Pub. L. 90–407, §11(1), July 18, 1968, 82 Stat. 365, provided in part that the authorization for the programs initiated under former subsec. (a)(9) of this section shall continue in effect until Sept. 1, 1968 for the purposes of section 1872a of this title.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Pub. L. 90–407, §16, July 18, 1968, 82 Stat. 367, provided that: "Except as otherwise specifically provided therein, the amendments made by this Act [enacting section 1864a of this title, amending sections 1862 to 1866, 1868 to 1870, 1872 to 1875, and 1877 of this title, sections 5313, 5314, and 5316 of Title 5, Government Organization and Employees, repealing sections 1867 and 1872a of this title, and enacting provisions set out as a note under section 5313 of Title 5] are intended to continue in effect under the National Science Foundation Act of 1950 [this chapter] the existing offices, procedures, and organization of the National Science Foundation as provided by such Act, [this chapter] part II of Reorganization Plan Numbered 2 of 1962, and Reorganization Plan Numbered 5 of 1965 [set out as a note under section 1861 of this title]. From and after the date of the enactment of this Act [July 18, 1968], part II of Reorganization Plan Numbered

2 of 1962, and Reorganization Plan Numbered 5 of 1965, shall be of no force or effect; but nothing in this Act shall alter or affect any transfers of functions made by part I of such Reorganization Plan Numbered 2 of 1962."

INVESTIGATION OF NEED FOR GEOPHYSICAL INSTITUTE IN TERRITORY OF HAWAII

Act Aug. 1, 1956, ch. 865, 70 Stat. 922, directed the National Science Foundation to conduct an investigation into the need for and the feasibility and usefulness of a geophysical institute located in the Territory [now State] of Hawaii. The Foundation was required to report the results of its investigations, together with its recommendations based thereon, to the Congress not later than 9 months after Aug. 1, 1956.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 10521. ADMINISTRATION OF SCIENTIFIC RESEARCH

Ex. Ord. No. 10521, Mar. 17, 1954, 19 F.R. 1499, as amended by Ex. Ord. No. 10807, §6(b), Mar. 13, 1959, 24 F.R. 1899, provided:

SECTION 1. The National Science Foundation (hereinafter referred to as the Foundation) shall from time to time recommend to the President policies for the promotion and support of basic research and education in the sciences, including policies with respect to furnishing guidance toward defining the responsibilities of the Federal Government in the conduct and support of basic scientific research.

SEC. 2. The Foundation shall continue to make comprehensive studies and recommendations regarding the Nation's scientific research effort and its resources for scientific activities, including facilities and scientific personnel, and its foreseeable scientific needs, with particular attention to the extent of the Federal Government's activities and the resulting effects upon trained scientific personnel. In making such studies, the Foundation shall make full use of existing sources of information and research facilities within the Federal Government.

SEC. 3. The Foundation, in concert with each Federal agency concerned, shall review the basic scientific research programs and activities of the Federal Government in order, among other purposes, to formulate methods for strengthening the administration of such programs and activities by the responsible agencies, and to study areas of basic research where gaps or undesirable overlapping of support may exist, and shall recommend to the heads of agencies concerning the support given to basic research.

SEC. 4. As now or hereafter authorized or permitted by law, the Foundation shall be increasingly responsible for providing support by the Federal Government for general-purpose basic research through contracts and grants. The conduct and support by other Federal agencies of basic research in areas which are closely related to their missions is recognized as important and desirable, especially in response to current national needs, and shall continue.

SEC. 5. The Foundation, in consultation with educational institutions, the heads of Federal agencies, and the Commissioner of Education of the Department of Health, Education, and Welfare [now Secretary of Education], shall study the effects upon educational institutions of Federal policies and administration of contracts and grants for scientific research and development, and shall recommend policies and procedures which will promote the attainment of general national research objectives and realization of the research needs of Federal agencies while safeguarding the strength and independence of the Nation's institutions of learning.

SEC. 6. The head of each Federal agency engaged in scientific research shall make certain that effective executive, organizational, and fiscal practices exist to ensure (a) that the Foundation is consulted on policies concerning the support of basic research, (b) that approved scientific research programs conducted by the agency are reviewed continuously in order to preserve priorities in research efforts and to adjust programs to meet changing conditions without imposing unnecessary added burdens on budgetary and other resources, (c) that applied research and development shall be undertaken with sufficient consideration of the underlying basic research and such other factors as relative urgency, project costs, and availability of manpower and facilities, and (d) that, subject to considerations of security and applicable law, adequate dissemination shall be made within the Federal Government of reports on the nature and progress of research projects as an aid to the efficiency and economy of the overall Federal scientific research program.

SEC. 7. Federal agencies supporting or engaging in scientific research shall, with the assistance of the Foundation, cooperate in an effort to improve the methods of classification and reporting of scientific research projects and activities, subject to the requirements of security of information.

SEC. 8. To facilitate the efficient use of scientific research equipment and facilities held by Federal agencies:

(a) the head of each such agency engaged in scientific research shall, to the extent practicable, encourage and facilitate the sharing with other Federal agencies of major equipment and facilities; and

(b) a Federal agency shall procure new major equipment or facilities for scientific research purposes only after taking suitable steps to ascertain that the need cannot be met adequately from existing inventories or facilities of its own or of other agencies; and

(c) the Interdepartmental Committee on Scientific Research and Development shall take necessary steps to ensure that each Federal agency engaged directly in scientific research is kept informed of selected major equipment and facilities which could serve the needs of more than one agency. Each Federal agency possessing such equipment and facilities shall maintain appropriate records to assist other agencies in arranging for their joint use or exchange.

SEC. 9. The heads of the respective Federal agencies shall make such reports concerning activities within the purview of this order as may be required by the President.

SEC. 10. The National Science Foundation shall provide leadership in the effective coordination of the scientific information activities of the Federal Government with a view to improving the availability and dissemination of scientific information. Federal agencies shall cooperate with and assist the National Science Foundation in the performance of this function, to the extent permitted by law.

EXECUTIVE ORDER NO. 10807

Ex. Ord. No. 10807, Mar. 13, 1959, 24 F.R. 1897, as amended Ex. Ord. No. 11381, Nov. 8, 1967, 32 F.R. 15629, which established the Federal Council for Science and Technology, provided for a chairman and membership, specified the functions of the Council, provided for assistance from other Federal agencies and the establishment of standing committees and panels, revoked Ex. Ord. No. 9912 of Dec. 24, 1947, entitled "Establishing the Interdepartmental Committee on Scientific Research and Development", and amended Ex. Ord. No. 10521, set out above, was omitted from the Code in view of Pub. L. 94–282, title IV, §402, May 11, 1976, 90 Stat. 472, set out below, which abolished the Federal Council for Science and Technology.

[Pub. L. 94–282, title IV, §402, May 11, 1976, 90 Stat. 472, provided that: "The Federal Council for Science and Technology, established pursuant to Executive Order No. 10807, Mar. 13, 1959, 24 F.R. 1897, as amended by Executive Order No. 11381, Nov. 8, 1967, 32 F.R. 15629, is hereby abolished."]

§1862a. Findings and purpose

(a) The Congress finds that—

(1) the fundamental research and related education program supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

(b) It is the purpose of sections 1862a to 1862d of this title to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent non-profit research institutions and research museums, and consortia thereof, through capital investment.

(Pub. L. 100–570, title II, §202, Oct. 31, 1988, 102 Stat. 2873.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1862a to 1862d of this title, referred to in subsec. (b), was in the original "this title", meaning title II of Pub. L. 100–570, Oct. 31, 1988, 102 Stat. 2873, known as the Academic Research Facilities Modernization Act of 1988, which enacted sections 1862a to 1862d of this title, repealed former sections 1862a and 1862b of this title, and repealed provisions set out as a note under section 1861 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the Academic Research Facilities Modernization Act of 1988, and also as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1862a, Pub. L. 100–418, title VI, §6402, Aug. 23, 1988, 102 Stat. 1542, related to establishment of National Science Foundation Academic Research Facilities Modernization Program, prior to repeal by Pub. L. 100–570, §206.

§1862b. Establishment of Program

(a) Establishment; purpose

(1) To carry out sections 1862a to 1862d of this title, the Director shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in sections 1862a to 1862d of this title referred to as the "Program"), under which awards are made to institutions of higher education, independent nonprofit research institutions, and research museums, and consortia thereof, for the repair, renovation, or, in exceptional cases, replacement of obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 1862 of this title and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

(C) promote the modernization of undergraduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines.

(b) Improvement projects; maximum amounts

(1) The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research at eligible institutions, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia in accordance with procedures prescribed by the Director pursuant to section 1862c of this title.

(2) Awards made under the Program shall not exceed $7,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or, in exceptional cases, replacement of academic research facilities.

(3) The Director shall, in making awards under the Program, consider the extent to which that institution or consortium has received funds for the repair, renovation, construction, or replacement of academic facilities from any other Federal funding source within the 5-year period immediately preceding the application. The Director shall give priority to institutions or consortia that have not received such funds in the preceding 5 years.

(4) The Director shall, in awarding funds under sections 1862a to 1862d of this title, consider the distribution of funds among institutions of different sizes and geographical locations.

(c) Criteria for award of funds

Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility or facilities involved;

(2) the need for the proposed repair, renovation, or, in exceptional cases, replacement based on an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research and training activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, and institutional research and related training needs;

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base; and

(6) the impact of the award on the overall geographic distribution of awards made under the Program, with the objective of avoiding undue concentration of awards.

(Pub. L. 100–570, title II, §203, Oct. 31, 1988, 102 Stat. 2874.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Academic Research Facilities Modernization Act of 1988, and also as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

PRIOR PROVISIONS

A prior section 1862b, Pub. L. 100–418, title VI, §6403, Aug. 23, 1988, 102 Stat. 1544, related to establishment of National Science Foundation College Science Instrumentation Program, prior to repeal by Pub. L. 100–570, §206.

STATUTORY NOTES AND RELATED SUBSIDIARIES

MAJOR RESEARCH INSTRUMENTATION

Pub. L. 107–368, §13, Dec. 19, 2002, 116 Stat. 3055, required Director of the National Science Foundation to conduct a review and assessment of the major research instrumentation program and, not later than 1 year after Dec. 19, 2002, submit a report, including specified estimates, descriptions and analyses, of findings and recommendations to certain Congressional committees, and also required the Director to enter into an arrangement with the National Academy of Sciences to assess the need for an interagency program to establish and support fully equipped, state-of-the-art university-based centers for interdisciplinary research and advanced instrumentation development, and not later than 15 months after Dec. 19, 2002, to transmit to the committees the assessment conducted by the National Academy of Sciences together with the Foundation's reaction to the assessment.

§1862c. Procedures, guidelines, and planning activities

(a) Procedures

(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 1862b(c) of this title, set forth procedures for the Program.

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that—

(A) funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proposals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) the institution receiving an award shall provide at least 50 percent of the cost, in cash or in kind, fairly evaluated, of the repair, renovation, or replacement involved and shall provide this contribution from private or non-Federal public sources, except that the Director may accept a match of less than 50 percent, but at least 30 percent, for institutions which are not ranked among the top 100 of the institutions receiving Federal research and development funding, as documented in the latest annual report of the Foundation entitled "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions"; and

(D) to the extent practicable, eligible institutions of a given type will compete against similar institutions for Program awards.

(b) Comprehensive planning activities

The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

(c) Guidelines

Prior to the issuance of the comprehensive plan required by subsection (d) of this section, and consistent with the Program criteria set forth in section 1862b(c) of this title, the Director shall publish in the Federal Register proposed Program guidelines for public review for a comment period of 30 days. Such guidelines shall provide detailed information on eligibility, criteria, terms, and conditions and shall include, but not be limited to—

(1) definitions for the terms "institutions of higher education", "private non-profit research organizations", "research museums", "consortia", "facilities", "facilities primarily devoted to research", "instrumentation", "equipment", "repair", "renovation", and "replacement";

(2) selection criteria to be used by the Foundation in evaluating proposals from institutions and consortia thereof, including criteria for evaluating scientific merit and for evaluating the age and condition of existing research facilities; and

(3) requirements for matching a Program award with contributions from non-Federal sources.

(d) Comprehensive plan

The Director, after gathering appropriate information and after considering comments on the proposed Program guidelines published in the Federal Register pursuant to subsection (c) of this section, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states what procedures will be used to ensure that predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding will receive substantial percentages of the funds awarded under sections 1862a to 1862d of this title;

(3) states the estimated percentage of Program funds available for each category of eligible institutions, including predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding as well as research universities; and

(4) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(B) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(C) programmatic approaches that recognize and support excellence, strengthen scientific and

engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographical areas; and

(D) any recommendations necessary to improve the Program and further meet the purposes of sections 1862a to 1862d of this title.

(e) Report

The Director shall prepare and submit, not later than June 15, 1989, a report containing the comprehensive plan required by subsection (d) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(f) Final guidelines

Final guidelines shall be published in the Federal Register not later than 45 days after the submission of the report required under subsection (e).

(g) Amount available for this section

The Director shall, from amounts available to the Foundation under section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section. None of the funds authorized to be appropriated in section 101 of this Act may be used for grant or contract awards under the Program prior to completion and submission to Congress of the comprehensive plan required by subsection (d) of this section.

(h) Consultation with Secretary of Education and heads of other agencies

In conducting the activities under the Program, the Director shall consult with the Secretary of Education and the heads of other related agencies.

(Pub. L. 100–570, title II, §204, Oct. 31, 1988, 102 Stat. 2875.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (d)(4)(C) and (g), is Pub. L. 100–570, Oct. 31, 1988, 102 Stat. 2865, known as the National Science Foundation Authorization Act of 1988. Section 101 of this Act is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the Academic Research Facilities Modernization Act of 1988, and also as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§1862d. Set-aside for certain institutions

Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 12 percent shall be reserved for historically Black colleges or universities defined as "part B institutions" by section 1061(2) of title 20 and other institutions of higher education whose enrollment includes a substantial percentage of students who are Black Americans, Hispanic Americans, or Native Americans.

(Pub. L. 100–570, title II, §205, Oct. 31, 1988, 102 Stat. 2877.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 101 of this Act, referred to in text, is section 101 of Pub. L. 100–570, title I, Oct. 31, 1988, 102 Stat. 2865, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Academic Research Facilities Modernization Act of 1988, and also as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1862e. Evaluations of research centers

In carrying out performance reviews of research centers by the Foundation, the Director shall take such action as may be necessary, consistent with the merit review process of the Foundation, to ensure that—

(1) members of review panels are free from any conflict of interest; and

(2) the conditions of each award to such centers have been fulfilled.

(Pub. L. 100–570, title I, §109, Oct. 31, 1988, 102 Stat. 2869.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1862f. Research center consortia

In Foundation programs making grants to research centers, the Director shall encourage the formation of consortia that include research universities, two-year and four-year colleges, and the private sector.

(Pub. L. 100–570, title I, §110, Oct. 31, 1988, 102 Stat. 2869.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1862g. Established Program to Stimulate Competitive Research

(a) The Director shall operate a program to stimulate competitive research (known as the "Established Program to Stimulate Competitive Research"), the purpose of which is to assist those States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(b) A State which has received an initial award under such Program, whether or not the award was received before or after October 31, 1988, shall be eligible for up to 5 years of additional support under the Program if that State provides assurances of new matching funds and submits an

acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

(Pub. L. 100–570, title I, §113, Oct. 31, 1988, 102 Stat. 2870; Pub. L. 114–329, title I, §103(e)(2), Jan. 6, 2017, 130 Stat. 2975.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Pub. L. 114–329, §103(e)(2)(A), substituted "Established" for "Experimental" in section catchline.

Subsec. (a). Pub. L. 114–329, §103(e)(2)(B), substituted "a program to stimulate competitive research (known as the 'Established Program to Stimulate Competitive Research')" for "an Experimental Program to Stimulate Competitive Research" in introductory provisions.

Subsec. (b). Pub. L. 114–329, §103(e)(2)(C), substituted "the Program" for "the program".

STATUTORY NOTES AND RELATED SUBSIDIARIES

PLANNING GRANTS

Pub. L. 107–368, §26, Dec. 19, 2002, 116 Stat. 3067, provided that: "The Director is authorized to accept planning proposals from applicants who are within .075 percentage points of the current eligibility level for the Experimental Program to Stimulate Competitive Research. Such proposals shall be reviewed by the Foundation to determine their merit for support under the Experimental Program to Stimulate Competitive Research or any other appropriate program."

[For definitions of terms used in section 26 of Pub. L. 107–368, set out above, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.]

§1862h. Congressional statement of findings and declaration of purposes respecting scientific and technical education and training

(a) Findings

The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, technology, engineering, and mathematics or STEM, especially at the associate-degree level;

(4) shortages of scientifically and technically educated [1] trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in STEM education and training particularly appropriate.

(b) Purposes

It is the purpose of sections 1862h to 1862j of this title to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in STEM fields;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve STEM instruction.

(Pub. L. 102–476, §2, Oct. 23, 1992, 106 Stat. 2297; Pub. L. 117–167, div. B, title III, §10312(f)(1), Aug. 9, 2022, 136 Stat. 1519.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1862h to 1862j of this title, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 102–476, Oct. 23, 1992, 106 Stat. 2297, known as the Scientific and Advanced-Technology Act of 1992, which enacted this section and sections 1862i and 1862j of this title and amended section 1862 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the Scientific and Advanced-Technology Act of 1992, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a)(3). Pub. L. 117–167, §10312(f)(1)(A)(i), substituted "science, technology, engineering, and mathematics or STEM" for "science, mathematics, and technology".

Subsec. (a)(4). Pub. L. 117–167, §10312(f)(1)(A)(ii), inserted "educated" before "trained".

Subsec. (a)(5). Pub. L. 117–167, §10312(f)(1)(A)(iii), substituted "STEM education and training" for "scientific and technical education and training".

Subsec. (b)(2). Pub. L. 117–167, §10312(f)(1)(B)(i), substituted "STEM fields" for "mathematics and science".

Subsec. (b)(4). Pub. L. 117–167, §10312(f)(1)(B)(ii), substituted "STEM instruction" for "mathematics and science instruction".

[1] *So in original. Probably should be followed by "and".*

§1862i. STEM education

(a) National advanced STEM education program

The Director of the National Science Foundation (hereafter in sections 1862h to 1862j of this title referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields and education to prepare the skilled technical workforce to meet workforce demands, and to improve the quality of their core education courses in STEM fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including veterans and individuals engaged in work in the home) and on building a pathway from secondary schools to associate-degree-granting institutions, to careers that require technical training, and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development and study of model instructional programs in advanced-technology fields and in core STEM courses;

(2) the professional development of faculty and instructors, both full- and part-time, who provide instruction in STEM and advanced- technology [1] fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities to support the advanced- technology [1] industries that drive the competitiveness of the United States in the global economy;

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs; and

(C) encourage participation of individuals identified in section 1885a or 1885b of this title;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in STEM and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced STEM and advanced- technology [1] and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) Centers of scientific and technical education

(1) In general

The Director shall make awards for the establishment of centers of excellence, in advanced-technology fields, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(A) Exceptional instructional programs in advanced-technology fields.

(B) Excellence in undergraduate STEM education.

(2) Purposes

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges.

(3) Networks

The centers may enter into partnerships with other institutions of higher education, nonprofit organizations, and stakeholder groups, or a consortium thereof, to develop networks to—

(A) coordinate research, training, and education activities funded by awards under subsection (a);

(B) share information and best practices; or

(C) promote collaboration between academic institutions, workforce development programs, labor organizations, and industry to communicate and meet workforce education and training needs.

(c) Articulation partnerships

(1) Partnership grants

(A) The Director shall make grants to eligible partnerships to encourage the development of career and educational pathways with multiple entry and exit points leading to credentials and degrees, and to assist students pursuing pathways in STEM fields to transition from associate-degree-granting colleges to bachelor- degree-granting [2] institutions, through such means as—

(i) examining curricula to develop articulation agreements that ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of the career and educational pathways supported by the articulation agreements; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including veterans and individuals engaged in work in the home), about the requirements and course offerings of the bachelor-degree-granting institution;

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution;

(iii) provide students with research experiences at institutions or work sites participating in the partnership, including stipend support for students participating in summer programs or industry internships; and

(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.

(2) Outreach grants

The Director shall make grants to associate-degree-granting colleges with outstanding STEM programs to strengthen relationships with secondary schools and, as appropriate, elementary schools, in the community served by the college by improving STEM education and encouraging the interest and aptitude of students at these schools for careers in STEM and advanced-technology fields through such means as developing articulation agreements or dual credit courses with local secondary schools, or other means as the Director determines appropriate, to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(3) Mentor training grants

The Director shall establish a program to encourage and make grants available to institutions of higher education that award associate degrees to recruit and train individuals from STEM fields to mentor students who are described in section 1885a or 1885b of this title in order to assist those students in identifying, qualifying for, and entering higher-paying technical jobs in those fields, including jobs at Federal and academic laboratories.

(d) Grants for associate degree programs in STEM fields

(1) In-demand workforce grants

The Director shall award grants to junior or community colleges to develop or improve associate degree or certificate programs in STEM fields, with respect to the region in which the respective college is located, and an in-demand industry sector or occupation.

(2) Applications

In considering applications for grants under paragraph (1), the Director shall prioritize—

(A) applications that consist of a partnership between the applying junior or community college and individual employers or an employer consortia,[3] or industry or sector partnerships, and may include a university or other organization with demonstrated expertise in academic program development;

(B) applications that demonstrate current and future workforce demand in occupations directly related to the proposed associate degree or certificate program;

(C) applications that include commitments by the partnering employers or employer consortia, or industry or sector partnerships, to offer apprenticeships, internships, or other applied learning opportunities to students enrolled in the proposed associate degree or certificate program;

(D) applications that include outreach plans and goals for recruiting and enrolling women and other underrepresented populations in STEM fields in the proposed associate degree or certificate program;

(E) applications that describe how the applying junior or community college will support the collection of information and data for purposes of evaluation of the proposed associate degree or certificate program; and

(F) as appropriate, applications that apply the best practices for STEM education and technical skills education through distance learning or in a simulated work environment, as determined by research described in subsection (f); and

(G) applications that incorporate distance learning tools and approaches.

(e) Grants for STEM degree applied learning opportunities

(1) In general

The Director shall award grants to institutions of higher education partnering with private sector employers or private sector employer consortia, or industry or sector partnerships, that commit to offering apprenticeships, internships, research opportunities, or applied learning experiences to enrolled students in identified STEM baccalaureate degree programs.

(2) Purposes

Awards under this subsection may be used—

(A) to develop curricula and programs for apprenticeship, internships, research opportunities, or applied learning experiences; or

(B) to provide matching funds to incentivize partnership and participation by private sector employers and industry.

(3) Applications

In considering applications for grants under paragraph (1), the Director shall prioritize—

(A) applicants that consist of a partnership between—

(i) the applying institution of higher education; and

(ii) individual employers or an employer consortia,[3] or industry or sector partnerships;

(B) applications that demonstrate current and future workforce demand in occupations directly related to the identified STEM fields;

(C) applications that include outreach plans and goals for recruiting and enrolling women and other underrepresented populations in STEM fields;

(D) applications that describe how the institution of higher education will support the collection and information of data for purposes of the evaluation of identified STEM degree programs; and

(E) applications that incorporate distance learning tools and approaches.

(f) Grants for computer-based and online STEM education courses

(1) In general

The Director of the National Science Foundation shall award competitive grants to institutions of higher education or nonprofit organizations to conduct research on student outcomes and determine best practices for STEM education and technical skills education through distance learning or in a simulated work environment.

(2) Research areas

The research areas eligible for funding under this subsection may include—

(A) post-secondary courses for technical skills development for STEM occupations;

(B) improving high-school level career and technical education in STEM subjects;

(C) encouraging and sustaining interest and achievement levels in STEM subjects among women and other populations historically underrepresented in STEM studies and careers; and

(D) combining computer-based and online STEM education and skills development with traditional mentoring and other mentoring arrangements, apprenticeships, internships, and other applied learning opportunities.

(g) Coordination with other Federal departments

In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies.

(h) Funding

(1) Funding

The Director shall allocate out of amounts made available for the Education and Human Resources Directorate—

(A) up to $5,000,000 to carry out the activities under subsection (d) for each of fiscal years 2019 through 2026, subject to the availability of appropriations;

(B) up to $2,500,000 to carry out the activities under subsection (e) for each of fiscal years 2019 through 2026, subject to the availability of appropriations; and

(C) not less than $3,000,000 to carry out the activities under subsection (f) for each of fiscal years 2019 through 2026, subject to the availability of appropriations.

(2) Limitation on funding

Amounts made available to carry out subsections (d), (e), and (f) shall be derived from amounts appropriated or otherwise made available to the National Science Foundation.

(3) Limitation on funding

To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(i) Functions of Director

In carrying out sections 1862h to 1862j of this title, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distribution of grant awards;

(3) establish and maintain a readily accessible inventory of the programs assisted under sections 1862h to 1862j of this title; and

(4) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(j) Definitions

As used in this section—

(1) the term advanced-technology [4] includes technological fields such as advanced manufacturing, agricultural-, biological- and chemical-technologies, energy and environmental technologies, engineering technologies, information technologies, micro and nano-technologies, cybersecurity technologies, geospatial technologies, and new, emerging technology areas;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more other entities;

(5) the term "in-demand industry sector or occupation" has the meaning given the term in section 3102 of title 29;

(6) the term "junior or community college" has the meaning given the term in section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058);

(7) the term "region" means a labor market area, as that term is defined in section 3102 of title 29;

(8) the terms "science, technology, engineering, or mathematics" or "STEM" mean science, technology, engineering, and mathematics, including computer science and cybersecurity; and

(9) the term skilled technical workforce [4] has the meaning given such term in section 4(b) of the Innovations in Mentoring, Training, and Apprenticeships Act (42 U.S.C. 1862p).[5]

(Pub. L. 102–476, §3, Oct. 23, 1992, 106 Stat. 2297; Pub. L. 105–244, title I, §102(a)(13)(B), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 107–368, §21(a), (b), Dec. 19, 2002, 116 Stat. 3064; Pub. L. 110–69, title VII, §7031(a), Aug. 9, 2007, 121 Stat. 710; Pub. L. 115–402, §3, Dec. 31, 2018, 132 Stat. 5344; Pub. L. 116–283, div. E, title LIV, §5401(e)(3)(A), div. H, title XCIV, §9405(b), Jan. 1, 2021, 134 Stat. 4543, 4812; Pub. L. 117–167, div. B, title III, §§10312(b), (f)(2), 10361(d), Aug. 9, 2022, 136 Stat. 1517, 1519, 1567.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1862h to 1862j of this title, referred to in subsecs. (a) and (i), was in the original "this Act", meaning Pub. L. 102–476, Oct. 23, 1992, 106 Stat. 2297, known as the Scientific and Advanced-Technology Act of 1992, which enacted this section and sections 1862h and 1862j of this title and amended section 1862 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1861 of this title and Tables.

Section 4(b) of the Innovations in Mentoring, Training, and Apprenticeships Act, referred to in subsec. (j)(9), is section 4(b) of Pub. L. 115–402, which is set out as a note under section 1862p of this title.

CODIFICATION

Section was enacted as part of the Scientific and Advanced-Technology Act of 1992, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Pub. L. 117–167, §10312(f)(2)(A), substituted "STEM education" for "Scientific and technical education" in section catchline.

Subsec. (a). Pub. L. 117–167, §10312(f)(2)(B)(ii), in introductory provisions, inserted "and education to prepare the skilled technical workforce to meet workforce demands" before ", and to improve" and substituted "core education courses in STEM fields" for "core education courses in science and mathematics" and "(including veterans and individuals engaged in work in the home) and on building a pathway from secondary schools to associate-degree-granting institutions, to careers that require technical training, and shall be designed" for "(including work in the home), and shall be designed".

Pub. L. 117–167, §10312(f)(2)(B)(i), substituted "STEM education" for "scientific and technical education" in heading.

Subsec. (a)(1). Pub. L. 117–167, §10312(f)(2)(B)(iii), inserted "and study" after "development" and substituted "core STEM courses" for "core science and mathematics courses".

Subsec. (a)(2). Pub. L. 117–167, §10312(f)(2)(B)(iv), substituted "STEM and advanced- technology fields" for "science, mathematics, and advanced-technology fields".

Subsec. (a)(3)(A). Pub. L. 117–167, §10312(f)(2)(B)(v), inserted "to support the advanced- technology industries that drive the competitiveness of the United States in the global economy" before semicolon at end.

Subsec. (a)(4). Pub. L. 117–167, §10312(f)(2)(B)(vi), which directed substitution of "STEM and advanced-technology fields" for "scientific and advanced- technology fields", was executed by making the substitution for "scientific and advanced-technology fields" to reflect the probable intent of Congress.

Subsec. (a)(5). Pub. L. 117–167, §10312(f)(2)(B)(vii), substituted "advanced STEM and advanced-technology" for "advanced scientific and technical education".

Subsec. (b). Pub. L. 117–167, §10312(b), amended subsec. (b) generally. Prior to amendment, text read as follows: "The Director shall award grants for the establishment of centers of excellence, not to exceed 12 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

"(1) Exceptional instructional programs in advanced-technology fields.

"(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic

region served by the center."

Subsec. (c)(1)(A). Pub. L. 117–167, §10312(f)(2)(C)(i)(I)(aa), substituted "to encourage the development of career and educational pathways with multiple entry and exit points leading to credentials and degrees, and to assist students pursuing pathways in STEM fields to transition from associate-degree-granting colleges to bachelor- degree-granting institutions, through such means as—" for "to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—" in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 117–167, §10312(f)(2)(C)(i)(I)(bb), substituted "to develop articulation agreements that ensure" for "to ensure".

Subsec. (c)(1)(A)(ii). Pub. L. 117–167, §10312(f)(2)(C)(i)(I)(cc), substituted "the career and educational pathways supported by the articulation agreements" for "courses at the bachelor-degree-granting institution".

Subsec. (c)(1)(B). Pub. L. 117–167, §10312(f)(2)(C)(i)(II)(cc), struck out concluding provisions which read as follows: "Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (i)(3)."

Subsec. (c)(1)(B)(i). Pub. L. 117–167, §10312(f)(2)(C)(i)(II)(aa), inserted "veterans and individuals engaged in" before "work in the home".

Subsec. (c)(1)(B)(iii). Pub. L. 117–167, §10312(f)(2)(C)(i)(II)(bb), substituted "institutions or work sites" for "bachelor's-degree-granting institutions" and inserted "or industry internships" after "summer programs".

Subsec. (c)(1)(C). Pub. L. 117–167, §10312(f)(2)(C)(i)(III), struck out subpar. (C) which read as follows: "Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph."

Subsec. (c)(2). Pub. L. 117–167, §10312(f)(2)(C)(ii), substituted "outstanding STEM programs to strengthen relationships with secondary schools and, as appropriate, elementary schools, in the community served by the college by improving STEM education and encouraging the interest and aptitude of students at these schools for careers in STEM and advanced-technology fields through such means as developing articulation agreements or dual credit courses with local secondary schools, or other means as the Director determines appropriate, to enable students" for "outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students".

Subsec. (c)(3). Pub. L. 117–167, §10312(f)(2)(C)(iii), struck out subpar. (A) designation before "establish a program", substituted "shall" for "shall—", "STEM fields" for "the fields of science, technology, engineering, and mathematics", and ", including jobs at Federal and academic laboratories." for "; and", and struck out subpar. (B) which read as follows: "make grants available to associate-degree-granting colleges to carry out the program identified in subsection (A)."

Subsec. (d)(2)(F). Pub. L. 117–167, §10312(f)(2)(D), added subpar. (F).

Subsec. (d)(2)(G). Pub. L. 117–167, §10361(d)(1), added subpar. (G).

Subsec. (e)(3)(E). Pub. L. 117–167, §10361(d)(2), added subpar. (E).

Subsec. (g). Pub. L. 117–167, §10312(f)(2)(E), struck out at end "In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

Subsec. (h)(1)(A). Pub. L. 117–167, §10312(f)(2)(F)(i), substituted "2026" for "2022".

Subsec. (h)(1)(B). Pub. L. 117–167, §10312(f)(2)(F)(ii), substituted "2026" for "2022".

Subsec. (h)(1)(C). Pub. L. 117–167, §10312(f)(2)(F)(iii), substituted "not less than $3,000,000" for "up to $2,500,000" and "2026" for "2022".

Subsec. (i)(3) to (5). Pub. L. 117–167, §10312(f)(2)(G), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;".

Subsec. (j)(1). Pub. L. 117–167, §10312(f)(2)(H)(i), added par. (1) and struck out former par. (1) which read as follows: "the term 'advanced-technology' includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser,

nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;".

Subsec. (j)(4). Pub. L. 117–167, §10312(f)(2)(H)(ii), which directed substitution of "other entities" for "separate bachelor-degree- granting institutions", was executed by making the substitution for "separate bachelor-degree-granting institutions" to reflect the probable intent of Congress.

Subsec. (j)(7). Pub. L. 117–167, §10312(f)(2)(H)(iii), (iv), redesignated par. (8) as (7) and struck out former par. (7) which read as follows: "the term 'local educational agency' has the meaning given such term in section 2891(12) of title 20."

Subsec. (j)(8). Pub. L. 117–167, §10312(f)(2)(H)(vi)(I), substituted "science, technology, engineering, or mathematics" for "mathematics, science, engineering, or technology".

Pub. L. 117–167, §10312(f)(2)(H)(iv), redesignated par. (9) as (8). Former par. (8) redesignated (7).

Subsec. (j)(9). Pub. L. 117–167, §10312(f)(2)(H)(v), (vi)(II), (vii), added par. (9).

Pub. L. 117–167, §10312(f)(2)(H)(iv), redesignated par. (9) as (8).

2021—Subsec. (b). Pub. L. 116–283, §5401(e)(3)(A), substituted "12" for "10" in introductory provisions.

Subsec. (j)(9). Pub. L. 116–283, §9405(b), inserted "and cybersecurity" after "computer science".

2018—Subsec. (a)(3)(A). Pub. L. 115–402, §3(3), substituted semicolon for comma at end.

Subsec. (c)(1)(B). Pub. L. 115–402, §3(4), which directed substitution of "subsection (i)(3)" for "subsection (f)(3)" in cl. (iv), was executed by making the substitution in concluding provisions of subpar. (B) following cl. (iv), to reflect the probable intent of Congress.

Subsecs. (d) to (f). Pub. L. 115–402, §3(2), added subsecs. (d) to (f). Former subsecs. (d) to (f) redesignated (g) to (i), respectively.

Subsec. (g). Pub. L. 115–402, §3(1), redesignated subsec. (d) as (g). Former subsec. (g) redesignated (j).

Subsec. (h). Pub. L. 115–402, §3(5), substituted "Funding" for "Limitation on funding" in heading, designated existing provisions as par. (3) and inserted heading, and added pars. (1) and (2).

Pub. L. 115–402, §3(1), redesignated subsec. (e) as (h).

Subsec. (i). Pub. L. 115–402, §3(1), redesignated subsec. (f) as (i).

Subsec. (j). Pub. L. 115–402, §3(1), redesignated subsec. (g) as (j).

Subsec. (j)(5) to (9). Pub. L. 115–402, §3(6), added pars. (5) and (6), redesignated former par. (5) as (7), and added pars. (8) and (9).

2007—Subsec. (a)(3)(A). Pub. L. 110–69, §7031(a)(1)(A), which directed striking out "and" after the semicolon, was executed by striking out "and" after the comma, to reflect the probable intent of Congress.

Subsec. (a)(3)(B), (C). Pub. L. 110–69, §7031(a)(1)(B), (C), substituted "; and" for semicolon in subpar. (B) and added subpar. (C).

Subsec. (c)(3). Pub. L. 110–69, §7031(a)(2), added par. (3).

2002—Subsec. (a). Pub. L. 107–368, §21(a)(1), inserted ", and to improve the quality of their core education courses in science and mathematics" after "education in advanced-technology fields" in introductory provisions.

Subsec. (a)(1). Pub. L. 107–368, §21(a)(2), inserted "and in core science and mathematics courses" after "advanced-technology fields".

Subsec. (a)(2). Pub. L. 107–368, §21(a)(3), substituted "who provide instruction in science, mathematics, and advanced-technology fields" for "in advanced-technology fields".

Subsec. (c)(1)(B)(iii), (iv). Pub. L. 107–368, §21(b), added cls. (iii) and (iv).

1998—Subsec. (g)(2), (3). Pub. L. 105–244 substituted "section 101 of the Higher Education Act of 1965" for "section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

FINDINGS

Pub. L. 115–402, §2, Dec. 31, 2018, 132 Stat. 5343, provided that: "Congress finds the following:

"(1) To remain competitive in the global economy, foster greater innovation, and provide a foundation for shared prosperity, the United States needs a workforce with the right mix of skills to meet the diverse needs of the economy.

"(2) Evidence indicates that the returns on investments in technical skills in the labor market are strong

when students successfully complete their education and gain credentials sought by employers.

"(3) The responsibility for developing and sustaining a skilled technical workforce is fragmented across many groups, including educators, students, workers, employers, Federal, State, and local governments, civic associations, and other stakeholders. Such groups need to be able to coordinate and cooperate successfully with each other.

"(4) Coordination among students, community colleges, secondary and post-secondary institutions, and employers would improve educational outcomes.

"(5) Promising experiments currently underway may guide innovation and reform, but scalability of some of those experiments has not yet been tested.

"(6) Evidence suggests that integration of academic education, technical skills development, and hands-on work experience improves outcomes and return on investment for students in secondary and post-secondary education and for skilled technical workers in different career stages.

"(7) Outcomes show that mentoring can increase STEM student engagement and the rate of completion of STEM post-secondary degrees."

[1] So in original. The space between "advanced-" and "technology" probably should not appear.

[2] So in original. The space between "bachelor-" and "degree-granting" probably should not appear.

[3] So in original.

[4] So in original. The defined term probably should be within quotation marks.

[5] See References in Text note below.

§1862j. Authorization of appropriations

There are authorized to be appropriated to the Director for carrying out sections 2 through 4 $150,000,000 for each of fiscal years 2023 through 2027.

(Pub. L. 102–476, §5, Oct. 23, 1992, 106 Stat. 2301; Pub. L. 117–167, div. B, title III, §10312(f)(3), Aug. 9, 2022, 136 Stat. 1522.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 2 through 4, referred to in text, is sections 2 to 4 of Pub. L. 102–476, which enacted sections 1862h and 1862i of this title and amended section 1862 of this title, respectively.

CODIFICATION

Section was enacted as part of the Scientific and Advanced-Technology Act of 1992, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Pub. L. 117–167 amended section generally. Prior to amendment, section authorized appropriations for carrying out sections 1862h to 1862j of this title for fiscal years 1992 and 1993.

§1862k. Findings; core strategies

(a) Findings

Congress finds the following:

(1) The United States depends upon its scientific and technological capabilities to preserve the

military and economic security of the United States.

(2) America's leadership in the global marketplace is dependent upon a strong commitment to education, basic research, and development.

(3) A nation that is not technologically literate cannot compete in the emerging global economy.

(4) A coordinated commitment to mathematics and science instruction at all levels of education is a necessary component of successful efforts to produce technologically literate citizens.

(5) Professional development is a necessary component of efforts to produce system-wide improvements in mathematics, engineering, and science education in secondary, elementary, and postsecondary settings.

(6)(A) The mission of the National Science Foundation is to provide Federal support for basic scientific and engineering research, and to be a primary contributor to mathematics, science, and engineering education at academic institutions in the United States.

(B) In accordance with such mission, the long-term goals of the National Science Foundation include providing leadership to—

(i) enable the United States to maintain a position of world leadership in all aspects of science, mathematics, engineering, and technology;

(ii) promote the discovery, integration, dissemination, and application of new knowledge in service to society; and

(iii) achieve excellence in United States science, mathematics, engineering, and technology education at all levels.

(b) Core strategies

In carrying out activities designed to achieve the goals described in subsection (a), the Foundation shall use the following core strategies:

(1) Develop intellectual capital, both people and ideas, with particular emphasis on groups and regions that traditionally have not participated fully in science, mathematics, and engineering.

(2) Strengthen the scientific infrastructure by investing in facilities planning and modernization, instrument acquisition, instrument design and development, and shared-use research platforms.

(3) Integrate research and education through activities that emphasize and strengthen the natural connections between learning and inquiry.

(4) Promote partnerships with industry, elementary and secondary schools, community colleges, colleges and universities, other agencies, State and local governments, and other institutions involved in science, mathematics, and engineering to enhance the delivery of math and science education and improve the technological literacy of the citizens of the United States.

(Pub. L. 105–207, title I, §101, July 29, 1998, 112 Stat. 869.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1998, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

INDIRECT COSTS

Pub. L. 105–207, title II, §203, July 29, 1998, 112 Stat. 875, provided that:

"(a) MATCHING FUNDS.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not be considered facilities costs for purposes of determining indirect cost rates under Office of Management and Budget Circular A–21.

"(b) REPORT.—

"(1) IN GENERAL.—The Director of the Office of Science and Technology Policy, in consultation with other Federal agencies the Director deems appropriate, shall prepare a report—

"(A) analyzing the Federal indirect cost reimbursement rates (as the term is defined in Office of Management and Budget Circular A–21) paid to universities in comparison with Federal indirect cost

reimbursement rates paid to other entities, such as industry, government laboratories, research hospitals, and nonprofit institutions;

"(B)(i) analyzing the distribution of the Federal indirect cost reimbursement rates by category (such as administration, facilities, utilities, and libraries), and by the type of entity; and

"(ii) determining what factors, including the type of research, influence the distribution;

"(C) analyzing the impact, if any, that changes in Office of Management and Budget Circular A–21 have had on—

"(i) the Federal indirect cost reimbursement rates, the rate of change of the Federal indirect cost reimbursement rates, the distribution by category of the Federal indirect cost reimbursement rates, and the distribution by type of entity of the Federal indirect cost reimbursement rates; and

"(ii) the Federal indirect cost reimbursement (as calculated in accordance with Office of Management and Budget Circular A–21), the rate of change of the Federal indirect cost reimbursement, the distribution by category of the Federal indirect cost reimbursement, and the distribution by type of entity of the Federal indirect cost reimbursement;

"(D) analyzing the impact, if any, of Federal and State law on the Federal indirect cost reimbursement rates;

"(E)(i) analyzing options to reduce or control the rate of growth of the Federal indirect cost reimbursement rates, including options such as benchmarking of facilities and equipment cost, elimination of cost studies, mandated percentage reductions in the Federal indirect cost reimbursement; and

"(ii) assessing the benefits and burdens of the options to the Federal Government, research institutions, and researchers; and

"(F) analyzing options for creating a database—

"(i) for tracking the Federal indirect cost reimbursement rates and the Federal indirect cost reimbursement; and

"(ii) for analyzing the impact that changes in policies with respect to Federal indirect cost reimbursement will have on the Federal Government, researchers, and research institutions.

"(2) REPORT TO CONGRESS.—The report prepared under paragraph (1) shall be submitted to Congress not later than 1 year after the date of enactment of this Act [July 29, 1998]."

NOTICE; ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS

Pub. L. 105–207, title II, §§205, 206, July 29, 1998, 112 Stat. 876, provided that:

"SEC. 205. NOTICE.

"(a) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amendments made by this Act [See Short Title of 1998 Amendment note set out under section 1861 of this title] are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate, and the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives.

"(b) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Science Foundation, the Director of the National Science Foundation shall provide notice to the Committees on Science [now Science, Space, and Technology] and Appropriations of the House of Representatives and the Committees on Commerce, Science and Transportation, Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate, and Appropriations of the Senate.

"SEC. 206. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

"(a) DEFINITIONS.—In this section:

"(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term 'educationally useful Federal equipment' means computers and related peripheral tools and research equipment that is appropriate for use in schools.

"(2) SCHOOL.—The term 'school' means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

"(b) SENSE OF THE CONGRESS.—

"(1) IN GENERAL.—It is the sense of the Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999 [40 U.S.C. 549 note]), donate educationally useful Federal equipment to schools in order to enhance the

science and mathematics programs of those schools.

"(2) REPORTS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 29, 1998], and annually thereafter, the Director shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

"(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report."

DEFINITIONS

Pub. L. 105–207, §2, July 29, 1998, 112 Stat. 869, as amended by Pub. L. 107–368, §14(b)(3), Dec. 19, 2002, 116 Stat. 3057, provided that: "In this Act [see Short Title of 1998 Amendment note set out under section 1861 of this title]:

"(1) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(2) FOUNDATION.—The term 'Foundation' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(3) FULL LIFE-CYCLE COST.—The term 'full life-cycle cost' means all costs of planning, development, procurement, construction, operations and support, and shut-down costs, without regard to funding source and without regard to what entity manages the project or facility involved.

"(4) BOARD.—The term 'Board' means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(5) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

"(6) NATIONAL RESEARCH FACILITY.—The term 'national research facility' means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States."

§1862*l*. National research facilities

(a) Facilities plan

(1) In general

The Director shall prepare, and include as part of the Foundation's annual budget request to Congress, a plan for the proposed construction of, and repair and upgrades to, national research facilities, including full life-cycle cost information.

(2) Contents of the plan

The plan shall include—

(A) estimates of the costs for the construction, repairs, and upgrades described in paragraph (1), including costs for instrumentation development;

(B) estimates of the costs for the operation and maintenance of existing and proposed new facilities;

(C) in the case of proposed new construction and for major upgrades to existing facilities, funding profiles, by fiscal year, and milestones for major phases of the construction;

(D) for each project funded under the major research equipment and facilities construction account and for major upgrades of facilities in support of Antarctic research programs—

(i) estimates of the total project cost (from planning to commissioning); and

(ii) the source of funds, including Federal funding identified by appropriations category and non-Federal funding;

(E) estimates of the full life-cycle cost of each national research facility;

(F) information on any plans to retire national research facilities; and

(G) estimates of funding levels for grants supporting research that will be conducted using

each national research facility.

(3) Special rule

The plan shall include cost estimates in the categories of construction, repair, and upgrades—

(A) for the year in which the plan is submitted to Congress; and

(B) for not fewer than the succeeding 4 years.

(b) Status of facilities under construction

The plan required under subsection (a) shall include a status report for each uncompleted construction project included in current and previous plans. The status report shall include data on cumulative construction costs by project compared with estimated costs, and shall compare the current and original schedules for achievement of milestones for the major phases of the construction.

(Pub. L. 105–207, title II, §201, July 29, 1998, 112 Stat. 872; Pub. L. 107–368, §14(b)(1), (2), Dec. 19, 2002, 116 Stat. 3056, 3057; Pub. L. 110–69, title VII, §7014(b), Aug. 9, 2007, 121 Stat. 682.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1998, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2007—Subsec. (a)(2)(D). Pub. L. 110–69 inserted "and for major upgrades of facilities in support of Antarctic research programs" after "facilities construction account" in introductory provisions.

2002—Subsec. (a)(1). Pub. L. 107–368, §14(b)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Not later than December 1, of each year, the Director shall, as part of the annual budget request, prepare and submit to Congress a plan for the proposed construction of, and repair and upgrades to, national research facilities."

Subsec. (a)(2)(A). Pub. L. 107–368, §14(b)(2)(A), substituted "(1), including costs for instrumentation development;" for "(1);".

Subsec. (a)(2)(D) to (G). Pub. L. 107–368, §14(b)(2)(B)–(D), added subpars. (D) to (G).

§1862m. Financial disclosure

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under chapter 131 of title 5 as are permanent employees of the Foundation in equivalent positions.

(Pub. L. 105–207, title II, §204, July 29, 1998, 112 Stat. 876; Pub. L. 117–286, §4(c)(44), Dec. 27, 2022, 136 Stat. 4359.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1998, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Pub. L. 117–286 substituted "chapter 131 of title 5" for "the Ethics in Government Act of 1978 (5 U.S.C. App.)".

§1862n. Mathematics and science education partnerships

(a) Program authorized

(1) In general

(A) The Director shall carry out a program to award grants to institutions of higher education or eligible nonprofit organizations (or consortia of such institutions or organizations) to establish mathematics and science education partnership programs to improve elementary and secondary mathematics and science instruction.

(B) Grants shall be awarded under this subsection on a competitive, merit-reviewed basis.

(2) Partnerships

(A) In order to be eligible to receive a grant under this subsection, an institution of higher education or eligible nonprofit organization (or consortium of such institutions or organizations) shall enter into a partnership with one or more local educational agencies that may also include the department, college, or program of education at an institution of higher education, a State educational agency, or one or more businesses.

(B) A participating institution of higher education shall include mathematics, science, or engineering departments in the programs carried out through a partnership under this paragraph.

(3) Uses of funds

Grants awarded under this subsection shall be used for activities that draw upon the expertise of the partners to improve elementary or secondary education in mathematics or science and that are consistent with State mathematics and science student academic achievement standards, including—

(A) recruiting and preparing students for careers in elementary or secondary mathematics or science education;

(B) offering professional development programs, including—

(i) teacher institutes for the 21st century, as described in paragraph (10); and

(ii) academic year institutes or workshops that—

(I) are designed to strengthen the capabilities of mathematics and science teachers; and

(II) may include professional development activities to prepare mathematics and science teachers to teach challenging mathematics, science, and technology college-preparatory courses;

(C) offering innovative preservice and inservice programs that instruct teachers on using technology and laboratory experiences more effectively in teaching mathematics and science, including programs that recruit and train undergraduate and graduate students to provide technical and laboratory support to teachers;

(D) developing distance learning programs for teachers or students, including developing courses, curricular materials, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(E) developing a cadre of master teachers who will promote reform and improvement in schools;

(F) offering teacher preparation and certification programs for professional mathematicians, scientists, and engineers who wish to begin a career in teaching;

(G) developing tools to evaluate activities conducted under this subsection;

(H) developing or adapting elementary school and secondary school mathematics and science curricular materials that incorporate contemporary research on the science of learning;

(I) developing initiatives to increase and sustain the number, quality, and diversity of prekindergarten through grade 12 teachers of mathematics and science, including the use of induction programs, as defined in section 9813(h) [1] of title 20, for teachers in their first 2 years of teaching, especially in underserved areas;

(J) using mathematicians, scientists, and engineers employed by private businesses to help recruit and train mathematics and science teachers;

(K) developing science, technology, engineering, and mathematics educational programs and materials and conducting science, technology, engineering, and mathematics enrichment programs for students, including after-school programs and summer programs, with an emphasis on including and serving students described in subsection (b)(2)(G);

(L) providing research opportunities in business or academia for students and teachers;

(M) bringing mathematicians, scientists, and engineers from business and academia into elementary school and secondary school classrooms;

(N) developing science, technology, engineering, and mathematics educational curriculum that incorporates art and design to promote creativity and innovation; and

(O) any other activities the Director determines will accomplish the goals of this subsection.

(4) Master teachers

Activities carried out in accordance with paragraph (3)(E) shall—

(A) emphasize the training of master teachers who will improve the instruction of mathematics or science in kindergarten through grade 12;

(B) include training in both content and pedagogy; and

(C) provide training only to teachers who will be granted sufficient nonclassroom time to serve as master teachers, as demonstrated by assurances their employing school has provided to the Director, in such time and such manner as the Director may require.

(5) Science enrichment programs for girls

Activities carried out in accordance with paragraph (3)(K) and (L) shall include elementary school and secondary school programs to encourage the ongoing interest of girls in science, mathematics, engineering, and technology and to prepare girls to pursue undergraduate and graduate degrees and careers in science, mathematics, engineering, or technology. Funds made available through awards to partnerships for the purposes of this paragraph may support programs for—

(A) encouraging girls to pursue studies in science, mathematics, engineering, and technology and to major in such fields in postsecondary education;

(B) tutoring girls in science, mathematics, engineering, and technology;

(C) providing mentors for girls in person and through the Internet to support such girls in pursuing studies in science, mathematics, engineering, and technology;

(D) educating the parents of girls about the difficulties faced by girls to maintain an interest and desire to achieve in science, mathematics, engineering, and technology, and enlisting the help of parents in overcoming these difficulties; and

(E) acquainting girls with careers in science, mathematics, engineering, and technology and encouraging girls to plan for careers in such fields.

(6) Research in secondary schools

Activities carried out in accordance with paragraph (3)(K) may include support for research projects performed by students at secondary schools. Uses of funds made available through awards to partnerships for purposes of this paragraph may include—

(A) training secondary school mathematics and science teachers in the design of research projects for students;

(B) establishing a system for students and teachers involved in research projects funded under this subsection to exchange information about their projects and research results; and

(C) assessing the educational value of the student research projects by such means as tracking the academic performance and choice of academic majors of students conducting research.

(7) Stipends

Grants awarded under this subsection may be used to provide stipends for teachers or students participating in training or research activities that would not be part of their typical classroom activities.

(8) Mentors for teachers and students of challenging courses

Partnerships carrying out activities to prepare mathematics and science teachers to teach challenging mathematics, science, and technology college-preparatory courses in accordance with

paragraph (3)(B) shall encourage companies employing scientists, technologists, engineers, or mathematicians to provide mentors to teachers and students and provide for the coordination of such mentoring activities.

(9) Innovation

Activities carried out in accordance with paragraph (3)(H) may include the development and dissemination of curriculum tools that will help foster inventiveness and innovation.

(10) Teacher institutes for the 21st century

(A) In general

Teacher institutes for the 21st century carried out in accordance with paragraph (3)(B) shall—

(i) be carried out in conjunction with a school served by the local educational agency in the partnership;

(ii) be science, technology, engineering, and mathematics focused institutes that provide professional development to elementary school and secondary school teachers;

(iii) serve teachers who—

(I) are considered highly qualified (as defined in section 9101 [1] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]);

(II) teach high-need subjects in science, technology, engineering, or mathematics; and

(III) teach in high-need schools (as described in section 1114(a)(1)(A) [1]);

(iv) focus on the priorities developed by the Director in consultation with a broad group of relevant educational organizations;

(v) be content-based and build on school year curricula that are experiment-oriented, content-based, and grounded in current research;

(vi) ensure that the pedagogy component is designed around specific strategies that are relevant to teaching the subject and content on which teachers are being trained, which may include training teachers in the essential components of reading instruction for adolescents in order to improve student reading skills within the subject areas of science, technology, engineering, and mathematics;

(vii) be a multiyear program that is conducted for a period of not less than 2 weeks per year;

(viii) provide for direct interaction between participants in and faculty of the teacher institute;

(ix) have a component that includes the use of the Internet;

(x) provide for followup training in the classroom during the academic year for a period of not less than 3 days, which may or may not be consecutive, for participants in the teacher institute, except that for teachers in rural local educational agencies, the followup training may be provided through the Internet;

(xi) provide teachers participating in the teacher institute with travel expense reimbursement and classroom materials related to the teacher institute, and may include providing stipends as necessary; and

(xii) establish a mechanism to provide supplemental support during the academic year for teacher institute participants to apply the knowledge and skills gained at the teacher institute.

(B) Optional members of the partnership

In addition to the partnership requirement under paragraph (2), an institution of higher education or eligible nonprofit organization (or consortium) desiring a grant for a teacher institute for the 21st century may also partner with a teacher organization, museum, or educational partnership organization.

(b) Selection process

(1) Application

An institution of higher education or an eligible nonprofit organization (or a consortium of such institutions or organizations) seeking funding under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the partnership and the role that each member will play in implementing the proposal;

(B) a description of each of the activities to be carried out, including—

(i) how such activities will be aligned with State mathematics and science student academic achievement standards and with other activities that promote student achievement in mathematics and science;

(ii) how such activities will be based on a review of relevant research;

(iii) why such activities are expected to improve student performance and strengthen the quality of mathematics and science instruction; and

(iv) any activities that will encourage the interest of individuals identified in section 1885a or 1885b of this title in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields;

(C) a description of the number, size, and nature of any stipends that will be provided to students or teachers and the reasons such stipends are needed;

(D) a description of how the partnership will serve as a catalyst for reform of mathematics and science education programs;

(E) a description of how the partnership will assess its success;

(F) a description of how the partnership will collaborate with the State educational agency to ensure that successful partnership activities may be replicated throughout the State; and

(G) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) Review of applications

In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed programs;

(B) the extent to which the members of the partnership are committed to making the partnership a central organizational focus;

(C) the degree to which activities carried out by the partnership are based on relevant research and are likely to result in increased student achievement;

(D) the degree to which such activities are aligned with State mathematics and science student academic achievement standards;

(E) the extent to which the evaluation described in paragraph (1)(E) will be independent and based on objective measures;

(F) the likelihood that the partnership will demonstrate activities that can be widely implemented as part of larger scale reform efforts; and

(G) the extent to which the activities will encourage the interest of individuals identified in section 1885a or 1885b of this title in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields.

(3) Awards

In awarding grants under this section, the Director shall—

(A) give priority to applications in which the partnership includes a high-need local educational agency or a high-need local educational agency in which at least one school does not make adequate yearly progress, as determined pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(B) ensure that, to the extent practicable, a substantial number of the partnerships funded under this section include businesses.

(c) Accountability and dissemination

(1) Assessment required

The Director shall evaluate the program established under subsection (a). At a minimum, such evaluation shall—

(A) use a common set of benchmarks and assessment tools to identify best practices and materials developed and demonstrated by the partnerships; and

(B) to the extent practicable, compare the effectiveness of practices and materials developed and demonstrated by the partnerships authorized under this section with those of partnerships funded by other State or Federal agencies.

(2) Report on evaluations

Not later than 4 years after August 9, 2007, the Director shall transmit a report summarizing the evaluations required under subsection (b)(1)(E) of grants received under this program and describing any changes to the program recommended as a result of these evaluations to the Committee on Science and Technology and the Committee on Education and Labor of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate. Such report shall be made widely available to the public.

(3) Annual meeting

The Director, in consultation with the Secretary of Education, shall convene an annual meeting of the partnerships participating under this section to foster greater national collaboration.

(4) Technical assistance

At the request of an eligible partnership or a State educational agency, the Director shall provide the partnership or agency with technical assistance in meeting any requirements of this section, including providing advice from experts on how to develop—

(A) a quality application for a grant; and

(B) quality activities from funds received from a grant under this section.

(d) Definitions

In this section—

(1) the term "mathematics and science teacher" means a science, technology, engineering, or mathematics teacher at the elementary school or secondary school level; and

(2) the term "science", in the context of elementary and secondary education, includes technology and pre-engineering.

(Pub. L. 107–368, §9, Dec. 19, 2002, 116 Stat. 3044; Pub. L. 110–69, title VII, §§7028, 7029, Aug. 9, 2007, 121 Stat. 696, 697; Pub. L. 114–95, title IX, §9215(ggg)(2), Dec. 10, 2015, 129 Stat. 2186; Pub. L. 114–329, title II, §204(a)(3)(C), Jan. 6, 2017, 130 Stat. 2999; Pub. L. 117–167, div. B, title III, §10319(a), Aug. 9, 2022, 136 Stat. 1536.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9813 of title 20, referred to in subsec. (a)(3)(I), was repealed by Pub. L. 114–329, title II, §205(b), Jan. 6, 2017, 130 Stat. 3001.

Section 9101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(10)(A)(iii)(I), was amended by Pub. L. 114–95 and, as so amended, is now section 8101 of the Act and no longer defines "highly qualified". A reference in this section to "highly qualified", as defined in section 9101 of the Act, with respect to a teacher, means that the teacher meets applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. See section 9214(a)(2) of Pub. L. 114–95, set out as a Use of the Term "Highly Qualified" in Other Laws note under section 1070g–2 of Title 20, Education.

Section 1114(a)(1)(A), referred to in subsec. (a)(10)(A)(iii)(III), probably means section 1114(a)(1)(A) of the Elementary and Secondary Education Act of 1965, which is classified to section 6314(a)(1)(A) of Title 20, Education.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(3)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 et seq.) of subchapter I of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a)(3)(N), (O). Pub. L. 117–167 added subpar. (N) and redesignated former subpar. (N) as (O).

2017—Subsec. (c)(4), (5). Pub. L. 114–329 redesignated par. (5) as (4) and struck out former par. (4). Prior to amendment, text of par. (4) read as follows: "The Director, in consultation with the Secretary of Education, shall provide an annual report to the Committee on Science of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate describing how the program authorized under this section has been and will be coordinated with other programs with similar purposes. The report under this paragraph shall be submitted along with the President's annual budget request."

2015—Subsec. (a)(10)(A)(iii)(III). Pub. L. 114–95, §9215(ggg)(2)(A), which directed substitution of "(as described in section 1114(a)(1)(A))" for "(as described in section 1114(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314(a)(1))" was executed by making the substitution for "(as described in section 1114(a)(1) of the Elementary and Secondary Education Act of 1965)" to reflect the probable intent of Congress.

Subsec. (c)(4). Pub. L. 114–95, §9215(ggg)(2)(B), substituted "other programs with similar purposes" for "the program authorized under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.)".

2007—Subsec. (a)(2)(A). Pub. L. 110–69, §7028(1), substituted "the department, college, or program of education at an institution of higher education, a State educational agency," for "a State educational agency".

Subsec. (a)(3)(B). Pub. L. 110–69, §7028(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "offering professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of mathematics and science teachers;".

Subsec. (a)(3)(C). Pub. L. 110–69, §7028(3), inserted "and laboratory experiences" after "technology" and "and laboratory" after "provide technical".

Subsec. (a)(3)(I). Pub. L. 110–69, §7028(4), inserted "including the use of induction programs, as defined in section 9813(h) of title 20, for teachers in their first 2 years of teaching," after "and science,".

Subsec. (a)(3)(K). Pub. L. 110–69, §7028(5), added subpar. (K) and struck out former subpar. (K) which read as follows: "developing and offering mathematics or science enrichment programs for students, including after-school and summer programs;".

Subsec. (a)(8), (9). Pub. L. 110–69, §7028(6), added pars. (8) and (9).

Subsec. (a)(10). Pub. L. 110–69, §7029, added par. (10).

Subsec. (b)(2)(E) to (G). Pub. L. 110–69, §7028(7), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (c)(2). Pub. L. 110–69, §7028(8), added par. (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows:

"(A) The results of the evaluation required under paragraph (1) shall be made available to the public and shall be provided to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

"(B) Materials developed under the program established under subsection (a) of this section that are demonstrated to be effective shall be made widely available to the public."

Subsec. (d). Pub. L. 110–69, §7028(9), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and

the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

FINDINGS

Pub. L. 107–368, §2, Dec. 19, 2002, 116 Stat. 3034, provided that: "Congress finds the following:

"(1) The National Science Foundation has made major contributions for more than 50 years to strengthen and sustain the Nation's academic research enterprise that is the envy of the world.

"(2) The economic strength and national security of the United States and the quality of life of all Americans are grounded in the Nation's scientific and technological capabilities.

"(3) The National Science Foundation carries out important functions in supporting basic research in all science and engineering disciplines and in supporting science, mathematics, engineering, and technology education at all levels.

"(4) The research and education activities of the National Science Foundation promote the discovery, integration, dissemination, and application of new knowledge in service to society and prepare future generations of scientists, mathematicians, and engineers who will be necessary to ensure America's leadership in the global marketplace.

"(5) The National Science Foundation must be provided with sufficient resources to enable it to carry out its responsibilities to develop intellectual capital, strengthen the scientific infrastructure, integrate research and education, enhance the delivery of mathematics and science education in the United States, and improve the technological literacy of all people in the United States.

"(6) The emerging global economic, scientific, and technical environment challenges long-standing assumptions about domestic and international policy, requiring the National Science Foundation to play a more proactive role in sustaining the competitive advantage of the United States through superior research capabilities.

"(7) Commercial application of the results of Federal investment in basic and computing science is consistent with longstanding United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments."

REPORT ON FOUNDATION BUDGETARY AND PROGRAMMATIC EXPANSION

Pub. L. 107–368, §22, Dec. 19, 2002, 116 Stat. 3065, provided for a National Science Board report to address and examine specified issues concerning the National Science Foundation's budgetary and programmatic growth provided for by Pub. L. 107–368 and to be submitted to certain Congressional committees within one year after Dec. 19, 2002.

DEFINITIONS

Pub. L. 107–368, §4, Dec. 19, 2002, 116 Stat. 3035, as amended by Pub. L. 114–95, title IX, §9215(ggg)(1), Dec. 10, 2015, 129 Stat. 2186, provided that: "In this Act [see Short Title of 2002 Amendment note set out under section 1861 of this title]:

"(1) ACADEMIC UNIT.—The term 'academic unit' means a department, division, institute, school, college, or other subcomponent of an institution of higher education.

"(2) BOARD.—The term 'Board' means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(3) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001] that provides not less than a 2-year degree that is acceptable for full credit toward a bachelor's degree, including institutions of higher education receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 [probably means Pub. L. 95–471, 25 U.S.C. 1801 et seq.].

"(4) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation

established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(5) ELEMENTARY SCHOOL.—The term 'elementary school' has the meaning given that term by section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

"(6) ELIGIBLE NONPROFIT ORGANIZATION.—The term 'eligible nonprofit organization' means a nonprofit research institute, or a nonprofit professional association, with demonstrated experience and effectiveness in mathematics or science education as determined by the Director.

"(7) FOUNDATION.—The term 'Foundation' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(8) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency that meets one or more of the following criteria:

"(A) It has at least one school in which 50 percent or more of the enrolled students are eligible for participation in the free and reduced price lunch program established by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

"(B) It has at least one school in which—

"(i) more than 34 percent of the academic classroom teachers at the secondary level (across all academic subjects) do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes; or

"(ii) more than 34 percent of the teachers in two of the academic departments do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes.

"(C) It has at least one school whose teacher attrition rate has been 15 percent or more over the last three school years.

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(10) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term by section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

"(11) MASTER TEACHER.—The term 'master teacher' means a mathematics or science teacher who works to improve the instruction of mathematics or science in kindergarten through grade 12 through—

"(A) participating in the development or revision of science, mathematics, engineering, or technology curricula;

"(B) serving as a mentor to mathematics or science teachers;

"(C) coordinating and assisting teachers in the use of hands-on inquiry materials, equipment, and supplies, and when appropriate, supervising acquisition and repair of such materials;

"(D) providing in-classroom teaching assistance to mathematics or science teachers; and

"(E) providing professional development, including for the purposes of training other master teachers, to mathematics and science teachers.

"(12) NATIONAL RESEARCH FACILITY.—The term 'national research facility' means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

"(13) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given that term by section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

"(14) STATE.—Except with respect to the Experimental Program to Stimulate Competitive Research, the term 'State' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

"(15) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the meaning given such term by section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

"(16) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States."

[1] *See References in Text note below.*

§1862n–1. Robert Noyce Teacher Scholarship Program

(a) Scholarship program

(1) In general

The Director shall carry out a program to award grants to eligible entities to recruit and train mathematics and science teachers and to provide scholarships and stipends to individuals participating in the program. Such program shall be known as the "Robert Noyce Teacher Scholarship Program".

(2) Merit review

Grants shall be provided under this section on a competitive, merit-reviewed basis.

(3) Use of grants

A grant provided under this section shall be used by the eligible entity—

(A) to develop and implement a program to recruit and prepare undergraduate students majoring in science, technology, engineering, and mathematics at the eligible entity (and participating institutions of higher education of the consortium, if applicable) to become qualified as mathematics and science teachers, through—

(i) administering scholarships in accordance with subsection (c);

(ii) offering academic courses and early clinical teaching experiences designed to prepare students participating in the program to teach in elementary schools and secondary schools, including such preparation as is necessary to meet requirements for teacher certification or licensing;

(iii) offering programs to students participating in the program, both before and after the students receive their baccalaureate degree, to enable the students to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in the students' fields; and

(iv) providing summer internships for freshman and sophomore students participating in the program, including research experiences at national laboratories and NASA centers; or

(B) to develop and implement a program to recruit and prepare science, technology, engineering, or mathematics professionals to become qualified as mathematics and science teachers, through—

(i) administering stipends in accordance with subsection (d);

(ii) offering academic courses and clinical teaching experiences designed to prepare stipend recipients to teach in elementary schools and secondary schools served by a high need local educational agency, including such preparation as is necessary to meet requirements for teacher certification or licensing; and

(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in the students' fields.

(4) Eligibility requirement

(A) In general

To be eligible to receive a grant under this section, an eligible entity shall ensure that specific faculty members and staff from the science, technology, engineering, and mathematics departments and specific education faculty of the eligible entity (and participating institutions of higher education of the consortium, if applicable) are designated to carry out the development and implementation of the program.

(B) Inclusion of master teachers

An eligible entity (and participating institutions of higher education of the consortium, if applicable) receiving a grant under this section may also include master teachers in the development of the pedagogical content of the program and in the supervision of students participating in the program in their clinical teaching experiences.

(C) Active participants

No eligible entity (or participating institution of higher education of the consortium, if applicable) shall be eligible for a grant under this section unless faculty from the science, technology, engineering, and mathematics departments of the eligible entity (and participating institutions of higher education of the consortium, if applicable) are active participants in the program.

(5) Awards

In awarding grants under this section, the Director shall ensure that the eligible entities (and participating institutions of higher education of the consortia, if applicable) represent a variety of types of institutions of higher education. In support of this goal, the Director shall broadly disseminate information about when and how to apply for grants under this section, including by conducting outreach to—

(A) historically Black colleges and universities that are part B institutions, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2));

(B) minority institutions, as defined in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k(3)); and

(C) higher education programs that serve or support veterans.

(6) Supplement not supplant

Grant funds provided under this section shall be used to supplement, and not supplant, other Federal or State funds available for the type of activities supported by the grant.

(b) Selection process

(1) Application

An eligible entity seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) in the case of an applicant that is submitting an application on behalf of a consortium of institutions of higher education, a description of the participating institutions of higher education and the roles and responsibilities of each such institution;

(B) a description of the program that the applicant intends to operate, including the number of scholarships and summer internships or the size and number of stipends the applicant intends to award, the type of activities proposed for the recruitment of students to the program, and the selection process that will be used in awarding the scholarships or stipends;

(C) evidence that the applicant has the capability to administer the program in accordance with the provisions of this section, which may include a description of any existing programs at the applicant eligible entity (and participating institutions of higher education of the consortium, if applicable) that are targeted to the education of mathematics and science teachers and the number of teachers graduated annually from such programs;

(D) a description of the academic courses and clinical teaching experiences required under subparagraphs (A)(ii) and (B)(ii) of subsection (a)(3), as applicable, including—

(i) a description of the undergraduate program that will enable a student to graduate within 5 years with a major in science, technology, engineering, or mathematics and to obtain teacher certification or licensing;

(ii) a description of the clinical teaching experiences proposed; and

(iii) evidence of agreements between the applicant and the schools or local educational agencies that are identified as the locations at which clinical teaching experiences will occur;

(E) a description of the programs required under subparagraphs (A)(iii) and (B)(iii) of subsection (a)(3), including activities to assist new teachers in fulfilling the teachers' service requirements under this section;

(F) an identification of the applicant eligible entity's science, technology, engineering, and mathematics faculty and its education faculty (and such faculty of participating institutions of higher education of the consortium, if applicable) who will carry out the development and

implementation of the program as required under subsection (a)(4); and

(G) a description of the process the applicant will use to fulfill the requirements of subsection (f).

(2) Review of applications

In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant (and the participating institutions of higher education of the consortium, if applicable) to effectively carry out the program;

(B) the extent to which the applicant's science, technology, engineering, and mathematics faculty and its education faculty (and such faculty of participating institutions of higher education of the consortium, if applicable) have worked or will work collaboratively to design new or revised curricula that recognize the specialized pedagogy required to teach science, technology, engineering, and mathematics effectively in elementary schools and secondary schools;

(C) the extent to which the applicant (and the participating institutions of higher education of the consortium, if applicable) is committed to making the program a central organizational focus;

(D) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

(E) the number and academic qualifications of the students who will be served by the program; and

(F) the ability of the applicant (and the participating institutions of higher education of the consortium, if applicable) to recruit students who would otherwise not pursue a career in teaching in elementary schools or secondary schools, students who are individuals identified in section 1885a or 1885b of this title, and veterans.

(c) Scholarship requirements

(1) In general

Scholarships under this section shall be available only to students who—

(A) are majoring in science, technology, engineering, or mathematics; and

(B) have attained at least junior status in a baccalaureate degree program.

(2) Selection

Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title and veterans.

(3) Amount

The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than $10,000 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Full-time students may receive annual scholarships through the completion of a baccalaureate degree program, not to exceed a maximum of 3 years. Part-time students may receive scholarships that are prorated according to such students' enrollment status, not to exceed 6 years of scholarship support.

(4) Service obligation

If an individual receives a scholarship under this section, such individual shall be required to complete, within 8 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each full scholarship award received, with a maximum service requirement of 6 years. Service required under this paragraph shall be performed in a high need local educational agency.

(d) Stipends

(1) In general

Stipends under this section shall be available only to science, technology, engineering, or mathematics professionals who, while receiving the stipend, are enrolled in a program established under subsection (a)(3)(B).

(2) Selection

Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit and professional achievement, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title and veterans.

(3) Amount and duration

Stipends under this section shall be not less than $10,000 per year, except that no individual shall receive for any year more than the cost of attendance at such individual's institution. Individuals may receive a maximum of 1 year of stipend support, except that if an individual is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

(4) Service obligation

If an individual receives a stipend under this section, such individual shall be required to complete, within 4 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher. Service required under this paragraph shall be performed in a high need local educational agency.

(e) Conditions of support

As a condition of acceptance of a scholarship or stipend under this section, a recipient of a scholarship or stipend shall enter into an agreement with the eligible entity—

(1) accepting the terms of the scholarship or stipend pursuant to subsection (c) or subsection (d);

(2) agreeing to provide the eligible entity with annual certification of employment and up-to-date contact information and to participate in surveys conducted by the eligible entity as part of an ongoing assessment program; and

(3) establishing that if the service obligation required under this section is not completed, all or a portion of the scholarship or stipend received under this section shall be repaid in accordance with subsection (g).

(f) Collection for noncompliance

(1) Monitoring compliance

An eligible entity receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship or stipend recipients with their respective service requirements.

(2) Collection of repayment

(A) In general

In the event that a scholarship or stipend recipient is required to repay the scholarship or stipend under subsection (g), the eligible entity shall—

(i) be responsible for determining the repayment amounts and for notifying the recipient and the Director of the amount owed; and

(ii) collect such repayment amount within a period of time as determined under the agreement described in paragraph (1), or the repayment amount shall be treated as a loan in accordance with subparagraph (C).

(B) Returned to Treasury

Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

(C) Retain percentage

An eligible entity may retain a percentage of any repayment the eligible entity collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all eligible entities.

(g) Failure to complete service obligation

(1) General rule

If an individual who has received a scholarship or stipend under this section—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

(B) is dismissed from such educational institution for disciplinary reasons;

(C) withdraws from the program for which the award was made before the completion of such program;

(D) declares that the individual does not intend to fulfill the service obligation under this section; or

(E) fails to fulfill the service obligation of the individual under this section,

such individual shall be liable to the United States as provided in paragraph (2).

(2) Amount of repayment

(A) Less than one year of service

If a circumstance described in paragraph (1) occurs before the completion of 1 year of a service obligation under this section, the total amount of awards received by the individual under this section shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C).

(B) More than one year of service

If a circumstance described in subparagraph (D) or (E) of paragraph (1) occurs after the completion of 1 year of a service obligation under this section—

(i) for a scholarship recipient, the total amount of scholarship awards received by the individual under this section, reduced by the ratio of the number of years of service completed divided by the number of years of service required, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C); and

(ii) for a stipend recipient, one-half of the total amount of stipends received by the individual under this section shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C).

(C) Repayments

The loans described under subparagraphs (A) and (B) shall be payable to the Federal Government, consistent with the provisions of part B or D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087a et seq.], and shall be subject to repayment in accordance with terms and conditions specified by the Director (in consultation with the Secretary of Education) in regulations promulgated to carry out this paragraph.

(3) Exceptions

The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(h) Data collection

An eligible entity receiving a grant under this section shall supply to the Director any relevant statistical and demographic data on scholarship and stipend recipients the Director may request, including information on employment required under this section.

(i) Definitions

In this section—

(1) the term "cost of attendance" has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

(2) the term "eligible entity" means—

(A) an institution of higher education; or

(B) an institution of higher education that receives grant funds on behalf of a consortium of institutions of higher education;

(3) the term "fellowship" means an award to an individual under section 1862n–1a of this title;

(4) the term "high need local educational agency" has the meaning given such term in section 201 of the Higher Education Act of 1965 (20 U.S.C. 1021);

(5) the term "mathematics and science teacher" means a science, technology, engineering, mathematics, or computer science and artificial intelligence, including cybersecurity, teacher at the elementary school or secondary school level;

(6) the term "scholarship" means an award under subsection (c);

(7) the term "science, technology, engineering, or mathematics professional" means an individual who holds a baccalaureate, master's, or doctoral degree in science, technology, engineering, mathematics, or computer science, including cybersecurity, and is working in or had a career in such field or a related area; and

(8) the term "stipend" means an award under subsection (d).

(j) Mathematics and science scholarship gift fund

In accordance with section 1870(f) of this title, the Director is authorized to accept donations from the private sector to supplement but not supplant scholarships, stipends, internships, or fellowships associated with programs under this section or section 1862n–1a of this title.

(k) Assessment of teacher service and retention

Not later than 4 years after August 9, 2007, the Director shall transmit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Science and Technology of the House of Representatives a report on the effectiveness of the programs carried out under this section and section 1862n–1a of this title. The report shall include the proportion of individuals receiving scholarships, stipends, or fellowships under the program who—

(1) fulfill the individuals' service obligation required under this section or section 1862n–1a of this title;

(2) remain in the teaching profession beyond the individuals' service obligation; and

(3) remain in the teaching profession in a high need local educational agency beyond the individuals' service obligation.

(l) Evaluation

Not less than 2 years after August 9, 2007, the Director, in consultation with the Secretary of Education, shall conduct an evaluation to determine whether the scholarships, stipends, and fellowships authorized under this section and section 1862n–1a of this title have been effective in increasing the numbers of high-quality mathematics and science teachers teaching in high need local educational agencies and whether there continue to exist significant shortages of such teachers in high need local educational agencies.

(Pub. L. 107–368, §10, Dec. 19, 2002, 116 Stat. 3049; Pub. L. 110–69, title VII, §7030, Aug. 9, 2007, 121 Stat. 698; Pub. L. 114–59, §4(b), Oct. 7, 2015, 129 Stat. 541; Pub. L. 115–91, div. A, title XVI, §1649C, Dec. 12, 2017, 131 Stat. 1756; Pub. L. 115–303, §2(a)(1), Dec. 11, 2018, 132 Stat. 4399; Pub. L. 116–115, §3(d), Feb. 11, 2020, 134 Stat. 107; Pub. L. 116–283, div. E, title LIV, §5401(e)(2)(C), Jan. 1, 2021, 134 Stat. 4543.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (g)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Parts B and D of title IV of the Act are classified to parts B (§1071 et seq.) and D (§1087a et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CODIFICATION

Section 7030 of Pub. L. 110–69, which directed that "Section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1) is amended to read as follows:" and then set out the text of sections 10 and 10A, was executed by generally amending section 10 and adding a new section 10A (42 U.S.C. 1862n–1a) after section 10, to reflect the probable intent of Congress.

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2021—Subsec. (i)(5). Pub. L. 116–283 inserted "and artificial intelligence" after "computer science".

2020—Subsec. (a)(5)(C). Pub. L. 116–115, §3(d)(1), added subpar. (C).

Subsec. (b)(2)(F). Pub. L. 116–115, §3(d)(2), substituted ", students" for "and students" and inserted ", and veterans" before period at end.

Subsec. (c)(2). Pub. L. 116–115, §3(d)(3), inserted "and veterans" before period at end.

Subsec. (d)(2). Pub. L. 116–115, §3(d)(4), inserted "and veterans" before period at end.

2018—Subsec. (a)(3)(A)(iv). Pub. L. 115–303 inserted ", including research experiences at national laboratories and NASA centers" before semicolon.

2017—Subsec. (i)(5). Pub. L. 115–91, §1649C(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "the term 'mathematics and science teacher' means a science, computer science, technology, engineering, or mathematics teacher at the elementary school or secondary school level;".

Subsec. (i)(7). Pub. L. 115–91, §1649C(2), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "the term 'science, technology, engineering, or mathematics professional' means a person who holds a baccalaureate, master's, or doctoral degree in science, technology, engineering, or mathematics, and is working in or had a career in such field or a related area; and".

2015—Subsec. (i)(5). Pub. L. 114–59 inserted "computer science," after "means a science,".

2007—Pub. L. 110–69 amended section generally, substituting provisions relating to the Robert Noyce Teacher Scholarship Program, consisting of subsecs. (a) to (l), for former provisions relating to the Robert Noyce Scholarship Program, consisting of subsecs. (a) to (i). See Codification note above.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–303, §2(b), Dec. 11, 2018, 132 Stat. 4399, provided that: "The amendments made by subsection (a) [amending this section and section 1862n–1a of this title] shall apply with respect to grants awarded on or after October 1, 2018."

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–1a. National Science Foundation Teaching Fellowships and Master Teaching Fellowships

(a) In general

(1) Grants

(A) In general

As part of the Robert Noyce Teacher Scholarship Program established under section 1862n–1 of this title, the Director shall establish a separate program to award grants to eligible entities to enable such entities to administer fellowships in accordance with this section.

(B) Definitions

The terms used in this section have the meanings given the terms in section 1862n–1 of this title.

(2) Fellowships

Fellowships under this section shall be available only to—

(A) science, technology, engineering, or mathematics professionals, including retiring professionals in those fields, who shall be referred to as "National Science Foundation Teaching Fellows" and who, in the first year of the fellowship, are enrolled in a master's degree program leading to teacher certification or licensing; and

(B) mathematics and science teachers, who shall be referred to as "National Science Foundation Master Teaching Fellows" and who possess a master's or bachelor's degree in their field.

(b) Eligibility

In order to be eligible to receive a grant under this section, an eligible entity shall enter into a partnership that shall include—

(1) a department within an institution of higher education participating in the partnership that provides an advanced program of study in mathematics and science;

(2)(A) a school or department within an institution of higher education participating in the partnership that provides a teacher preparation program; or

(B) a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with an institution of higher education participating in the partnership;

(3) not less than 1 high need local educational agency and a public school or a consortium of public schools served by the agency; and

(4) 1 or more nonprofit organizations that have a demonstrated record of capacity to provide expertise or support to meet the purposes of this section.

(c) Use of grants

Grants awarded under this section shall be used by the eligible entity (and participating institutions of higher education of the consortium, if applicable) to develop and implement a program for National Science Foundation Teaching Fellows or National Science Foundation Master Teaching Fellows, through—

(1) administering fellowships in accordance with this section, including providing the teaching fellowship salary supplements described in subsection (f);

(2) in the case of National Science Foundation Teaching Fellowships—

(A) offering academic courses and clinical teaching experiences leading to a master's degree and designed to prepare individuals to teach in elementary schools and secondary schools, including such preparation as is necessary to meet the requirements for certification or licensing; and

(B) offering programs both during and after matriculation in the program for which the fellowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields;

(3) in the case of National Science Foundation Master Teaching Fellowships for teachers with master's degrees in their field—

(A) offering academic courses and leadership training to prepare individuals to become master teachers in elementary schools and secondary schools; and

(B) offering programs both during and after matriculation in the program for which the fellowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields; and

(4) in the case of National Science Foundation Master Teaching Fellowships for teachers with bachelor's degrees in their field and working toward a master's degree—

(A) offering academic courses leading to a master's degree and leadership training to prepare individuals to become master teachers in elementary and secondary schools;

(B) offering programs both during and after matriculation in the program for which the fellowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields; and

(C) providing internship opportunities for fellows, including research experiences at national laboratories and NASA Centers.

(d) Selection process

(1) Merit review

Grants shall be awarded under this section on a competitive, merit-reviewed basis.

(2) Applications

An eligible entity desiring a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) in the case of an applicant that is submitting an application on behalf of a consortium of institutions of higher education, a description of the participating institutions of higher education and the roles and responsibilities of each such institution;

(B) a description of the program that the applicant intends to operate, including the number of fellowships the applicant intends to award, the type of activities proposed for the recruitment of students to the program, and the amount of the teaching fellowship salary supplements to be provided in accordance with subsection (f);

(C) evidence that the applicant has the capability to administer the program in accordance with the provisions of this section, which may include a description of any existing programs at the applicant eligible entity (and participating institutions of higher education of the consortium, if applicable) that are targeted to the education of mathematics and science teachers and the number of teachers graduated annually from such programs;

(D) in the case of National Science Foundation Teaching Fellowships, a description of—

(i) the selection process that will be used in awarding fellowships, including a description of the rigorous measures to be used, including the rigorous, nationally recognized assessments to be used, in order to determine whether individuals applying for fellowships have advanced content knowledge of science, technology, engineering, or mathematics;

(ii) the academic courses and clinical teaching experiences described in subsection (c)(2)(A), including—

(I) a description of an educational program that will enable a student to obtain a master's degree and teacher certification or licensing within 1 year; and

(II) evidence of agreements between the applicant and the schools or local educational agencies that are identified as the locations at which clinical teaching experiences will occur;

(iii) a description of the programs described in subsection (c)(2)(B), including activities to assist individuals in fulfilling their service requirements under this section;

(E) evidence that the eligible entity will provide the teaching supplements required under subsection (f); and

(F) a description of the process the applicant will use to fulfill the requirements of section 1862n–1(f) of this title.

(3) Criteria

In evaluating the applications submitted under paragraph (2), the Director shall consider, at a minimum—

(A) the ability of the applicant (and participating institutions of higher education of the consortium, if applicable) to effectively carry out the program and to meet the requirements of subsection (f);

(B) the extent to which the mathematics, science, or engineering faculty and the education faculty at the eligible entity (and participating institutions of higher education of the consortium, if applicable) have worked or will work collaboratively to design new or revised curricula that recognizes the specialized pedagogy required to teach science, technology, engineering, and mathematics effectively in elementary schools and secondary schools;

(C) the extent to which the applicant (and participating institutions of higher education of the consortium, if applicable) is committed to making the program a central organizational focus;

(D) the degree to which the proposed programming will enable participants to become highly effective mathematics and science teachers and prepare such participants to assume leadership roles in their schools, in addition to their regular classroom duties, including serving as mentor or master teachers, developing curriculum, and assisting in the development and implementation of professional development activities;

(E) the number and quality of the individuals that will be served by the program; and

(F) in the case of the National Science Foundation Teaching Fellowship, the ability of the applicant (and participating institutions of higher education of the consortium, if applicable) to recruit individuals who would otherwise not pursue a career in teaching, individuals identified in section 1885a or 1885b of this title, and veterans.

(4) Selection of fellows

(A) In general

Individuals shall be selected to receive fellowships under this section primarily on the basis of—

(i) professional achievement;

(ii) academic merit;

(iii) content knowledge of science, technology, engineering, or mathematics, as demonstrated by their performance on an assessment in accordance with paragraph (2)(D)(i); and

(iv) in the case of National Science Foundation Master Teaching Fellows, demonstrated success in improving student academic achievement in science, technology, engineering, or mathematics.

(B) Promoting participation of certain individuals

Among individuals demonstrating equivalent qualifications, consideration may be given to the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title and veterans.

(e) Duties of National Science Foundation Teaching Fellows and Master Teaching Fellows

A National Science Foundation Teaching Fellow or a National Science Foundation Master Teaching Fellow, while fulfilling the service obligation under subsection (h) and in addition to regular classroom activities, shall take on a leadership role within the school or local educational agency in which the fellow is employed, as defined by the partnership according to such fellow's expertise, including serving as a mentor or master teacher, developing curricula, and assisting in the development and implementation of professional development activities.

(f) Teaching fellowship salary supplements

(1) In general

An eligible entity receiving a grant under this section shall provide salary supplements to individuals who participate in the program under this section during the period of their service obligation under subsection (h). A local educational agency through which the service obligation is fulfilled shall agree not to reduce the base salary normally paid to an individual solely because such individual receives a salary supplement under this subsection.

(2) Amount and duration

(A) Amount

Salary supplements provided under paragraph (1) shall be not less than $10,000 per year, except that, in the case of a National Science Foundation Teaching Fellow, while enrolled in the master's degree program as described in subsection (c)(2)(A), such fellow shall receive not more than the cost of attendance at such fellow's institution.

(B) Support while enrolled in master's degree program

A National Science Foundation Teaching Fellow may receive a maximum of 1 year of fellowship support while enrolled in a master's degree program as described in subsection (c)(2)(A), except that if such fellow is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

(C) Duration of support

An eligible entity receiving a grant under this section shall provide teaching fellowship salary supplements through the period of the fellow's service obligation under subsection (h).

(g) Support for Master Teaching Fellows while enrolled in a master's degree program

A National Science Foundation Master Teacher Fellow may receive a maximum of 1 year of fellowship support while enrolled in a master's degree program as described in subsection (c)(4)(A), except that if such fellow is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

(h) Service obligation

An individual awarded a fellowship under this section shall serve as a mathematics or science teacher in an elementary school or secondary school served by a high need local educational agency for—

(1) in the case of a National Science Foundation Teaching Fellow, 4 years, to be fulfilled within 6 years of completing the master's program described in subsection (c)(2)(A); and

(2) in the case of a National Science Foundation Master Teaching Fellow, 5 years, to be fulfilled within 7 years of the start of participation in the program under subsection (c)(3).

(i) Matching requirement

(1) In general

An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

(A) in the case of grants in an amount of less than $1,500,000, an amount equal to at least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

(B) in the case of grants in an amount of $1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.

(2) Waiver

The Director may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity receiving a grant under this section, if the Director determines that applying the matching requirement would result in serious hardship or inability to carry out the authorized activities described in this section.

(j) Conditions of support; collection for noncompliance; failure to complete service obligation; data collection

(1) In general

Except as provided in paragraph (2), subsections (e), (f), (g), and (h) of section 1862n–1 of this title shall apply to eligible entities and recipients of fellowships under this section, as applicable, in the same manner as such subsections apply to eligible entities and recipients of scholarships and stipends under section 1862n–1 of this title, as applicable.

(2) Amount of repayment

If a circumstance described in subparagraph (D) or (E) of section 1862n–1(g)(1) of this title occurs after the completion of 1 year of a service obligation under this section—

(A) for a National Science Foundation Teaching Fellow, the total amount of fellowship award received by the individual under this section while enrolled in the master's degree program, reduced by one-fourth of the total amount for each year of service completed, plus one-half of the total teaching fellowship salary supplements received by such individual under this section, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with section 1862n–1(g)(1)(C) of this title; and

(B) for a National Science Foundation Master Teaching Fellow, the total amount of teaching fellowship salary supplements received by the individual under this section, reduced by one-half, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with section 1862n–1(g)(1)(C) of this title.

(k) STEM teacher service and retention

(1) In general

The Director shall develop and implement practices for increasing the proportion of individuals receiving fellowships under this section who—

(A) fulfill the service obligation required under subsection (h); and

(B) remain in the teaching profession in a high need local educational agency beyond the service obligation.

(2) Practices

The practices described under paragraph (1) may include—

(A) partnering with nonprofit or professional associations or with other government entities to provide individuals receiving fellowships under this section with opportunities for professional development, including mentorship programs that pair those individuals with currently employed and recently retired science, technology, engineering, mathematics, or computer science professionals;

(B) increasing recruitment from high need districts;

(C) establishing a system to better collect, track, and respond to data on the career decisions of individuals receiving fellowships under this section;

(D) conducting research to better understand factors relevant to teacher service and retention, including factors specifically impacting the retention of teachers who are individuals identified in sections 1885a and 1885b of this title; and

(E) conducting pilot programs to improve teacher service and retention.

(Pub. L. 107–368, §10A, as added Pub. L. 110–69, title VII, §7030, Aug. 9, 2007, 121 Stat. 705; amended Pub. L. 111–358, title V, §511, Jan. 4, 2011, 124 Stat. 4010; Pub. L. 114–59, §4(a), Oct. 7, 2015, 129 Stat. 540; Pub. L. 114–329, title III, §301, Jan. 6, 2017, 130 Stat. 3003; Pub. L. 115–303, §2(a)(2), Dec. 11, 2018, 132 Stat. 4399; Pub. L. 116–115, §3(e), Feb. 11, 2020, 134 Stat. 107.)

EDITORIAL NOTES

CODIFICATION

Section 7030 of Pub. L. 110–69, which directed that "Section 10 of the National Science Foundation

Authorization Act of 2002 (42 U.S.C. 1862n–1) is amended to read as follows:" and then set out the text of sections 10 and 10A, was executed by generally amending section 10 and adding a new section 10A (42 U.S.C. 1862n–1a) after section 10, to reflect the probable intent of Congress.

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2020—Subsec. (d)(3)(F). Pub. L. 116–115, §3(e)(1), substituted ", individuals" for "and individuals" and inserted ", and veterans" before period at end.

Subsec. (d)(4)(B). Pub. L. 116–115, §3(e)(2), inserted "and veterans" before period at end.

2018—Subsec. (c)(4)(C). Pub. L. 115–303 added subpar. (C).

2017—Subsec. (k). Pub. L. 114–329 added subsec. (k).

2015—Subsec. (a)(2)(B). Pub. L. 114–59, §4(a)(1), inserted "or bachelor's" after "master's".

Subsec. (c)(3). Pub. L. 114–59, §4(a)(2)(B)(i), inserted "for teachers with master's degrees in their field" after "Teaching Fellowships" in introductory provisions.

Subsec. (c)(4). Pub. L. 114–59, §4(a)(2)(A), (B)(ii), (C), added par. (4).

Subsecs. (e), (f). Pub. L. 114–59, §4(a)(3), substituted "subsection (h)" for "subsection (g)" wherever appearing.

Subsecs. (g) to (j). Pub. L. 114–59, §4(a)(4), (5), added subsec. (g) and redesignated former subsecs. (g) to (i) as (h) to (j), respectively.

2011—Subsec. (a)(2)(A). Pub. L. 111–358, §511(b), inserted "including retiring professionals in those fields," after "mathematics professionals,".

Subsec. (h)(1). Pub. L. 111–358, §511(a), amended par. (1) generally. Prior to amendment, text read as follows: "An eligible entity receiving a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in-kind) to carry out the activities supported by the grant."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–303 applicable with respect to grants awarded on or after Oct. 1, 2018, see section 2(b) of Pub. L. 115–303, set out as a note under section 1862n–1 of this title.

§1862n–2. Establishment of centers for research on mathematics and science learning and education improvement

(a) Establishment

(1) In general

(A) The Director shall award grants to institutions of higher education or eligible nonprofit organizations (or consortia thereof) to establish multidisciplinary Centers for Research on Learning and Education Improvement.

(B) Grants shall be awarded under this paragraph on a competitive, merit-reviewed basis.

(2) Purpose

The purpose of the Centers shall be to conduct and evaluate research in cognitive science, education, and related fields and to develop ways in which the results of such research can be applied in elementary school and secondary school classrooms to improve the teaching of mathematics and science.

(3) Focus

(A) Each Center shall be focused on a different challenge faced by elementary school or secondary school teachers of mathematics and science. In determining the research focus of the Centers, the Director shall consult with the National Academy of Sciences and the Secretary of Education and take into account the extent to which other Federal programs support research on similar questions.

(B) The proposal solicitation issued by the Director shall state the focus of each Center and applicants shall apply for designation as a specific Center.

(C) At least one Center shall focus on developing ways in which the results of research described in paragraph (2) can be applied, duplicated, and scaled up for use in low-performing elementary schools and secondary schools to improve the teaching and student achievement levels in mathematics and science.

(D) To the extent practicable and relevant to its focus, every Center shall include, as part of its research, work designed to quantitatively assess and improve the ways that information technology is used in the teaching of mathematics and science.

(b) Selection process

(1) Application

An institution of higher education or an eligible nonprofit organization (or a consortium thereof) seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the initial research projects that will be undertaken by the Center and the process by which new projects will be identified;

(B) how the Center will work with other research institutions and schools to broaden the national research agenda on learning and teaching;

(C) how the Center will promote active collaboration among physical, biological, and social science researchers;

(D) how the Center will promote active participation by elementary and secondary mathematics and science teachers and administrators; and

(E) how the results of the Center's research can be incorporated into educational practices, and how the Center will assess the success of those practices.

(2) Review of applications

In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the research program, including the activities described in paragraph (1)(E);

(B) the experience of the applicant in conducting research on the science of teaching and learning and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract elementary school and secondary school teachers from a diverse array of schools, and with diverse professional experiences, for participation in Center activities; and

(D) the capacity of the applicant to attract and provide adequate support for graduate students to pursue research at the intersection of educational practice and basic research on human cognition and learning.

(3) Awards

The Director shall ensure, to the extent practicable, that the Centers funded under this section conduct research and develop educational practices designed to improve the educational performance of a broad range of students, including individuals identified in section 1885a or 1885b of this title.

(c) Annual conference

The Director shall convene an annual meeting of the Centers to foster collaboration among the Centers and to further disseminate the results of the Centers' activities.

(d) Coordination

The Director shall coordinate with the Secretary of Education in—

(1) disseminating the results of the research conducted pursuant to grants awarded under this section to elementary school teachers and secondary school teachers; and

(2) providing programming, guidance, and support to ensure that such teachers—

(A) understand the implications of the research disseminated under paragraph (1) for classroom practice; and

(B) can use the research to improve such teachers' performance in the classroom.

(Pub. L. 107–368, §11, Dec. 19, 2002, 116 Stat. 3053; Pub. L. 110–69, title VII, §7006(b), Aug. 9, 2007, 121 Stat. 679.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2007—Subsec. (a)(1)(A). Pub. L. 110–69, §7006(b)(1), inserted "or eligible nonprofit organizations" after "institutions of higher education".

Subsec. (b)(1). Pub. L. 110–69, §7006(b)(2), (3), in introductory provisions, inserted "or an eligible nonprofit organization" after "institution of higher education" and substituted "thereof" for "of such institutions".

STATUTORY NOTES AND RELATED SUBSIDIARIES

FUNDING FOR CENTERS

Pub. L. 110–69, title VII, §7006(a), Aug. 9, 2007, 121 Stat. 679, provided that: "The Director [of the National Science Foundation] shall continue to carry out the program of Centers for Research on Learning and Education Improvement as established in section 11 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–2)."

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–3. Duplication of programs

(a) In general

The Director shall review the education programs of the Foundation that are in operation as of December 19, 2002, to determine whether any of such programs duplicate the programs authorized under this Act.

(b) Implementation

As programs authorized under this Act are implemented, the Director shall—

(1) terminate any duplicative program being carried out by the Foundation or merge the duplicative program into a program authorized under this Act; and

(2) not establish any new program that duplicates a program that has been implemented pursuant to this Act.

(c) Report

(1) Review

The Director of the Office of Science and Technology Policy shall review the education programs of the Foundation to ensure compliance with the provisions of this section.

(2) Submission

Not later than 1 year after December 19, 2002, and annually thereafter as part of the annual Office of Science and Technology Policy's budget submission to Congress, the Director of the

Office of Science and Technology Policy shall complete a report on the review carried out under this subsection and shall submit the report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

(Pub. L. 107–368, §12, Dec. 19, 2002, 116 Stat. 3054.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 107–368, Dec. 19, 2002, 116 Stat. 3034, known as the National Science Foundation Authorization Act of 2002. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–4. Major research equipment and facilities construction plan

(a) Prioritization of proposed major research equipment and facilities construction

(1) Development of priorities

The Director shall—

(A) develop a list indicating by number the relative priority for funding under the major research equipment and facilities construction account that the Director assigns to each project the Board has approved for inclusion in a future budget request; and

(B) submit the list described in subparagraph (A) to the Board for approval.

(2) Criteria

The Director shall include in the criteria for developing the list under paragraph (1) the readiness of plans for construction and operation, including confidence in the estimates of the full life-cycle cost (as defined in section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note)) and the proposed schedule of completion.

(3) Updates

The Director shall update the list prepared under paragraph (1) each time the Board approves a new project that would receive funding under the major research equipment and facilities construction account and periodically submit any updated list to the Board for approval.

(b) Project management

No national research facility project funded under the major research equipment and facilities

construction account shall be managed by an individual whose appointment to the Foundation is temporary.

(c) Board approval of major research equipment and facilities projects

The Board shall explicitly approve any project to be funded out of the major research equipment and facilities construction account before any funds may be obligated from such account for such project.

(Pub. L. 107–368, §14, Dec. 19, 2002, 116 Stat. 3056; Pub. L. 114–329, title II, §204(c), Jan. 6, 2017, 130 Stat. 3000.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2 of the National Science Foundation Authorization Act of 1998, referred to in subsec. (a)(2), is section 2 of Pub. L. 105–207, July 29, 1998, 112 Stat. 869, which is set out as a note under section 1862k of this title.

CODIFICATION

Section is comprised of section 14 of Pub. L. 107–368. As originally enacted, subsec. (b)(1), (2) of section 14 of Pub. L. 107–368 amended section 1862l of this title, and subsec. (b)(3) of section 14 of Pub. L. 107–368 amended provisions set out as a note under section 1862k of this title. Subsec. (c) of section 14 of Pub. L. 107–368 was redesignated subsec. (b) by section 204(c)(3) of Pub. L. 114–329 without reference to the original amendments made by subsec. (b) of section 14 of Pub. L. 107–368.

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Subsec. (a). Pub. L. 114–329, §204(c)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to prioritization of proposed major research equipment and facilities construction and annual reports.

Subsec. (b). Pub. L. 114–329, §204(c)(3), redesignated subsec. (c) as (b). Prior to amendment, subsec. (b) had been omitted from this section, see Codification note above.

Subsecs. (c), (d). Pub. L. 114–329, §204(c)(3), (4), redesignated subsec. (d) as (c) and amended it generally. Prior to amendment, subsec. (c) related to Board approval of major research equipment and facilities projects. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 114–329, §204(c)(2), struck out subsec. (e) which related to National Academy of Sciences study on major research equipment and facilities construction.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–5. Board meetings; audits; reports; scholarship eligibility

(a) Board meetings

(1) Omitted

(2) Open meetings

To ensure transparency of the Board's entire decision-making process, including deliberations on Board business occurring within its various subdivisions, the Board and all of its committees, subcommittees, and task forces (and any other entity consisting of members of the Board and

reporting to the Board) shall be subject to section 552b of title 5. The preceding requirement will apply to meetings of the full Board, whenever a quorum is present; and to meetings of its subdivisions, whenever a quorum of the subdivision is present.

(3) Compliance review

The Inspector General of the Foundation shall conduct a review of the compliance by the Board with the requirements described in paragraph (2) as necessary based on a triennial risk assessment. Any review deemed necessary shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5.

(4) Materials relating to closed portions of meeting

To facilitate the risk assessment required under paragraph (3) of this subsection, and any subsequent review conducted by the Inspector General, the Office of the National Science Board shall maintain the General Counsel's certificate, the presiding officer's statement, and a transcript or recording of any closed meeting, for at least 3 years after such meeting.

(b), (c) Omitted

(d) Scholarship eligibility

The Director shall not exclude part-time students from eligibility for scholarships under the Computer Science, Engineering, and Mathematics Scholarship program.

(Pub. L. 107–368, §15, Dec. 19, 2002, 116 Stat. 3058; Pub. L. 110–69, title VII, §7015(a), Aug. 9, 2007, 121 Stat. 683; Pub. L. 111–358, title V, §504(c), Jan. 4, 2011, 124 Stat. 4006; Pub. L. 117–167, div. B, title III, §10399E, Aug. 9, 2022, 136 Stat. 1599.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 15 of Pub. L. 107–368. Subsecs. (a)(1) and (c) of section 15 of Pub. L. 107–368 amended section 1863 of this title, and subsec. (b) of section 15 of Pub. L. 107–368 amended section 1873 of this title.

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a)(3). Pub. L. 117–167, §10399E(1), amended par. (3) generally. Prior to amendment, text read as follows: "The Inspector General of the Foundation shall conduct an audit every three years of the compliance by the Board with the requirements described in paragraph (2). The audit shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5."

Subsec. (a)(4), (5). Pub. L. 117–167, §10399E(2), added par. (4) and struck out former pars. (4) and (5) which related to transmission of audit report every three years by the Inspector General and maintenance of materials relating to closed portions of meeting, respectively.

2011—Subsec. (a)(2). Pub. L. 111–358 substituted "To ensure transparency of the Board's entire decision-making process, including deliberations on Board business occurring within its various subdivisions, the Board" for "The Board" and inserted at end "The preceding requirement will apply to meetings of the full Board, whenever a quorum is present; and to meetings of its subdivisions, whenever a quorum of the subdivision is present."

2007—Subsec. (a)(3). Pub. L. 110–69, §7015(a)(1), substituted "an audit every three years" for "an annual audit".

Subsec. (a)(4). Pub. L. 110–69, §7015(a)(2), substituted "every third year" for "each year".

Subsec. (a)(5). Pub. L. 110–69, §7015(a)(3), added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of

House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–6. Undergraduate education reform

(a) In general

The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) Uses of funds

Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) Selection process

(1) Applications

An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) Review of applications

In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education, as evidenced through promotion and tenure policies; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) Grant distribution

The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

(Pub. L. 107–368, §17, Dec. 19, 2002, 116 Stat. 3060.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–7. Reports

(a) Grant size and duration

Not later than 6 months after December 19, 2002, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report describing the impact that increasing the average grant size and duration would have on minority-serving institutions and on institutions located in States where the Foundation's Experimental Program to Stimulate Competitive Research (established under section 1862g of this title) is carrying out activities.

(b) Faculty

Not later than 3 months after December 19, 2002, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on gender differences in the carriers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) Grant funding

Not later than 3 months after December 19, 2002, the Director shall enter into an agreement with

an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, by gender, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) Study of broadband network access for schools and libraries

(1) Report to Congress

The Director shall conduct a study of the issues described in paragraph (3), and not later than 1 year after December 19, 2002, transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report including recommendations to address those issues. Such report shall be updated annually for 4 additional years.

(2) Consultation

In preparing the reports under paragraph (1), the Director shall consult with Federal agencies and educational entities as the Director considers appropriate.

(3) Issues to be addressed

The reports shall—

(A) identify the availability of high-speed, large bandwidth capacity access to different demographic groups served by elementary schools, secondary schools, and libraries in the United States;

(B) identify how the provision of high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

(D) include options and recommendations to address the challenges and issues identified in the reports.

(e) Minority-serving institution funding

(1) Annual reporting required

The Director shall submit an annual report, along with the President's annual budget request, to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the amount of funding awarded by the Foundation to minority-serving institutions, including funding received as members of consortia. The report shall include information on such funding to minority-serving institutions—

(A) expressed as a percentage of funding to all institutions of higher education for each appropriations account within the Foundation's budget; and

(B) for the preceding 10 years.

(2) Report on ways to improve funding

Within one year after December 19, 2002, the Director shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report on recommendations on how the Foundation can improve funding to minority-serving institutions.

(Pub. L. 107–368, §18, Dec. 19, 2002, 116 Stat. 3061.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–8. Evaluations

(a) Education

(1) In general

The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the Foundation in increasing the number and quality of students, including individuals identified in section 1885a or 1885b of this title studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(A) the number of students enrolled in undergraduate science, mathematics, engineering, and technology programs;

(B) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(C) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(D) placement during the first year after degree completion in post-graduate education or career pathways.

(2) Assessment benchmarks and tools

The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(3) Reports to Congress

Not later than 3 years after December 19, 2002, and once every 3 years thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of evaluations under paragraph (1).

(b) Awards

Notwithstanding any other provision of this Act, the Director shall annually evaluate a random sample of grants, contracts, or other awards made pursuant to this Act.

(c) Dissemination

The Director shall—

(1) provide for the dissemination of the results of the evaluations conducted pursuant to this section to the public; and

(2) provide notice to the public that such evaluations are available.

(Pub. L. 107–368, §19, Dec. 19, 2002, 116 Stat. 3063.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 107–368, Dec. 19, 2002, 116 Stat. 3034, known as the National Science Foundation Authorization Act of 2002. For complete classification of this Act to the Code, see Short Title of 2002 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–9. Astronomy and Astrophysics Advisory Committee

(a) Establishment

The Foundation, the National Aeronautics and Space Administration, and the Department of Energy shall jointly establish an Astronomy and Astrophysics Advisory Committee (in this section referred to as the "Advisory Committee").

(b) Duties

The Advisory Committee shall—

(1) assess, and make recommendations regarding, the coordination of astronomy and astrophysics programs of the Foundation, the National Aeronautics and Space Administration, and the Department of Energy;

(2) assess, and make recommendations regarding, the status of the activities of the Foundation, the National Aeronautics and Space Administration, and the Department of Energy as they relate to the recommendations contained in the National Research Council's 2001 report entitled "Astronomy and Astrophysics in the New Millennium", and the recommendations contained in subsequent National Research Council reports of a similar nature; and

(3) not later than March 15 of each year, transmit a report to the Director, the Administrator of the National Aeronautics and Space Administration, the Secretary of Energy, the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the Advisory Committee's findings and recommendations under paragraphs (1) and (2).

(c) Membership

The Advisory Committee shall consist of 13 members, none of whom shall be a Federal employee, including—

(1) 4 members selected by the Director;

(2) 4 members selected by the Administrator of the National Aeronautics and Space Administration;

(3) 3 members selected by the Secretary of Energy; and

(4) 2 members selected by the Director of the Office of Science and Technology Policy.

(d) Selection process

Initial selections under subsection (c) shall be made within 3 months after December 19, 2002. Vacancies shall be filled in the same manner as provided in subsection (c).

(e) Chairperson

The Advisory Committee shall select a chairperson from among its members.

(f) Coordination

The Advisory Committee shall coordinate with other Federal advisory committees that advise Federal agencies that engage in related research activities.

(g) Compensation

The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

(h) Meetings

The Advisory Committee shall convene, in person or by electronic means, at least 4 times a year.

(i) Quorum

A majority of the members serving on the Advisory Committee shall constitute a quorum for purposes of conducting the business of the Advisory Committee.

(j) Duration

Section 1013 of title 5 shall not apply to the Advisory Committee.

(Pub. L. 107–368, §23, Dec. 19, 2002, 116 Stat. 3065; Pub. L. 108–423, §5(a), Nov. 30, 2004, 118 Stat. 2402; Pub. L. 117–286, §4(a)(258), Dec. 27, 2022, 136 Stat. 4334.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (j). Pub. L. 117–286 substituted "Section 1013 of title 5" for "Section 14 of the Federal Advisory Committee Act".

2004—Subsecs. (a), (b)(1), (2). Pub. L. 108–423, §5(a)(1), substituted ", the National Aeronautics and Space Administration, and the Department of Energy" for "and the National Aeronautics and Space Administration".

Subsec. (b)(3). Pub. L. 108–423, §5(a)(2), substituted "Administration, the Secretary of Energy," for "Administration, and".

Subsec. (c)(1), (2). Pub. L. 108–423, §5(a)(3)(A), substituted "4" for "5".

Subsec. (c)(3), (4). Pub. L. 108–423, §5(a)(3)(B)–(D), added par. (3) and redesignated former par. (3) as (4) and substituted "2" for "3".

Subsec. (f). Pub. L. 108–423, §5(a)(4), substituted "other Federal advisory committees that advise Federal agencies that engage in related research activities" for "the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–423, §5(b), Nov. 30, 2004, 118 Stat. 2402, provided that: "The amendments made by subsection (a) [amending this section] take effect on March 15, 2005."

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862n–10. Minority-serving institutions undergraduate program

(a) In general

The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions, Alaska Native-serving institutions, Native Hawaiian-serving institutions, and other institutions of higher education serving a substantial number of minority students to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) Program components

Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, and engineering;
(2) faculty development;
(3) stipends for undergraduate students participating in research; and
(4) other activities consistent with subsection (a), as determined by the Director.

(c) Program coordination

This program shall be coordinated with and in addition to the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(d) Instrumentation

Funding for instrumentation is an allowed use of grants awarded under this section and under the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(Pub. L. 107–368, §24, Dec. 19, 2002, 116 Stat. 3066.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 2002, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.

§1862*o*. Postdoctoral research fellows

(a) Mentoring

The Director shall require that all grant applications that include funding to support postdoctoral and graduate student researchers include a description of the mentoring activities that will be provided for such individuals, and shall ensure that this part of the application is evaluated under the Foundation's broader impacts merit review criterion. The requirement may be satisfied by providing such individuals with access to mentors, including individuals not listed on the award. Mentoring activities may include career counseling, training in preparing grant applications, guidance on ways to improve teaching skills, and training in research ethics.

(b) Reports

The Director shall require that annual reports and the final report for research grants that include funding to support postdoctoral researchers include a description of the mentoring activities provided to such researchers.

(Pub. L. 110–69, title VII, §7008, Aug. 9, 2007, 121 Stat. 680; Pub. L. 117–167, div. B, title III, §10313(a)(1)(A), Aug. 9, 2022, 136 Stat. 1522.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–167 inserted "and graduate student" after "postdoctoral" and "The requirement may be satisfied by providing such individuals with access to mentors, including individuals not listed on the award." after "review criterion."

STATUTORY NOTES AND RELATED SUBSIDIARIES

REAFFIRMATION OF THE MERIT-REVIEW PROCESS OF THE NATIONAL SCIENCE FOUNDATION

Pub. L. 110–69, title VII, §7003, Aug. 9, 2007, 121 Stat. 679, provided that: "Nothing in this title [enacting this section and sections 1862n–1a and 1862o–1 to 1862o–15 of this title, amending sections 1862i, 1862l, 1862n, 1862n–1, 1862n–2, 1862n–5, 1863, 1870, and 1881a of this title, sections 5503 and 5511 of Title 15, Commerce and Trade, and section 3801 of Title 31, Money and Finance, enacting provisions set out as notes under this section and section 1862n–2 of this title, and amending provisions set out as a note under section 1113 of Title 31] or title I [enacting sections 6603, 6619, and 6620 of this title and section 3718 of Title 15 and amending section 3711 of Title 15], or the amendments made by this title or title I, shall be interpreted to require or recommend that the Foundation—

"(1) alter or modify its merit-review system or peer-review process; or

"(2) exclude the awarding of any proposal by means of the merit-review or peer-review process."

CURRICULA

Pub. L. 110–69, title VII, §7005, Aug. 9, 2007, 121 Stat. 679, provided that: "Nothing in this title [enacting this section and sections 1862n–1a and 1862o–1 to 1862o–15 of this title, amending sections 1862i, 1862l, 1862n, 1862n–1, 1862n–2, 1862n–5, 1863, 1870, and 1881a of this title, sections 5503 and 5511 of Title 15, Commerce and Trade, and section 3801 of Title 31, Money and Finance, enacting provisions set out as notes

under this section and section 1862n–2 of this title, and amending provisions set out as a note under section 1113 of Title 31], or the amendments made by this title, shall be construed to limit the authority of State governments or local school boards to determine the curricula of their students."

DEFINITIONS

Pub. L. 110–69, title VII, §7001, Aug. 9, 2007, 121 Stat. 675, as amended by Pub. L. 114–95, title IX, §9215(i)(5), Dec. 10, 2015, 129 Stat. 2168, provided that: "In this title [enacting this section and sections 1862n–1a and 1862o–1 to 1862o–15 of this title, amending sections 1862i, 1862l, 1862n, 1862n–1, 1862n–2, 1862n–5, 1863, 1870, and 1881a of this title, sections 5503 and 5511 of Title 15, Commerce and Trade, and section 3801 of Title 31, Money and Finance, enacting provisions set out as notes under this section and section 1862n–2 of this title, and amending provisions set out as a note under section 1113 of Title 31]:

"(1) BASIC RESEARCH.—The term 'basic research' has the meaning given such term in the Office of Management and Budget circular No. A–11.

"(2) BOARD.—The term 'Board' means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(3) DIRECTOR.—The term 'Director' means the Director of the Foundation.

"(4) ELEMENTARY SCHOOL.—The term 'elementary school' has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

"(5) FOUNDATION.—The term 'Foundation' means the National Science Foundation.

"(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(7) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given such term in section 8101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801]."

§1862*o*–1. Responsible conduct of research

The Director shall require that each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, postdoctoral researchers, faculty, and other senior personnel participating in the proposed research project, including—

(1) mentor training and mentorship;

(2) training to raise awareness of potential research security threats; and

(3) Federal export control, disclosure, and reporting requirements.

(Pub. L. 110–69, title VII, §7009, Aug. 9, 2007, 121 Stat. 680; Pub. L. 117–167, div. B, title III, §10337, Aug. 9, 2022, 136 Stat. 1553.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Pub. L. 117–167 substituted "postdoctoral researchers, faculty, and other senior personnel" for "and postdoctoral researchers" and ", including—" and pars. (1) to (3) for period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–2. Reporting of research results

The Director shall ensure that all final project reports and citations of published research documents resulting from research funded, in whole or in part, by the Foundation, are made available to the public in a timely manner and in electronic form through the Foundation's Web site.

(Pub. L. 110–69, title VII, §7010, Aug. 9, 2007, 121 Stat. 680.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–3. Sharing research results

An investigator supported under a Foundation award, whom the Director determines has failed to comply with the provisions of section 734 of the Foundation Grant Policy Manual, shall be ineligible for a future award under any Foundation supported program or activity. The Director may restore the eligibility of such an investigator on the basis of the investigator's subsequent compliance with the provisions of section 734 of the Foundation Grant Policy Manual and with such other terms and conditions as the Director may impose.

(Pub. L. 110–69, title VII, §7011, Aug. 9, 2007, 121 Stat. 680.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–4. Funding for successful science, technology, engineering, and mathematics education programs

(a) Evaluation of programs

The Director shall, on an annual basis, evaluate all of the Foundation's grants that are scheduled to expire within 1 year and—

(1) that have the primary purpose of meeting the objectives of the Science and Engineering Equal Opportunity Act (42 U.S.C. 1885 et seq.); or

(2) that have the primary purpose of providing teacher professional development.

(b) Continuation of funding

For grants that are identified under subsection (a) and that are determined by the Director to be successful in meeting the objectives of the initial grant solicitation, the Director may extend the duration of those grants for not more than 3 additional years beyond their scheduled expiration without the requirement for a recompetition.

(Pub. L. 110–69, title VII, §7012, Aug. 9, 2007, 121 Stat. 681; Pub. L. 114–329, title II, §204(a)(3)(A), Jan. 6, 2017, 130 Stat. 2998.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Science and Engineering Equal Opportunity Act, referred to in subsec. (a)(1), probably means the Science and Engineering Equal Opportunities Act, which is Part B (§31 et seq.) of Pub. L. 96–516, Dec. 12, 1980, 94 Stat. 3010, which enacted sections 1885 to 1885d of this title and provisions set out as notes under sections 1861 and 1885 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Subsec. (c). Pub. L. 114–329 struck out subsec. (c) which related to reports to Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–5. Meeting critical national science needs

(a) In general

In addition to any other criteria, the Director shall include consideration of the degree to which awards and research activities that otherwise qualify for support by the Foundation may assist in meeting critical national needs in innovation, competitiveness, safety and security, the physical and natural sciences, technology, engineering, social sciences, and mathematics.

(b) Priority treatment

The Director shall give priority in the selection of awards and the allocation of Foundation resources to proposed research activities, and grants funded under the Foundation's Research and Related Activities Account, that can be expected to make contributions in physical or natural science, technology, engineering, social sciences, or mathematics, or that enhance competitiveness, innovation, or safety and security in the United States.

(c) Limitation

Nothing in this section shall be construed to restrict or bias the grant selection process against funding other areas of research deemed by the Foundation to be consistent with its mandate nor to change the core mission of the Foundation.

(Pub. L. 110–69, title VII, §7018, Aug. 9, 2007, 121 Stat. 684.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–6. Research on innovation and inventiveness

In carrying out its research programs on science policy and on the science of learning, the Foundation may support research on the process of innovation and the teaching of inventiveness.

(Pub. L. 110–69, title VII, §7019, Aug. 9, 2007, 121 Stat. 684.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–7. Cyberinfrastructure

In order to continue and expand efforts to ensure that research institutions throughout the Nation can fully participate in research programs of the Foundation and collaborate with colleagues throughout the Nation, the Director, not later than 180 days after August 9, 2007, shall develop and publish a plan that—

(1) describes the current status of broadband access for scientific research purposes at institutions in EPSCoR-eligible States, at institutions in rural areas, and at minority serving institutions; and

(2) outlines actions that can be taken to ensure that such connections are available to enable participation in those Foundation programs that rely heavily on high-speed networking and collaborations across institutions and regions.

(Pub. L. 110–69, title VII, §7020, Aug. 9, 2007, 121 Stat. 685.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–8. Pilot program of grants for new investigators

(a) In general

The Director shall carry out a pilot program to award 1-year grants to individuals to assist them in improving research proposals that were previously submitted to the Foundation but not selected for funding.

(b) Eligibility

To be eligible to receive a grant under this section, an individual—

(1) may not have previously received funding as the principal investigator of a research grant from the Foundation; and

(2) shall have submitted a proposal to the Foundation, which may include a proposal submitted to the Research in Undergraduate Institutions program, that was rated excellent under the Foundation's competitive merit review process.

(c) Selection process

The Director shall make awards under this section based on the advice of the program officers of the Foundation.

(d) Use of funds

Grants awarded under this section shall be used to enable an individual to resubmit an updated research proposal for review by the Foundation through the agency's competitive merit review process. Uses of funds made available under this section may include the generation of new data and the performance of additional analysis.

(e) Program administration

The Director shall carry out this section through the Small Grants for Exploratory Research program.

(f) National Science Board review

The Board shall conduct a review and assessment of the pilot program under this section, including the number of new investigators funded, the distribution of awards by type of institution of higher education, and the success rate upon resubmittal of proposals by new investigators funded through such pilot program. Not later than 3 years after August 9, 2007, the Board shall summarize its findings and any recommendations regarding changes to, the termination of, or the continuation of the pilot program in a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

(Pub. L. 110–69, title VII, §7021, Aug. 9, 2007, 121 Stat. 685.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–9. Broader impacts merit review criterion

(a) In general

Among the types of activities that the Foundation shall consider as appropriate for meeting the requirements of its broader impacts criterion for the evaluation of research proposals are partnerships between academic researchers and industrial scientists and engineers that address research areas identified as having high importance for future national economic competitiveness, such as nanotechnology.

(b) Report on broader impacts criterion

Not later than 1 year after August 9, 2007, the Director shall transmit to Congress a report on the impact of the broader impacts grant criterion used by the Foundation. The report shall—

(1) identify the criteria that each division and directorate of the Foundation uses to evaluate the broader impacts aspects of research proposals;

(2) provide a breakdown of the types of activities by division that awardees have proposed to carry out to meet the broader impacts criterion;

(3) provide any evaluations performed by the Foundation to assess the degree to which the broader impacts aspects of research proposals were carried out and how effective they have been at meeting the goals described in the research proposals;

(4) describe what national goals, such as improving undergraduate science, technology, engineering, and mathematics education, improving kindergarten through grade 12 science and mathematics education, promoting university-industry collaboration, and broadening participation of underrepresented groups, the broader impacts criterion is best suited to promote; and

(5) describe what steps the Foundation is taking and should take to use the broader impacts criterion to improve undergraduate science, technology, engineering, and mathematics education.

(Pub. L. 110–69, title VII, §7022, Aug. 9, 2007, 121 Stat. 686.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–10. Advanced information and communications technology research

(1) In general

As part of the Program described in title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.), the Foundation shall support basic research related to advanced information and communications technologies that will contribute to enhancing or facilitating the availability and affordability of advanced communications services for all people of the United States. Areas of research to be supported may include research on—

(A) affordable broadband access, including wireless technologies;

(B) network security and reliability;

(C) communications interoperability;

(D) networking protocols and architectures, including resilience to outages or attacks;

(E) trusted software;

(F) privacy;

(G) nanoelectronics for communications applications;

(H) low-power communications electronics;

(I) implementation of equitable access to national advanced fiber optic research and educational networks in noncontiguous States; and

(J) such other related areas as the Director finds appropriate.

(2) Centers

The Director shall award multiyear grants, subject to the availability of appropriations and on a merit-reviewed competitive basis, to institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia of either type of institution to establish multidisciplinary Centers for Communications Research. The purpose of the Centers shall be to generate innovative approaches to problems in information and communications technology research, including the research areas described in paragraph (1). Institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia receiving such grants may partner with 1 or more government laboratories, for-profit entities, or other institutions of higher education or nonprofit research institutions.

(3) Funding allocation

The Director shall increase funding for the basic research activities described in paragraph (1), which shall include support for the Centers described in paragraph (2), in proportion to the increase in the total amount appropriated to the Foundation for research and related activities for the fiscal years 2008 through 2010.

(4) Report to Congress

The Director shall transmit to Congress, as part of the President's annual budget submission under section 1105 of title 31, a report on the amounts allocated for support of research under this section for the fiscal year during which such report is submitted and the levels proposed for the fiscal year with respect to which the budget submission applies.

(Pub. L. 110–69, title VII, §7024(b), Aug. 9, 2007, 121 Stat. 689.)

EDITORIAL NOTES

REFERENCES IN TEXT

The High-Performance Computing Act of 1991, referred to in par. (1), is Pub. L. 102–194, Dec. 9, 1991, 105 Stat. 1594. Title I of the Act is classified generally to subchapter I (§5511 et seq.) of chapter 81 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–11. Repealed. Pub. L. 114–329, title II, §204(a)(3)(B), Jan. 6, 2017, 130 Stat. 2999

Section, Pub. L. 110–69, title VII, §7031(b), Aug. 9, 2007, 121 Stat. 711, related to evaluation and report by Director on STEM programs.

§1862*o*–12. Hispanic-serving institutions undergraduate program

(a) In general

The Director shall award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions (as defined in section 1101a of title 20) to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, technology, engineering, and mathematics.

(b) Program components

Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, technology, engineering, and mathematics;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) Instrumentation

Funding for instrumentation is an allowed use of grants awarded under this section.

(Pub. L. 110–69, title VII, §7033, Aug. 9, 2007, 121 Stat. 711; Pub. L. 114–329, title III, §315(a), Jan. 6, 2017, 130 Stat. 3016.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Subsec. (a). Pub. L. 114–329 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions (as defined in section 1101a of title 20) to enhance the quality of undergraduate science, technology, engineering, and mathematics education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, technology, engineering, and mathematics."

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 114–329, title III, §315(b), Jan. 6, 2017, 130 Stat. 3016, provided that: "The amendment made by subsection (a) of this section [amending this section] shall not affect any award of a grant or other form of financial assistance made under section 7033 of the America COMPETES Act (42 U.S.C. 1862o–12) before

the date of enactment of this Act [Jan. 6, 2017]. Such awards shall continue to be subject to the requirements to which such funds were subject under that section before the date of enactment of this Act."

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–13. Professional science master's degree programs

(a) Clearinghouse

(1) Development

The Director shall establish a clearinghouse, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, to share program elements used in successful professional science master's degree programs and other advanced degree programs related to science, technology, engineering, and mathematics.

(2) Availability

The Director shall make the clearinghouse of program elements developed under paragraph (1) available to institutions of higher education that are developing professional science master's degree programs.

(b) Programs

(1) Programs authorized

The Director shall award grants to 4-year institutions of higher education to facilitate the institutions' creation or improvement of professional science master's degree programs that may include linkages between institutions of higher education and industries that employ science-trained personnel, with an emphasis on practical training and preparation for the workforce in high-need fields.

(2) Application

A 4-year institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require. The application shall include—

(A) a description of the professional science master's degree program that the institution of higher education will implement;

(B) a description of how the professional science master's degree program at the institution of higher education will produce individuals for the workforce in high-need fields;

(C) the amount of funding from non-Federal sources, including from private industries, that the institution of higher education shall use to support the professional science master's degree program; and

(D) an assurance that the institution of higher education shall encourage students in the professional science master's degree program to apply for all forms of Federal assistance available to such students, including applicable graduate fellowships and student financial assistance under titles IV and VII of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 1133 et seq.).

(3) Preferences

The Director shall give preference in making awards to 4-year institutions of higher education seeking Federal funding to create or improve professional science master's degree programs, to those applicants—

(A) located in States with low percentages of citizens with graduate or professional degrees, as determined by the Bureau of the Census, that demonstrate success in meeting the unique needs of the corporate, non-profit, and government communities in the State, as evidenced by

providing internships for professional science master's degree students or similar partnership arrangements; or

(B) that secure more than two-thirds of the funding for such professional science master's degree programs from sources other than the Federal Government.

(4) Number of grants; time period of grants

(A) Number of grants

Subject to the availability of appropriated funds, the Director shall award grants under paragraph (1) to a maximum of 200 4-year institutions of higher education.

(B) Time period of grants

Grants awarded under this section shall be for one 3-year term. Grants may be renewed only once for a maximum of 2 additional years.

(5) Evaluation and reports

(A) Development of performance benchmarks

Prior to the start of the grant program, the Director, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall develop performance benchmarks to evaluate the pilot programs assisted by grants under this section.

(B) Evaluation

For each year of the grant period, the Director, in consultation with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall complete an evaluation of each program assisted by grants under this section. Any program that fails to satisfy the performance benchmarks developed under subparagraph (A) shall not be eligible for further funding.

(C) Report

Not later than 180 days after the completion of an evaluation described in subparagraph (B), the Director shall submit a report to Congress that includes—

(i) the results of the evaluation; and

(ii) recommendations for administrative and legislative action that could optimize the effectiveness of the pilot programs, as the Director determines to be appropriate.

(Pub. L. 110–69, title VII, §7034, Aug. 9, 2007, 121 Stat. 712.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b)(2)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Titles IV and VII of the Act are classified generally to subchapters IV (§1070 et seq.) and VII (§1133 et seq.), respectively, of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–14. Major research instrumentation

(a) Award amount

The minimum amount of an award under the Major Research Instrumentation program shall be $100,000. The maximum amount of an award under the program shall be $4,000,000 except if the total amount appropriated for the program for a fiscal year exceeds $125,000,000, in which case the maximum amount of an award shall be $6,000,000.

(b) Use of funds

In addition to the acquisition of instrumentation and equipment, funds made available by awards under the Major Research Instrumentation program may be used to support the operations and maintenance of such instrumentation and equipment.

(c) Cost sharing

(1) In general

An institution of higher education receiving an award under the Major Research Instrumentation program shall provide at least 30 percent of the cost from private or non-Federal sources.

(2) Exceptions

Institutions of higher education that are not Ph.D.-granting institutions are exempt from the cost sharing requirement in paragraph (1), and the Director may reduce or waive the cost sharing requirement for—

(A) institutions—

(i) that are not ranked among the top 100 institutions receiving Federal research and development funding, as documented by the statistical data published by the Foundation; and

(ii) for which the proposed project will make a substantial improvement in the institution's capabilities to conduct leading edge research, to provide research experiences for undergraduate students using leading edge facilities, and to broaden the participation in science and engineering research by individuals identified in section 1885a or 1885b of this title; and

(B) consortia of institutions of higher education that include at least one institution that is not a Ph.D.-granting institution.

(Pub. L. 110–69, title VII, §7036, Aug. 9, 2007, 121 Stat. 714.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862*o*–15. Limit on proposals

(a) Policy

For programs supported by the Foundation that require as part of the selection process for awards the submission of preproposals and that also limit the number of preproposals that may be submitted by an institution, the Director shall allow the subsequent submission of a full proposal based on each preproposal that is determined to have merit following the Foundation's merit review process.

(b) Review and assessment of policies

The Board shall review and assess the effects on institutions of higher education of the policies of the Foundation regarding the imposition of limitations on the number of proposals that may be submitted by a single institution for programs supported by the Foundation. The Board shall determine whether current policies are well justified and appropriate for the types of programs that limit the number of proposal submissions. Not later than 1 year after August 9, 2007, the Board shall summarize the Board's findings and any recommendations regarding changes to the current policy on the restriction of proposal submissions in a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

(Pub. L. 110–69, title VII, §7037, Aug. 9, 2007, 121 Stat. 714.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

DEFINITIONS

For definitions of terms used in this section, see section 7001 of Pub. L. 110–69, set out as a note under section 1862o of this title.

§1862p. National Center for Science and Engineering Statistics

(a) Establishment

There is established within the Foundation a National Center for Science and Engineering Statistics that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) Duties

In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) Statistical reports

The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics related to the national and international science and engineering enterprise such as the biennial report required by section 1863(j)(1) of this title on indicators of the state of science and engineering in the United States.

(Pub. L. 111–358, title V, §505, Jan. 4, 2011, 124 Stat. 4007.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RESEARCH ON EFFICIENCY OF SKILLED TECHNICAL LABOR MARKETS

Pub. L. 115–402, §4, Dec. 31, 2018, 132 Stat. 5346, provided that:

"(a) EFFICIENCY OF SKILLED TECHNICAL LABOR MARKETS.—The Director of the National Science Foundation, working through the Directorate of Social, Behavioral & Economic Sciences, in coordination with the Secretary of Labor, shall support research on labor market analysis innovations, data and information sciences, electronic information tools and methodologies, and metrics.

"(b) SKILLED TECHNICAL WORKFORCE.—

"(1) REVIEW.—The National Center for Science and Engineering Statistics of the National Science Foundation shall consult and coordinate with other relevant Federal statistical agencies, including the Institute of Education Sciences of the Department of Education, and the Committee on Science, Technology, Engineering, and Mathematics Education of the National Science and Technology Council established under section 101 of the America COMPETES [Reauthorization] Act of 2010 (Public Law 111–358) [42 U.S.C. 6621], to explore the feasibility of expanding its surveys to include the collection of objective data on the skilled technical workforce.

"(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Dec. 31, 2018], the Director of the National Science Foundation shall submit to Congress a report on the progress made in expanding the National Center for Science and Engineering Statistics surveys to include the skilled technical workforce, including a plan for multi-agency collaboration to improve data collection and reporting of data on the skilled technical workforce.

"(3) DEFINITION OF SKILLED TECHNICAL WORKFORCE.—The term ' "skilled technical workforce" ' [sic] means workers with high school diplomas and two-year technical training or certifications who employ significant levels of STEM knowledge in their jobs."

DEFINITIONS

For definition of "STEM" as used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title.

Pub. L. 111–358, title V, §502, Jan. 4, 2011, 124 Stat. 4005, as amended by Pub. L. 114–329, title I, §103(e)(1), Jan. 6, 2017, 130 Stat. 2975, provided that: "In this subtitle [subtitle A (§§501–527) of title V of Pub. L. 111–358, enacting this section and sections 1862p–1 to 1862p–15 of this title, amending sections 1862n–1a, 1862n–5, 1863, and 1869 of this title, and enacting provisions set out as notes under sections 1862p and 1869 of this title]:

"(1) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation.

"(2) EPSCOR.—The term 'EPSCoR' means—

"(A) the Established Program to Stimulate Competitive Research established by the Foundation; or

"(B) a program similar to the Established Program to Stimulate Competitive Research at another Federal agency.

"(3) FOUNDATION.—The term 'Foundation' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(5) STATE.—The term 'State' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

"(6) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States."

§1862p–1. National Science Foundation manufacturing research and education

(a) Manufacturing research

The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

(1) nanomanufacturing;

(2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;

(3) manufacturing enterprise systems;

(4) advanced sensing and control techniques;

(5) materials processing;

(6) information technologies for manufacturing, including predictive and real-time models and simulations, virtual manufacturing; [1] and artificial intelligence and machine learning; and

(7) additive manufacturing, including new material designs, complex materials, rapid printing techniques, and real-time process controls.

(b) Manufacturing education

In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation's Advanced Technological Education program.

(Pub. L. 111–358, title V, §506, Jan. 4, 2011, 124 Stat. 4007; Pub. L. 117–167, div. B, title III, §10358, Aug. 9, 2022, 136 Stat. 1563.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

Subsec. (a)(6). Pub. L. 117–167, §10358(2), substituted "simulations, virtual manufacturing; and artificial intelligence and machine learning; and" for "simulations, and virtual manufacturing."

Subsec. (a)(7). Pub. L. 117–167, §10358(1), (3), added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

[1] *So in original. The semicolon probably should be a comma.*

§1862p–2. Partnerships for innovation

(a) In general

The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) Partnerships

(1) In general

To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and nonprofit organizations.

(2) Priority

In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) Program

Proposals funded under this section shall seek—

(1) to increase the impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) to increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) to enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) to strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) to broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) to build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) Additional criteria

In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) Limitation

No funds provided under this section may be used to construct or renovate a building or structure.

(Pub. L. 111–358, title V, §508, Jan. 4, 2011, 124 Stat. 4008.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–3. Sustainable chemistry basic research

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support research into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

(Pub. L. 111–358, title V, §509, Jan. 4, 2011, 124 Stat. 4009.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

COORDINATION OF SUSTAINABLE CHEMISTRY RESEARCH AND DEVELOPMENT

Pub. L. 114–329, title I, §114, Jan. 6, 2017, 130 Stat. 2993, provided that:

"(a) IMPORTANCE OF SUSTAINABLE CHEMISTRY.—It is the sense of Congress that—

"(1) the science of chemistry is vital to improving the quality of human life and plays an important role in addressing critical global challenges, including water quality, energy, health care, and agriculture;

"(2) sustainable chemistry can reduce risks to human health and the environment, reduce waste, improve pollution prevention, promote safe and efficient manufacturing, and promote efficient use of resources in developing new materials, processes, and technologies that support viable long-term solutions to a significant number of challenges;

"(3) sustainable chemistry can stimulate innovation, encourage new and creative approaches to problems, create jobs, and save money; and

"(4) a coordinated effort on sustainable chemistry will allow for a greater return on research investment in this area.

"(b) SUSTAINABLE CHEMISTRY BASIC RESEARCH.—Subject to the availability of appropriated funds, the Director of the [National Science] Foundation may continue to carry out the Sustainable Chemistry Basic Research program authorized under section 509 of the National Science Foundation Authorization Act of 2010 (42 U.S.C. 1862p–3)."

DEFINITIONS

For definitions of terms used in this section, see section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–4. Undergraduate broadening participation program

The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, the Tribal Colleges and Universities Program, and Hispanic-serving institutions as separate programs.

(Pub. L. 111–358, title V, §512, Jan. 4, 2011, 124 Stat. 4011.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–5. Research experiences for high school students

The Director shall permit specialized STEM high schools conducting research to participate in major data collection initiatives from universities, corporations, or government labs under a research grant from the Foundation, as part of the research proposal.

(Pub. L. 111–358, title V, §513, Jan. 4, 2011, 124 Stat. 4011.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–6. Research experiences for undergraduates

(a) Research sites

The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, nonprofit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more undergraduate STEM students for all other sites, with consideration given to the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title. The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) Inclusion of undergraduates in standard research grants

The Director shall require that every recipient of a research grant from the Foundation proposing to include 1 or more students enrolled in certificate, associate, or baccalaureate degree programs in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

(Pub. L. 111–358, title V, §514, Jan. 4, 2011, 124 Stat. 4011.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–7. STEM industry internship programs

(a) In general

The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences that connect private sector internship experiences with the students' STEM coursework. The partnerships may also include industry or professional associations.

(b) Internship program

The grants awarded under subsection (a) may include internship programs in the manufacturing sector.

(c) [1] Use of grant funds

Grants under this section may be used—

(1) to develop and implement hands-on learning opportunities;

(2) to develop curricula and instructional materials related to industry, including the manufacturing sector;

(3) to perform outreach to secondary schools;

(4) to develop mentorship programs for students with partner organizations; and

(5) to conduct activities to support awareness of career opportunities and skill requirements.

(d) [2] Priority

In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities and Regional Centers for the Transfer of Manufacturing Technology established by section 278k(a) [3] of title 15 in developing academic courses designed to provide students with the skills or certifications necessary for employment in local or regional companies.

(c) [1] Outreach to rural communities

The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

(d) [2] Cost-share

The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(e) Restriction

No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships unless private sector entities match 75 percent of such funding; or

(2) as payment or reimbursement to private sector entities, except for institutions of higher education.

(f) Report

Not less than 3 years after January 4, 2011, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, any evidence of the effect of those awards on workforce preparation and jobs placement for participating students, and an economic and ethnic breakdown of the participating students.

(Pub. L. 111–358, title V, §515, Jan. 4, 2011, 124 Stat. 4012.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 278k of title 15, referred to in subsec. (d), was amended generally by Pub. L. 114–329, title V, §501(b), Jan. 6, 2017, 130 Stat. 3023, and, as so amended, relates to the Hollings Manufacturing Extension Partnership.

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

[1] So in original. Two subsecs. (c) have been enacted.

[2] So in original. Two subsecs. (d) have been enacted.

[3] See References in Text note below.

§1862p–8. Cyber-enabled learning for national challenges

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness, and use technology to enhance or supplement laboratory based learning.

(Pub. L. 111–358, title V, §516, Jan. 4, 2011, 124 Stat. 4012.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–9. Experimental Program to Stimulate Competitive Research

(a) Findings

The Congress finds that—

(1) the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.] stated, "it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education";

(2) National Science Foundation funding remains highly concentrated, with 28 States and jurisdictions, taken together, receiving only about 12 percent of all National Science Foundation research funding;

(3) each of the States described in paragraph (2) receives only a fraction of 1 percent of the Foundation's research dollars each year;

(4) first established at the National Science Foundation in 1979, the Experimental Program to Stimulate Competitive Research (referred to in this section as "EPSCoR") assists States and jurisdictions historically underserved by Federal research and development funding in strengthening their research and innovation capabilities;

(5) the EPSCoR structure requires each participating State to develop a science and technology plan suited to State and local research, education, and economic interests and objectives;

(6) EPSCoR has been credited with advancing the research competitiveness of participating States, improving awareness of science, promoting policies that link scientific investment and economic growth, and encouraging partnerships between government, industry, and academia;

(7) EPSCoR proposals are evaluated through a rigorous and competitive merit-review process to ensure that awarded research and development efforts meet high scientific standards; and

(8) according to the National Academy of Sciences, EPSCoR has strengthened the national research infrastructure and enhanced the educational opportunities needed to develop the science and engineering workforce.

(b) Continuation of program

The Director shall continue to carry out EPSCoR, with the objective of helping the eligible States to develop the research infrastructure that will make them more competitive for Foundation and other Federal research funding. The program shall continue to increase as the National Science Foundation funding increases.

(c) Coordination of EPSCoR and similar Federal programs

(1) Another finding

The Congress finds that a number of Federal agencies have programs, such as EPSCoR and the National Institutes of Health Institutional Development Award program, designed to increase the capacity for and quality of science and technology research and training at academic institutions in States that historically have received relatively little Federal research and development funding.

(2) Coordination required

The EPSCoR Interagency Coordinating Committee, chaired by the National Science Foundation, shall—

(A) coordinate each EPSCoR to maximize the impact of Federal support for building competitive research infrastructure, and in order to achieve an integrated Federal effort;

(B) coordinate agency objectives with State and institutional goals, to obtain continued non-Federal support of science and technology research and training;

(C) develop metrics to assess gains in academic research quality and competitiveness, and in science and technology human resource development;

(D) conduct a cross-agency evaluation of each EPSCoR and accomplishments, including management, investment, and metric-measuring strategies implemented by the different agencies aimed to increase the number of new investigators receiving peer-reviewed funding, broaden participation, and empower knowledge generation, dissemination, application, and national research and development competitiveness;

(E) coordinate the development and implementation of new, novel workshops, outreach

activities, and follow-up mentoring activities among each EPSCoR for colleges and universities in EPSCoR States and territories in order to increase the number of proposals submitted and successfully funded and to enhance statewide coordination of each EPSCoR;

(F) coordinate the development of new, innovative solicitations and programs to facilitate collaborations, partnerships, and mentoring activities among faculty at all levels in non-EPSCoR and EPSCoR States and jurisdictions;

(G) conduct an evaluation of the roles, responsibilities and degree of autonomy that program officers or managers (or the equivalent position) have in executing each EPSCoR at the different Federal agencies and the impacts these differences have on the number of EPSCoR State and jurisdiction faculty participating in the peer review process and the percentage of successful awards by individual EPSCoR State jurisdiction and individual researcher; and

(H) conduct a survey of colleges and university faculty at all levels regarding their knowledge and understanding of EPSCoR, and their level of interaction with and knowledge about their respective State or Jurisdictional EPSCoR Committee.

(3) Meetings and reports

The Committee shall meet at least twice each fiscal year and shall submit an annual report to the appropriate committees of Congress describing progress made in carrying out paragraph (2).

(d) Federal agency reports

Each Federal agency that administers an EPSCoR shall submit to Congress, as part of its Federal budget submission—

(1) a description of the program strategy and objectives;

(2) a description of the awards made in the previous fiscal year, including—

(A) the total amount made available, by State, under EPSCoR;

(B) the total amount of agency funding made available to all institutions and entities within each EPSCoR State;

(C) the efforts and accomplishments to more fully integrate the EPSCoR States in major agency activities and initiatives;

(D) the percentage of EPSCoR reviewers from EPSCoR States; and

(E) the number of programs or large collaborator awards involving a partnership of organizations and institutions from EPSCoR and non-EPSCoR States; and

(3) an analysis of the gains in academic research quality and competitiveness, and in science and technology human resource development, achieved by the program over the last 5 fiscal years.

(e) National Academy of Sciences study

(1) In general

The Director shall contract with the National Academy of Sciences to conduct a study on all Federal agencies that administer an EPSCoR.

(2) Matters to be addressed

The study conducted under paragraph (1) shall include the following:

(A) A delineation of the policies of each Federal agency with respect to the awarding of grants to EPSCoR States.

(B) The effectiveness of each program.

(C) Recommendations for improvements for each agency to achieve EPSCoR goals.

(D) An assessment of the effectiveness of EPSCoR States in using awards to develop science and engineering research and education, and science and engineering infrastructure within their States.

(E) Such other issues that address the effectiveness of EPSCoR as the National Academy of Sciences considers appropriate.

(f) Award structure updates

In implementing the mandate to maximize the impact of Federal EPSCoR support on building

competitive research infrastructure, and based on the inputs and recommendations of previous EPSCoR reviews, the head of each Federal agency administering an EPSCoR program shall—

(1) consider modifications to EPSCoR proposal solicitation, award type, and project evaluation—

(A) to more closely align with current agency priorities and initiatives;

(B) to focus EPSCoR funding on achieving critical scientific, infrastructure, and educational needs of that agency;

(C) to encourage collaboration between EPSCoR-eligible institutions and researchers, including with institutions and researchers in other States and jurisdictions;

(D) to improve communication between State and Federal agency proposal reviewers; and

(E) to continue to reduce administrative burdens associated with EPSCoR;

(2) consider modifications to EPSCoR award structures—

(A) to emphasize long-term investments in building research capacity, potentially through the use of larger, renewable funding opportunities;

(B) to allow the agency, States, and jurisdictions to experiment with new research and development funding models; and

(C) to increase the capacity of rural communities to provide quality STEM education and STEM workforce development programming to students, and teachers; and

(3) consider modifications to the mechanisms used to monitor and evaluate EPSCoR awards—

(A) to increase collaboration between EPSCoR-funded researchers and agency staff, including by providing opportunities for mentoring young researchers and for the use of Federal facilities;

(B) to identify and disseminate best practices; and

(C) to harmonize metrics across participating Federal agencies, as appropriate.

(Pub. L. 111–358, title V, §517, Jan. 4, 2011, 124 Stat. 4013; Pub. L. 114–329, title I, §103(a), (c), (d)(1), Jan. 6, 2017, 130 Stat. 2972–2974; Pub. L. 117–167, div. B, title III, §10325(a)(2), Aug. 9, 2022, 136 Stat. 1539.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Science Foundation Act of 1950, referred to in subsec. (a)(1), is act May 10, 1950, ch. 171, 64 Stat. 149, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (f)(2)(C). Pub. L. 117–167 added subpar. (C).

2017—Subsec. (a)(1). Pub. L. 114–329, §103(a)(1), substituted "the National" for "The National" and "such research and education" for "such research and education,".

Subsec. (a)(2). Pub. L. 114–329, §103(a)(2), substituted "with 28 States and jurisdictions, taken together, receiving only about 12 percent of all National Science Foundation research funding;" for "with 27 States and 2 jurisdictions, taken together, receiving only about 10 percent of all NSF research funding; each of these States received only a fraction of one percent of Foundation's research dollars each year;".

Subsec. (a)(3). Pub. L. 114–329, §103(a)(3), added par. (3) and struck out former par. (3) which read as follows: "the Nation requires the talent, expertise, and research capabilities of all States in order to prepare sufficient numbers of scientists and engineers, remain globally competitive and support economic development."

Subsec. (a)(4) to (8). Pub. L. 114–329, §103(a)(4), added pars. (4) to (8).

Subsec. (c). Pub. L. 114–329, §103(d)(1)(A), (B), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to congressional reports.

Subsec. (c)(1). Pub. L. 114–329, §103(d)(1)(C)(i), substituted "EPSCoR" for "Experimental Programs to Stimulate Competitive Research".

Subsec. (c)(2)(A). Pub. L. 114–329, §103(d)(1)(C)(ii)(I), substituted "each EPSCoR" for "EPSCoR and Federal EPSCoR-like programs".

Subsec. (c)(2)(D). Pub. L. 114–329, §103(d)(1)(C)(ii)(II), substituted "each EPSCoR" for "EPSCoR and other Federal EPSCoR-like programs".

Subsec. (c)(2)(E). Pub. L. 114–329, §103(d)(1)(C)(ii)(III), which directed substitution of "each EPSCoR" for "EPSCoR or Federal EPSCoR-like programs" was executed by substituting "among each EPSCoR" for "among EPSCoR or EPSCoR-like programs", to reflect the probable intent of Congress.

Pub. L. 114–329, §103(d)(1)(C)(ii)(I), substituted "of each EPSCoR" for "of EPSCoR and Federal EPSCoR-like programs".

Subsec. (c)(2)(G). Pub. L. 114–329, §103(d)(1)(C)(ii)(IV), substituted "each EPSCoR" for "EPSCoR programs".

Subsec. (d). Pub. L. 114–329, §103(d)(1)(D), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to Federal agency reports.

Pub. L. 114–329, §103(d)(1)(B), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 114–329, §103(d)(1)(B), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(1). Pub. L. 114–329, §103(d)(1)(E), substituted "EPSCoR" for "Experimental Program to Stimulate Competitive Research or a program similar to the Experimental Program to Stimulate Competitive Research".

Subsec. (f). Pub. L. 114–329, §103(d)(1)(B), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 114–329, §103(c), (d)(1)(B), added subsec. (g) and then redesignated it as (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–10. Academic technology transfer and commercialization of university research

(a) In general

Any institution of higher education (as such term is defined in section 1001(a) [1] of title 20) that receives National Science Foundation research support and has received at least $25,000,000 in total Federal research grants in the most recent fiscal year shall keep, maintain, and report annually to the National Science Foundation the universal record locator for a public website that contains information concerning its general approach to and mechanisms for transfer of technology and the commercialization of research results, including—

(1) contact information for individuals and university offices responsible for technology transfer and commercialization;

(2) information for both university researchers and industry on the institution's technology licensing and commercialization strategies;

(3) success stories, statistics, and examples of how the university supports commercialization of research results;

(4) technologies available for licensing by the university where appropriate; and

(5) any other information deemed by the institution to be helpful to companies with the potential to commercialize university inventions.

(b) NSF website

The National Science Foundation shall create and maintain a website accessible to the public that links to each website mentioned under (a).

(c) Trade secret information

Notwithstanding subsection (a), an institution shall not be required to reveal confidential, trade secret, or proprietary information on its website.

(Pub. L. 111–358, title V, §520, Jan. 4, 2011, 124 Stat. 4016.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1001(a) of title 20, referred to in subsec. (a), was in the original "section 101(A) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))", and was translated as reading "section 101(a)" of that Act, to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

[1] *See References in Text note below.*

§1862p–11. NSF grants in support of sponsored post-doctoral fellowship programs

The Director of the National Science Foundation may utilize funds appropriated to carry out grants to institutions of higher education (as such term is defined in section 1001(a) of title 20) to provide financial support for post-graduate research in fields with potential commercial applications to match, in whole or in part, any private sector grant of financial assistance to any post-doctoral program in such a field of study.

(Pub. L. 111–358, title V, §522, Jan. 4, 2011, 124 Stat. 4017.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1862p–12. Cloud computing research enhancement

(a) Research focus area

The Director may support a national research agenda in key areas affected by the increased use of public and private cloud computing, including—

(1) new approaches, techniques, technologies, and tools for—

(A) optimizing the effectiveness and efficiency of cloud computing environments; and

(B) mitigating security, identity, privacy, reliability, and manageability risks in cloud-based environments, including as they differ from traditional data centers;

(2) new algorithms and technologies to define, assess, and establish large-scale, trustworthy,

cloud-based infrastructures;

(3) models and advanced technologies to measure, assess, report, and understand the performance, reliability, energy consumption, and other characteristics of complex cloud environments; and

(4) advanced security technologies to protect sensitive or proprietary information in global-scale cloud environments.

(b) Establishment

(1) In general

Not later than 60 days after January 4, 2011, the Director shall initiate a review and assessment of cloud computing research opportunities and challenges, including research areas listed in subsection (a), as well as related issues such as—

(A) the management and assurance of data that are the subject of Federal laws and regulations in cloud computing environments, which laws and regulations exist on January 4, 2011;

(B) misappropriation of cloud services, piracy through cloud technologies, and other threats to the integrity of cloud services;

(C) areas of advanced technology needed to enable trusted communications, processing, and storage; and

(D) other areas of focus determined appropriate by the Director.

(2) Unsolicited proposals

The Director may accept unsolicited proposals that review and assess the issues described in paragraph (1). The proposals may be judged according to existing criteria of the National Science Foundation.

(c) Report

The Director shall provide an annual report for not less than 5 consecutive years to Congress on the outcomes of National Science Foundation investments in cloud computing research, recommendations for research focus and program improvements, or other related recommendations. The reports, including any interim findings or recommendations, shall be made publicly available on the website of the National Science Foundation.

(d) NIST support

The Director of the National Institute of Standards and Technology shall—

(1) collaborate with industry in the development of standards supporting trusted cloud computing infrastructures, metrics, interoperability, and assurance; and

(2) support standards development with the intent of supporting common goals.

(Pub. L. 111–358, title V, §524, Jan. 4, 2011, 124 Stat. 4018.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–13. Tribal colleges and universities program

(a) In general

The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 1059c of title 20, including institutions described in section 1059d of title 20), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) Program components

Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) Instrumentation

Funding provided under this section may be used for laboratory equipment and materials.

(d) Awards to broaden Tribal College and University student participation in computer science

(1) In general

The Director, as part of the program authorized under this section, shall make awards on a competitive, merit-reviewed basis to eligible entities to increase the participation of Tribal populations in computer science and computational thinking education programs to enable students to develop skills and competencies in coding, problem-solving, critical thinking, creativity and collaboration.

(2) Purpose

Awards made under this subsection shall support—

(A) research and development needed to bring computer science and computational thinking courses and degrees to Tribal Colleges or Universities;

(B) research and development of instructional materials needed to integrate computer science and computational thinking into programs that are culturally relevant to students attending Tribal Colleges or Universities;

(C) research, development and evaluation of distance education for computer science and computational thinking courses and degree programs for students attending Tribal Colleges and Universities; and

(D) other activities consistent with the activities described in paragraphs (1) through (4) of subsection (b), as determined by the Director.

(3) Partnerships

A Tribal College or University seeking an award under this subsection, or consortia thereof, may partner with an institution of higher education or nonprofit organization with demonstrated expertise in academic program development.

(4) Coordination

In carrying out this subsection, the Director shall consult and cooperate with the programs and policies of other relevant Federal agencies to avoid duplication with and enhance the effectiveness of the program under this subsection.

(5) Authorization of appropriations

There are authorized to be appropriated to the Director $2,000,000 in each of fiscal years 2023 through 2027 to carry out this subsection.

(Pub. L. 111–358, title V, §525, Jan. 4, 2011, 124 Stat. 4019; Pub. L. 117–167, div. B, title V, §10525(a), Aug. 9, 2022, 136 Stat. 1625.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–167 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–14. Broader Impacts Review Criterion

(a) Goals

The Foundation shall apply a broader impacts review criterion to identify and demonstrate project support of the following goals:

(1) Increasing the economic competitiveness of the United States.

(2) Advancing of the health and welfare of the American public.

(3) Supporting the national defense of the United States.

(4) Enhancing partnerships between academia and industry in the United States.

(5) Developing an American STEM workforce that is globally competitive through improved pre-kindergarten through grade 12 STEM education and teacher development, and improved undergraduate STEM education and instruction.

(6) Improving public scientific literacy and engagement with science and technology in the United States.

(7) Expanding participation of women and individuals from underrepresented groups in STEM.

(b) Policy

Not later than 6 months after January 4, 2011, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the portion of the investigator's proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

(Pub. L. 111–358, title V, §526, Jan. 4, 2011, 124 Stat. 4019; Pub. L. 114–329, title I, §102(c), Jan. 6, 2017, 130 Stat. 2972.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Subsec. (a). Pub. L. 114–329 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

"(1) Increased economic competitiveness of the United States.

"(2) Development of a globally competitive STEM workforce.

"(3) Increased participation of women and underrepresented minorities in STEM.

"(4) Increased partnerships between academia and industry.

"(5) Improved pre-K–12 STEM education and teacher development.

"(6) Improved undergraduate STEM education.

"(7) Increased public scientific literacy.

"(8) Increased national security."

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862p–15. Twenty-first century graduate education

(a) In general

The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that emphasize preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) Uses of funds

Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K–12 schools, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) Partnership

An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) Selection process

(1) Applications

An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) Review of applications

In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

(Pub. L. 111–358, title V, §527, Jan. 4, 2011, 124 Stat. 4020.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the America COMPETES Reauthorization Act of 2010, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, and also as part of the National Science Foundation Authorization Act of 2010, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.

§1862q. Informal STEM education

(a) Grants

The Director of the National Science Foundation, through the Directorate for Education and Human Resources, shall continue to award competitive, merit-reviewed grants to support—

(1) research and development of innovative out-of-school STEM learning and emerging STEM learning environments in order to improve STEM learning outcomes and engagement in STEM;

(2) research that advances the field of informal STEM education;

(3) a national partnership of institutions involved in informal STEM learning; and

(4) the integration of art and design in STEM educational programs.

(b) Uses of funds

Activities supported by grants under this section may encompass a single STEM discipline, multiple STEM disciplines, or integrative STEM initiatives and shall include—

(1) research and development that improves our understanding of learning and engagement in informal environments, including the role of informal environments in broadening participation in STEM;

(2) design and testing of innovative STEM learning models, programs, and other resources for informal learning environments to improve STEM learning outcomes and increase engagement for K–12 students, K–12 teachers, and the general public, including design and testing of the scalability of models, programs, and other resources;

(3) fostering on-going partnerships between institutions involved in informal STEM learning, institutions of higher education, and education research centers;

(4) developing, and making available informal STEM education activities and educational materials; and

(5) design and testing of programming that integrates art and design in STEM education to promote creativity and innovation.

(c) PreK–12 informal STEM

(1) In general

The Director of the National Science Foundation shall make awards, through existing programs where appropriate to institutions of higher education and nonprofit organizations (or consortia of such intuitions [1] or organizations) on a merit-reviewed, competitive basis for research on effective approaches to engaging students in PreK–12, including students from groups historically underrepresented in STEM and rural students.

(2) Purposes

The purposes of this subsection are to—

(A) provide effective, compelling, and engaging means for teaching and reinforcing fundamental STEM concepts to PreK–12 students;

(B) expand the STEM workforce pipeline by increasing the number of youth in the United States exposed to STEM from an early age and encourage them to pursue careers in STEM-related fields; and

(C) broaden participation of groups historically underrepresented in STEM and rural students, in the STEM workforce.

(3) Use of funds

(A) In general

Awards made under this subsection shall support research and development on innovative before-school, after-school, out-of-school, or summer activities that are designed to encourage interest, engagement, and skills development in STEM, including for students from groups historically underrepresented in STEM and rural students.

(B) Permitted activities

The research and development activities described in subparagraph (A) may include—

(i) the provision of programming described in such subparagraph for the purpose of research described in such subparagraph;

(ii) the use of a variety of engagement methods, including cooperative and hands-on learning;

(iii) exposure of students to role models in the fields of STEM and near-peer mentors;

(iv) training of informal learning educators, youth-serving professionals, and volunteers who lead informal STEM programs in using evidence-based methods consistent with the target student population being served;

(v) education of students on the relevance and significance of STEM careers, provision of academic advice and assistance, and activities designed to help students make real-world connections to STEM content;

(vi) the preparation of students to attend events, competitions, and academic programs that provide content expertise and encourage career exposure in STEM, which may include the purchase of parts and supplies needed to prepare for participation in such competitions;

(vii) activities designed to engage parents and families of students in PreK–12 in STEM;

(viii) innovative strategies to engage students, such as using leadership skills and outcome measures to impart youth with the confidence to pursue STEM coursework and academic study;

(ix) coordination with STEM-rich environments, including other nonprofit, nongovernmental organizations, out-of- [2] classroom settings, institutions of higher education, vocational facilities, corporations, museums, or science centers; and

(x) the acquisition of instructional materials or technology-based tools to conduct applicable award activity.

(4) Application

An applicant seeking funding under this subsection shall submit an application at such time, in such manner, and containing such information as may be required by the Director. Applications that include or partner with a nonprofit, nongovernmental organization that has extensive experience and expertise in increasing the participation of students in PreK–12 in STEM are encouraged. At a minimum, the application shall include the following:

(A) A description of the target audience to be served by the research activity or activities for which such funding is sought.

(B) A description of the process for recruitment and selection of students to participate in such activities.

(C) A description of how such activity or activities may inform programming that engages students in PreK–12 in STEM.

(D) A description of how such activity or activities may inform programming that promotes

student academic achievement in STEM.

(E) An evaluation plan that includes, at a minimum, the use of outcome-oriented measures to determine the impact and efficacy of programming being researched.

(5) Evaluations

Each recipient of an award under this subsection shall provide, at the conclusion of every year during which the award funds are received, a report in a form prescribed by the Director.

(6) Encourage applications

In making awards under this subsection, the Director shall encourage applications which, for the purpose of the activity or activities funded through the award, are from or include eligible nonprofit programs serving students that attend elementary schools or secondary schools (including high schools) that—

(A) are implementing comprehensive support and improvement activities or targeted support and improvement activities under paragraph (1) or (2) of section 6311(d) of title 20; or

(B) serve high percentages of students who are eligible for a free or reduced-price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (which, in the case of a high school, may be calculated using comparable data from the schools that feed into the high school).

(7) Accountability and dissemination

(A) Evaluation required

The Director shall evaluate the activities established under this subsection. Such evaluation shall—

(i) use a common set of benchmarks and tools to assess the results of research conducted under such awards; and

(ii) to the extent practicable, integrate the findings of the research resulting from the activity or activities funded through the award with the current research on serving students with respect to the pursuit of degrees or careers in STEM, including underrepresented and rural students, in PreK–12.

(B) Report on evaluations

Not later than 180 days after the completion of the evaluation under subparagraph (A), the Director shall submit to Congress and make widely available to the public a report that includes—

(i) the results of the evaluation; and

(ii) any recommendations for administrative and legislative action that could optimize the effectiveness of the program under this subsection.

(8) Coordination

In carrying out this subsection, the Director shall, for purposes of enhancing program effectiveness and avoiding duplication of activities, consult, and coordinate with other relevant Federal agencies.

(Pub. L. 114–59, §3, Oct. 7, 2015, 129 Stat. 540; Pub. L. 114–329, title III, §311, Jan. 6, 2017, 130 Stat. 3013; Pub. L. 117–167, div. B, title III, §§10311(b), 10319(b), Aug. 9, 2022, 136 Stat. 1511, 1536.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(6)(B), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

CODIFICATION

Section was enacted as part of the STEM Education Act of 2015, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (a)(4). Pub. L. 117–167, §10319(b)(1), added par. (4).
Subsec. (b)(5). Pub. L. 117–167, §10319(b)(2), added par. (5).
Subsec. (c). Pub. L. 117–167, §10311(b), added subsec. (c).
2017—Subsec. (a)(3). Pub. L. 114–329, §311(a), added par. (3).
Subsec. (b)(3), (4). Pub. L. 114–329, §311(b), added pars. (3) and (4).

[1] *So in original. Probably should be "institutions".*

[2] *So in original.*

§1862r. Research in disabilities education

(a) Program

Nothing in this section and section 1862r–1 of this title alters the National Science Foundation's Research in Disabilities Education program for fundamental and implementation research about learners (of all ages) with disabilities, including dyslexia, in science, technology, engineering, and mathematics (STEM). The National Science Foundation shall continue to encourage efforts to understand and address disability-based differences in STEM education and workforce participation, including differences for dyslexic learners.

(b) Line item

The Director of the National Science Foundation shall include the amount requested for the Research in Disabilities Education program in the Foundation's annual congressional budget justification.

(Pub. L. 114–124, §3, Feb. 18, 2016, 130 Stat. 120.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Research Excellence and Advancements for Dyslexia Act or READ Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 114–124, §2, Feb. 18, 2016, 130 Stat. 120, provided that: "The Congress finds the following:

"(1) As many as 1 out of 6, or 8,500,000, American school children may have dyslexia.

"(2) Since 1975, dyslexia has been included in the list of qualifying learning disabilities under the Education for All Handicapped Children Act of 1975 [see Short Title of 1975 Amendment note set out under section 1400 of Title 20, Education] and the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]."

§1862r–1. Dyslexia

(a) In general

Consistent with subsection (c), the National Science Foundation shall support multi-directorate, merit-reviewed, and competitively awarded research on the science of specific learning disability, including dyslexia, such as research on the early identification of children and students with dyslexia,

professional development for teachers and administrators of students with dyslexia, curricula and educational tools needed for children with dyslexia, and implementation and scaling of successful models of dyslexia intervention. Research supported under this subsection shall be conducted with the goal of practical application.

(b) Awards

To promote development of early career researchers, in awarding funds under subsection (a) the National Science Foundation shall prioritize applications for funding submitted by early career researchers.

(c) Coordination

To prevent unnecessary duplication of research, activities under this this section and section 1862r of this title shall be coordinated with similar activities supported by other Federal agencies, including research funded by the Institute of Education Sciences and the National Institutes of Health.

(d) Funding

The National Science Foundation shall devote not less than $5,000,000 to research described in subsection (a), which shall include not less than $2,500,000 for research on the science of dyslexia, for each of fiscal years 2017 through 2021, subject to the availability of appropriations, to come from amounts made available for the Research and Related Activities account or the Education and Human Resources Directorate under subsection (e). This section shall be carried out using funds otherwise appropriated by law after February 18, 2016.

(e) Authorization

For each of fiscal years 2016 through 2021, there are authorized out of funds appropriated to the National Science Foundation, $5,000,000 to carry out the activities described in subsection (a).

(Pub. L. 114–124, §4, Feb. 18, 2016, 130 Stat. 120.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Research Excellence and Advancements for Dyslexia Act or READ Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITION OF SPECIFIC LEARNING DISABILITY

Pub. L. 114–124, §5, Feb. 18, 2016, 130 Stat. 121, provided that: "In this Act [see Short Title of 2016 Amendment note set out under section 1861 of this title], the term 'specific learning disability'—

"(1) means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations;

"(2) includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; and

"(3) does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage."

§1862s. Reaffirmation of merit-based peer review

(a) Sense of Congress

It is the sense of Congress that—

(1) sustained, predictable Federal funding of basic research is essential to United States leadership in science and technology;

(2) the Foundation's intellectual merit and broader impacts criteria are appropriate for evaluating grant proposals, as concluded by the 2011 National Science Board Task Force on Merit Review;

(3) evaluating proposals on the basis of the Foundation's intellectual merit and broader impacts criteria should be used to assure that the Foundation's activities are in the national interest as these reviews can affirm that—

(A) the proposals funded by the Foundation are of high quality and advance scientific knowledge; and

(B) the Foundation's grants address societal needs through basic research findings or through related activities; and

(4) as evidenced by the Foundation's contributions to scientific advancement, economic growth, human health, and national security, its peer review and merit review processes have identified and funded scientifically and societally relevant basic research and should be preserved.

(b) Merit review criteria

The Foundation shall maintain the intellectual merit and broader impacts criteria, among other specific criteria as appropriate, as the basis for evaluating grant proposals in the merit review process.

(c) Updates

If after January 6, 2017, a change is made to the merit-review process, the Director shall submit a report to the appropriate committees of Congress not later than 30 days after the date of the change.

(Pub. L. 114–329, title I, §101, Jan. 6, 2017, 130 Stat. 2970.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 114–329, §2, Jan. 6, 2017, 130 Stat. 2970, provided that: "In this Act [see Short Title of 2017 Amendment note set out under section 1861 of this title and Tables], unless expressly provided otherwise:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

"(2) FEDERAL SCIENCE AGENCY.—The term 'Federal science agency' has the meaning given the term in section 103 of the America COMPETES Reauthorization Act of 2010 (42 U.S.C. 6623).

"(3) FOUNDATION.—The term 'Foundation' means the National Science Foundation.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(5) NIST.—The term 'NIST' means the National Institute of Standards and Technology.

"(6) STEM.—The term 'STEM' has the meaning given the term in section 2 of the American [sic] COMPETES Reauthorization Act of 2010 [Pub. L. 111–358] (42 U.S.C. 6621 note).

"(7) STEM EDUCATION.—The term 'STEM education' has the meaning given the term in section 2 of the STEM Education Act of 2015 [Pub. L. 114–59] (42 U.S.C. 6621 note)."

§1862s–1. Transparency and accountability

(a) Findings

(1) [1] building the understanding of and confidence in investments in basic research is essential to

public support for sustained, predictable Federal funding;

(2) the Foundation has improved transparency and accountability of the outcomes made through the merit review process, but additional transparency into individual grants is valuable in communicating and assuring the public value of federally funded research; and

(3) the Foundation should commit to transparency and accountability and to clear, consistent public communication regarding the national interest for each Foundation-awarded grant and cooperative agreement.

(b) Guidance

(1) In general

The Director of the Foundation shall issue and periodically update, as appropriate, policy guidance for both Foundation staff and other Foundation merit review process participants on the importance of transparency and accountability to the outcomes made through the merit review process.

(2) Requirements

The guidance under paragraph (1) shall require that each public notice of a Foundation-funded research project justify the expenditure of Federal funds by—

(A) describing how the project—

(i) reflects the statutory mission of the Foundation, as established in the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.); and

(ii) addresses the Foundation's intellectual merit and broader impacts criteria; and

(B) clearly identifying the research goals of the project in a manner that can be easily understood by both technical and non-technical audiences.

(Pub. L. 114–329, title I, §102, Jan. 6, 2017, 130 Stat. 2971.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Science Foundation Act of 1950, referred to in subsec. (b)(2)(A)(i), is act May 10, 1950, ch. 171, 64 Stat. 149, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

Section is comprised of section 102 of Pub. L. 114–329. Subsec. (c) of section 102 of Pub. L. 114–329 amended section 1862p–14 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

[1] So in original. Probably should be preceded by introductory text.

§1862s–2. Oversight of NSF major multi-user research facility projects

(a) Facilities oversight

(1) In general

The Director of the Foundation shall strengthen oversight and accountability over the full life-cycle of each major multi-user research facility project, including planning, development, procurement, construction, operations, and support, and shut-down of the facility, in order to maximize research investment.

(2) Requirements

In carrying out paragraph (1), the Director shall—

(A) prioritize the scientific outcomes of a major multi-user research facility project and the internal management and financial oversight of the major multi-user research facility project;

(B) clarify the roles and responsibilities of all organizations, including offices, panels, committees, and directorates, involved in supporting a major multi-user research facility project, including the role of the Major Research Equipment and Facilities Construction Panel;

(C) establish policies and procedures for the planning, management, and oversight of a major multi-user research facility project at each phase of the life-cycle of the major multi-user research facility project;

(D) ensure that policies for estimating and managing costs and schedules are consistent with the best practices described in the Government Accountability Office Cost Estimating and Assessment Guide, the Government Accountability Office Schedule Assessment Guide, and the Office of Management and Budget Uniform Guidance (2 C.F.R. Part 200);

(E) establish the appropriate project management and financial management expertise required for Foundation staff to oversee each major multi-user research facility project effectively, including by improving project management training and certification;

(F) coordinate the sharing of the best management practices and lessons learned from each major multi-user research facility project;

(G) continue to maintain a Large Facilities Office to support the research directorates in the development, implementation, and oversight of each major multi-user research facility project, including by—

(i) serving as the Foundation's primary resource for all policy or process issues related to the development, implementation, and oversight of a major multi-user research facility project;

(ii) serving as a Foundation-wide resource on project management, including providing expert assistance on nonscientific and nontechnical aspects of project planning, budgeting, implementation, management, and oversight;

(iii) coordinating and collaborating with research directorates to share best management practices and lessons learned from prior major multi-user research facility projects; and

(iv) assessing each major multi-user research facility project for cost and schedule risk; and

(H) appoint a senior agency official whose responsibility is oversight of the development, construction, and operations of major multi-user research facilities across the Foundation.

(b) Facilities full life-cycle costs

(1) In general

Subject to subsection (c)(1), the Director of the Foundation shall require that any pre-award analysis of a major multi-user research facility project includes the development and consideration of the full life-cycle cost (as defined in section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note)) in accordance with section 1862n–4 of this title.

(2) Implementation

Based on the pre-award analysis described in paragraph (1), the Director of the Foundation shall include projected operational costs within the Foundation's out-years as part of the President's annual budget submission to Congress under section 1105 of title 31.

(c) Cost oversight

(1) Pre-award analysis

(A) In general

The Director of the Foundation and the National Science Board may not approve or execute any agreement to start construction on any proposed major multi-user research facility project unless—

(i) an external analysis of the proposed budget has been conducted to ensure the proposal is complete and reasonable;

(ii) the analysis under clause (i) follows the Government Accountability Office Cost Estimating and Assessment Guide;

(iii) except as provided under subparagraph (C), an analysis of the accounting systems has been conducted;

(iv) an independent cost estimate of the construction of the project has been conducted using the same detailed technical information as the project proposal estimate to determine whether the estimate is well-supported and realistic; and

(v) the Foundation and the National Science Board have considered the analyses under clauses (i) and (iii) and the independent cost estimate under clause (iv) and resolved any major issues identified therein.

(B) Audits

An external analysis under subparagraph (A)(i) may include an audit.

(C) Exception

The Director of the Foundation, at the Director's discretion, may waive the requirement under subparagraph (A)(iii) if a similar analysis of the accounting systems was conducted in the prior years.

(2) Construction oversight

The Director of the Foundation shall require for each major multi-user research facility project—

(A) periodic external reviews on project management and performance;

(B) adequate internal controls, policies, and procedures, and reliable accounting systems in preparation for the incurred cost audits under subparagraph (D);

(C) annual incurred cost submissions of financial expenditures; and

(D) an incurred cost audit of the major multi-user research facility project in accordance with Government Accountability Office Government Auditing Standards—

(i) at least once during construction at a time determined based on risk analysis and length of the award, except that the length of time between audits may not exceed 3 years; and

(ii) at the completion of the construction phase.

(3) Operations cost analysis

The Director of the Foundation shall require an independent cost analysis of the operational proposal for each major multi-user research facility project.

(d) Contingency

(1) In general

The Director of the Foundation shall strengthen internal controls to improve oversight of contingency on a major multi-user research facility project.

(2) Requirements

In carrying out paragraph (1), the Director of the Foundation shall—

(A) only include contingency amounts in an award in accordance with section 200.433 of title 2, Code of Federal Regulations (relating to contingency provisions), or any successor regulation;

(B) retain control over funds budgeted for contingency, except that the Director may disburse budgeted contingency funds incrementally to the awardee to ensure project stability and continuity;

(C) track contingency use; and

(D) ensure that contingency amounts allocated to the performance baseline are reasonable and allowable.

(e) Use of fees

(1) Sense of Congress

It is the sense of Congress that—

(A) the use of taxpayer-funded award fees should be transparent and explicable; and

(B) the Foundation should implement an award fee policy that ensures more transparency and accountability in the funding of necessary and appropriate expenses directly related to the construction and operation of major multi-user research facilities.

(2) Reporting and recordkeeping

The Director of the Foundation shall establish guidelines for awardees regarding inappropriate expenditures associated with all fee types used in cooperative agreements, including for alcoholic beverages, lobbying, meals or entertainment for non-business purposes, non-business travel, and any other purpose the Director determines is inappropriate.

(f) Oversight implementation progress

The Director of the Foundation shall—

(1) not later than 90 days after January 6, 2017, and periodically thereafter until the completion date, provide a briefing to the appropriate committees of Congress on the response to or progress made toward implementation of—

(A) this section;

(B) all of the issues and recommendations identified in cooperative agreement audit reports and memoranda issued by the Inspector General of the Foundation in the last 5 years; and

(C) all of the issues and recommendations identified by a panel of the National Academy of Public Administration in the December 2015 report entitled "National Science Foundation: Use of Cooperative Agreements to Support Large Scale Investment in Research"; and

(2) not later than 1 year after January 6, 2017, notify the appropriate committees of Congress when the Foundation has implemented the recommendations identified in a panel of the National Academy of Public Administration report issued December 2015.

(g) Definitions

In this section:

(1) Appropriate committees of Congress

The term "appropriate committees of Congress" means the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives.

(2) Major multi-user research facility project

The term "major multi-user research facility project" means a science and engineering facility project that exceeds $100,000,000 in total construction, acquisition, or upgrade costs to the Foundation.

(Pub. L. 114–329, title I, §110, Jan. 6, 2017, 130 Stat. 2988; Pub. L. 116–283, div. A, title II, §267, Jan. 1, 2021, 134 Stat. 3502.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2 of the National Science Foundation Authorization Act of 1998, referred to in subsec. (b)(1), is section 2 of Pub. L. 105–207, July 29, 1998, 112 Stat. 869, which is set out as a note under section 1862k of

this title.

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2021—Subsec. (g)(2). Pub. L. 116–283 added par. (2) and struck out former par. (2) which defined "major multi-user research facility project".

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862s–3. Personnel oversight

(a) Conflicts of interest

The Director of the Foundation shall update the policy and procedure of the Foundation relating to conflicts of interest to improve documentation and management of any known conflict of interest of an individual on temporary assignment at the Foundation, including an individual on assignment under the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.).

(b) Justifications

The Deputy Director of the Foundation shall submit annually to the appropriate committees of Congress written justification for each rotator employed under the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), or other rotator employed, by the Foundation that year that is paid at a rate that exceeds the maximum rate of pay for the Senior Executive Service, including, if applicable, the level of adjustment for the certified Senior Executive Service Performance Appraisal System.

(c) Report

Not later than 1 year after January 6, 2017, the Director of the Foundation shall submit to the appropriate committees of Congress a report on the Foundation's efforts to control costs associated with employing rotators, including the results of and participation in the Foundation's cost-sharing pilot program and the Foundation's progress in responding to the findings and implementing the recommendations of the Office of Inspector General of the Foundation related to the employment of rotators.

(Pub. L. 114–329, title I, §111, Jan. 6, 2017, 130 Stat. 2992.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Intergovernmental Personnel Act of 1970, referred to in subsecs. (a) and (b), is Pub. L. 91–648, Jan. 5, 1971, 84 Stat. 1909, which is classified principally to chapter 62 (§4701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862s–4. Brain Research through Advancing Innovative Neurotechnologies Initiative

(a) In general

The Foundation shall support research activities related to the interagency Brain Research through Advancing Innovative Neurotechnologies Initiative.

(b) Sense of Congress

It is the sense of Congress that the Foundation should work in conjunction with the Interagency Working Group on Neuroscience established by the National Science and Technology Council, Committee on Science to determine how to use the data infrastructure of the Foundation and other applicable Federal science agencies to help neuroscientists collect, standardize, manage, and analyze the large amounts of data that result from research attempting to understand how the brain functions.

(Pub. L. 114–329, title I, §117, Jan. 6, 2017, 130 Stat. 2995.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862s–5. Programs to expand STEM opportunities

(a) Findings

Congress makes the following findings:

(1) Economic projections by the Bureau of Labor Statistics indicate that by 2018, there could be 2,400,000 unfilled STEM jobs.

(2) Women represent slightly more than half the United States population, and projections indicate that 54 percent of the population will be a member of a racial or ethnic minority group by 2050.

(3) Despite representing half the population, women comprise only about 30 percent of STEM workers according to a 2015 report by the National Center for Science and Engineering Statistics.

(4) A 2014 National Center for Education Statistics study found that underrepresented populations leave the STEM fields at higher rates than their counterparts.

(5) The representation of women in STEM drops significantly at the faculty level. Overall, women hold only 25 percent of all tenured and tenure-track positions and 17 percent of full professor positions in STEM fields in our Nation's universities and 4-year colleges.

(6) Black and Hispanic faculty together hold about 6.5 percent of all tenured and tenure-track positions and 5 percent of full professor positions.

(7) Many of the numbers in the American Indian or Alaskan Native and Native Hawaiian or Other Pacific Islander categories for different faculty ranks were too small for the Foundation to

report publicly without potentially compromising confidential information about the individuals being surveyed.

(b) Sense of Congress

It is the sense of Congress that—

(1) it is critical to our Nation's economic leadership and global competitiveness that the United States educate, train, and retain more scientists, engineers, and computer scientists;

(2) there is currently a disconnect between the availability of and growing demand for STEM-skilled workers;

(3) historically, underrepresented populations are the largest untapped STEM talent pools in the United States; and

(4) given the shifting demographic landscape, the United States should encourage full participation of individuals from underrepresented populations in STEM fields.

(c) Reaffirmation

The Director of the Foundation shall continue to support programs designed to broaden participation of underrepresented populations in STEM fields.

(d) Grants to broaden participation

(1) In general

The Director of the Foundation shall award grants on a competitive, merit-reviewed basis, to eligible entities to increase the participation of underrepresented populations in STEM fields, including individuals identified in section 1885a or section 1885b of this title.

(2) Center of excellence

(A) In general

Grants awarded under this subsection may include grants for the establishment of a Center of Excellence to collect, maintain, and disseminate information to increase participation of underrepresented populations in STEM fields.

(B) Purpose

The purpose of a Center of Excellence under this subsection is to promote diversity in STEM fields by building on the success of the INCLUDES programs, providing technical assistance, maintaining best practices, and providing related training at federally funded academic institutions.

(3) Research

As a component of improving participation of women in STEM fields, research funded by a grant under this subsection may include research on—

(A) the role of teacher training and professional development, including effective incentive structures to encourage teachers to participate in such training and professional development, in encouraging or discouraging female students in prekindergarten through elementary school from participating in STEM activities;

(B) the role of teachers in shaping perceptions of STEM in female students in prekindergarten through elementary school and discouraging such students from participating in STEM activities;

(C) the role of other facets of the learning environment on the willingness of female students in prekindergarten through elementary school to participate in STEM activities, including learning materials and textbooks, seating arrangements, use of media and technology, classroom culture, and composition of students during group work;

(D) the role of parents and other caregivers in encouraging or discouraging female students in prekindergarten through elementary school from participating in STEM activities;

(E) the types of STEM activities that encourage greater participation by female students in prekindergarten through elementary school;

(F) the role of mentorship and best practices in finding and utilizing mentors; and

(G) the role of informal and after-school STEM learning opportunities on the perception of and participation in STEM activities of female students in prekindergarten through elementary school.

(e) Support for increasing diversity among STEM faculty at institutions of higher education

(1) In general

The Director of the Foundation shall make awards to institutions of higher education (or consortia thereof) for the development and assessment of innovative reform efforts designed to increase the recruitment, retention, and advancement of individuals from underrepresented minority groups in academic STEM careers, which may include implementing or expanding successful evidence-based practices.

(2) Merit review; competition

Awards shall be made under this subsection on a merit-reviewed, competitive basis.

(3) Use of funds

Activities supported by awards under this subsection may include—

(A) institutional assessment activities, such as data analyses and policy review, in order to identify and address specific issues in the recruitment, retention, and advancement of faculty members from underrepresented minority groups;

(B) assessments of distribution of mentoring and advising responsibilities among faculty, particularly for faculty from underrepresented minority groups, that may detract from time spent on research, publishing papers, and other activities required to achieve tenure status or promotion (or equivalents for non-tenure track faculty) and run a productive research program;

(C) development and assessment of training courses for administrators and search committee members designed to ensure unbiased evaluation of candidates from underrepresented minority groups;

(D) development and hosting of intra- or inter-institutional workshops to propagate best practices in recruiting, retaining, and advancing faculty members from underrepresented minority groups;

(E) professional development opportunities for faculty members from underrepresented minority groups;

(F) activities aimed at making undergraduate STEM students from underrepresented minority groups aware of opportunities for academic careers in STEM fields; and

(G) activities to identify and engage exceptional graduate students and postdoctoral researchers from underrepresented minority groups at various stages of their studies and to encourage them to enter academic careers.

(4) Selection process

(A) Application

An institution of higher education (or a consortium of such institutions) seeking funding under this subsection shall submit an application to the Director of the Foundation at such time, in such manner, and containing such information and assurances as such Director may require. The application shall include, at a minimum, a description of—

(i) the reform effort that is being proposed for implementation by the institution of higher education;

(ii) any available evidence of specific difficulties in the recruitment, retention, and advancement of faculty members from underrepresented minority groups in STEM academic careers within the institution of higher education submitting an application, and how the proposed reform effort would address such issues;

(iii) support for the proposed reform effort by administrators of the institution, which may include details on previous or ongoing reform efforts;

(iv) how the proposed reform effort may contribute to change in institutional culture and policy such that a greater value is placed on the recruitment, retention, and advancement of

faculty members from underrepresented minority groups;

(v) how the institution of higher education submitting an application plans to sustain the proposed reform effort beyond the duration of the award, if the effort proved successful; and

(vi) how the success and effectiveness of the proposed reform effort will be evaluated and assessed in order to contribute to the national knowledge base about models for catalyzing institutional change.

(B) Award distribution

The Director of the Foundation shall ensure, to the extent practicable, that awards under this section are made to a variety of types of institutions of higher education.

(5) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $8,000,000 for each of fiscal years 2023 through 2027.

(f) Support for broadening participation in undergraduate STEM education

(1) In general

The Director of the Foundation shall make awards to institutions of higher education (or a consortium of such institutions) to implement or expand research-based reforms in undergraduate STEM education for the purpose of recruiting and retaining students from minority groups who are underrepresented in STEM fields.

(2) Merit review; competition

Awards shall be made under this subsection on a merit-reviewed, competitive basis.

(3) Use of funds

Activities supported by awards under this subsection may include—

(A) implementation or expansion of innovative, research-based approaches to broaden participation of underrepresented minority groups in STEM fields;

(B) implementation or expansion of successful, research-based bridge, cohort, tutoring, or mentoring programs, including those involving community colleges and technical schools, designed to enhance the recruitment and retention of students from underrepresented minority groups in STEM fields;

(C) implementation or expansion of outreach programs linking institutions of higher education and PreK–12 school systems in order to heighten awareness among precollege students from underrepresented minority groups of opportunities in college-level STEM fields and STEM careers;

(D) implementation or expansion of faculty development programs focused on improving retention of undergraduate STEM students from underrepresented minority groups;

(E) implementation or expansion of mechanisms designed to recognize and reward faculty members who demonstrate a commitment to increasing the participation of students from underrepresented minority groups in STEM fields;

(F) expansion of successful reforms aimed at increasing the number of STEM students from underrepresented minority groups beyond a single course or group of courses to achieve reform within an entire academic unit, or expansion of successful reform efforts beyond a single academic unit or field to other STEM academic units or fields within an institution of higher education;

(G) expansion of opportunities for students from underrepresented minority groups to conduct STEM research in industry, at Federal labs, and at international research institutions or research sites;

(H) provision of stipends for students from underrepresented minority groups participating in research;

(I) development of research collaborations between research-intensive universities and primarily undergraduate historically Black colleges and universities, Tribal Colleges or Universities, and minority serving institutions;

(J) support for graduate students and postdoctoral fellows from underrepresented minority groups to participate in instructional or assessment activities at primarily undergraduate institutions, including primarily undergraduate historically Black colleges and universities, Tribal Colleges or Universities, and minority serving institutions and 2-year institutions of higher education; and

(K) other activities consistent with paragraph (1), as determined by the Director of the Foundation.

(4) Selection process

(A) Application

An institution of higher education (or a consortium thereof) seeking an award under this subsection shall submit an application to the Director of the Foundation at such time, in such manner, and containing such information and assurances as such Director may require. The application shall include, at a minimum—

(i) a description of the proposed reform effort;

(ii) a description of the research findings that will serve as the basis for the proposed reform effort or, in the case of applications that propose an expansion of a previously implemented reform, a description of the previously implemented reform effort, including data about the recruitment, retention, and academic achievement of students from underrepresented minority groups;

(iii) evidence of an institutional commitment to, and support for, the proposed reform effort, including a long-term commitment to implement successful strategies from the current reform beyond the academic unit or units included in the award proposal;

(iv) a description of how the proposed reform effort may contribute to, or in the case of applications that propose an expansion of a previously implemented reforms has contributed to, change in institutional culture and policy such that a greater value is placed on the recruitment, retention and academic achievement of students from underrepresented minority groups;

(v) a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to improving the education of students from underrepresented minority groups in STEM; and

(vi) how the success and effectiveness of the proposed reform effort will be evaluated and assessed in order to contribute to the national knowledge base about models for catalyzing institutional change, [1]

(B) Award distribution

The Director of the Foundation shall ensure, to the extent practicable, that awards under this subsection are made to a variety of types of institutions of higher education, including historically Black colleges and universities, Tribal Colleges or Universities, minority serving institutions, and 2-year institutions of higher education.

(5) Education research

(A) In general

All awards made under this subsection shall include an education research component that will support the design and implementation of a system for data collection and evaluation of proposed reform efforts in order to build the knowledge base on promising models for increasing recruitment and retention of students from underrepresented minority groups in STEM education at the undergraduate level across a diverse set of institutions.

(B) Dissemination

The Director of the Foundation shall coordinate with the Committee on STEM Education of the National Science and Technology Council in disseminating the results of the research under this paragraph to ensure that best practices in broadening participation in STEM education at the undergraduate level are made readily available to all institutions of higher education, other

Federal agencies that support STEM programs, non-Federal funders of STEM education, and the general public.

(6) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2023 through 2027.

(g) Accountability and dissemination

(1) Evaluation

(A) In general

Not later than 5 years after January 6, 2017, the Director of the Foundation shall evaluate the grants provided under this section.

(B) Requirements

In conducting the evaluation under subparagraph (A), the Director shall—

(i) use a common set of benchmarks and assessment tools to identify best practices and materials developed or demonstrated by the research; and

(ii) to the extent practicable, combine the research resulting from the grant activity under subsection (e) with the current research on serving underrepresented students in grades kindergarten through 8.

(2) Report on evaluations

Not later than 180 days after the completion of the evaluation under paragraph (1), the Director of the Foundation shall submit to the appropriate committees of Congress and make widely available to the public a report that includes—

(A) the results of the evaluation; and

(B) any recommendations for administrative and legislative action that could optimize the effectiveness of the program.

(h) Coordination

In carrying out this section, the Director of the Foundation shall consult and cooperate with the programs and policies of other relevant Federal agencies to avoid duplication with and enhance the effectiveness of the program under this section.

(Pub. L. 114–329, title III, §305, Jan. 6, 2017, 130 Stat. 3007; Pub. L. 116–102, §4, Dec. 24, 2019, 133 Stat. 3263; Pub. L. 117–167, div. B, title III, §10329, Aug. 9, 2022, 136 Stat. 1546.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsecs. (e) to (h). Pub. L. 117–167 added subsecs. (e) and (f) and redesignated former subsecs. (e) and (f) as (g) and (h), respectively.

2019—Subsec. (d)(3). Pub. L. 116–102 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 116–102, §2, Dec. 24, 2019, 133 Stat. 3263, provided that: "Congress finds the following:

"(1) The National Science Foundation is a large investor in STEM education and plays a key role in setting research and policy agendas.

"(2) While studies have found that children who engage in scientific activities from an early age develop positive attitudes toward science and are more likely to pursue STEM expertise and careers later

on, the majority of current research focuses on increasing STEM opportunities for middle school-aged children and older.

"(3) Women remain widely underrepresented in the STEM workforce, and this disparity extends down through all levels of education."

SUPPORTING EARLY CHILDHOOD AND ELEMENTARY STEM EDUCATION RESEARCH

Pub. L. 116–102, §3, Dec. 24, 2019, 133 Stat. 3263, provided that: "In awarding grants under the Discovery Research PreK–12 program, the Director of the National Science Foundation shall consider the age distribution of a STEM education research and development project to improve the focus of research and development on elementary and prekindergarten education."

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

[1] *So in original.*

§1862s–6. Presidential awards for excellence in STEM mentoring

(a) In general

The Director of the Foundation shall continue to administer awards on behalf of the Office of Science and Technology Policy to recognize outstanding mentoring in STEM fields.

(b) Annual award recipients

The Director of the Foundation shall provide Congress with a list of award recipients, including the name, institution, and a brief synopsis of the impact of the mentoring efforts.

(Pub. L. 114–329, title III, §307, Jan. 6, 2017, 130 Stat. 3010.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PRESIDENTIAL AWARDS FOR EDUCATORS AND MENTORS IN FIELDS RELATING TO CYBERSECURITY

Pub. L. 116–283, div. H, title XCIV, §9405(d), Jan. 1, 2021, 134 Stat. 4812, provided that: "The Director of the National Science Foundation shall ensure that educators and mentors in fields relating to cybersecurity can be considered for—

"(1) Presidential Awards for Excellence in Mathematics and Science Teaching made under section 117 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b); and

"(2) Presidential Awards for Excellence in STEM Mentoring administered under section 307 of the American Innovation and Competitiveness Act (42 U.S.C. 1862s–6)."

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862s–7. Computer science education research

(a) Findings

Congress finds that as the lead Federal agency for building the research knowledge base for

computer science education, the Foundation is well positioned to make investments that will accelerate ongoing efforts to enable rigorous and engaging computer science throughout the Nation as an integral part of STEM education.

(b) Grant program

(1) In general

The Director of the Foundation shall award grants to eligible entities to research computer science and cybersecurity education and computational thinking.

(2) Research

The research described in paragraph (1) may include the development or adaptation, piloting or full implementation, and testing of—

(A) models of preservice preparation for teachers who will teach computer science and computational thinking;

(B) scalable and sustainable models of professional development and ongoing support for the teachers described in subparagraph (A);

(C) tools and models for teaching and learning aimed at supporting student success and inclusion in computing within and across diverse populations, particularly poor, rural, and tribal populations and other populations that have been historically underrepresented in computer science and STEM fields;

(D) high-quality learning opportunities for teaching computer science and, especially in poor, rural, or tribal schools at the elementary school and middle school levels, for integrating computational thinking into STEM teaching and learning; and

(E) tools and models for the integration of cybersecurity and other interdisciplinary efforts into computer science education and computational thinking at secondary and postsecondary levels of education.

(3) Uses of funds

The tools and models described in paragraph (2)(C) may include—

(A) offering training and professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of prekindergarten and elementary school teachers and to familiarize such teachers with the role of bias against female students in the classroom;

(B) offering innovative pre-service and in-service programs that instruct teachers on female-inclusive practices for teaching computing concepts;

(C) developing distance learning programs for teachers or students, including developing curricular materials, play-based computing activities, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(D) developing or adapting prekindergarten and elementary school computer science curricular materials that incorporate contemporary research on the science of learning, particularly with respect to female inclusion;

(E) developing and offering female-inclusive computer science enrichment programs for students, including after-school and summer programs;

(F) providing mentors for female students in prekindergarten through elementary school to support such students in participating in computer science activities;

(G) engaging female students in prekindergarten through elementary school, and their guardians (if such communication takes place on school premises during otherwise-scheduled conferences or formal conversations between teachers and guardians) about—

(i) the difficulties faced by female students with regard to maintaining an interest in participating in computer science activities; and

(ii) the potential positive career benefits of engaging in such activities;

(H) acquainting female students in prekindergarten through elementary school with careers in computer science and encouraging such students to consider careers in the computer science

field; and

(I) developing tools to evaluate activities conducted under this subsection, including reports for evaluating the effectiveness of activities under this section.

(c) Collaborations

In carrying out the grants established in subsection (b), eligible entities may collaborate and partner with local or remote schools to support the integration of computing, cybersecurity, and computational thinking within pre-kindergarten through grade 12 STEM curricula and instruction.

(d) Metrics

The Director of the Foundation shall develop metrics to measure the success of the grant program funded under this section in achieving program goals.

(e) Report

The Director of the Foundation shall report, in the annual budget submission to Congress, on the success of the program as measured by the metrics in subsection (d).

(f) Definition of eligible entity

In this section, the term "eligible entity" means an institution of higher education or a nonprofit research organization.

(Pub. L. 114–329, title III, §310, Jan. 6, 2017, 130 Stat. 3012; Pub. L. 116–102, §5, Dec. 24, 2019, 133 Stat. 3264; Pub. L. 116–283, div. H, title XCIV, §9405(a), Jan. 1, 2021, 134 Stat. 4812.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116–283, §9405(a)(1)(A), inserted "and cybersecurity" after "computer science".

Subsec. (b)(2)(E). Pub. L. 116–283, §9405(a)(1)(B), added subpar. (E).

Subsec. (c). Pub. L. 116–283, §9405(a)(2), inserted ", cybersecurity," after "computing".

2019—Subsec. (b)(3). Pub. L. 116–102 added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862s–8. Innovation Corps

(a) Findings

Congress makes the following findings:

(1) The National Science Foundation Innovation Corps (referred to in this section as the "I-Corps") was established to foster a national innovation ecosystem by encouraging institutions, scientists, engineers, and entrepreneurs to identify and explore the innovation and commercial potential of National Science Foundation-funded research well beyond the laboratory.

(2) Through I-Corps, the Foundation invests in entrepreneurship and commercialization education, training, and mentoring that can ultimately lead to the practical deployment of technologies, products, processes, and services that improve the Nation's competitiveness, promote economic growth, and benefit society.

(3) By building networks of entrepreneurs, educators, mentors, institutions, and collaborations, and supporting specialized education and training, I-Corps is at the leading edge of a strong, lasting foundation for an American innovation ecosystem.

(4) By translating federally funded research to a commercial stage more quickly and efficiently, programs like the I-Corps create new jobs and companies, help solve societal problems, and provide taxpayers with a greater return on their investment in research.

(5) The I-Corps program model has a strong record of success that should be replicated at all Federal science agencies.

(b) Sense of Congress

It is the sense of Congress that—

(1) commercialization of federally funded research can improve the Nation's competitiveness, grow the economy, and benefit society;

(2) I-Corps is a useful tool in promoting the commercialization of federally funded research by training researchers funded by the Foundation in entrepreneurship and commercialization;

(3) I-Corps should continue to build a network of entrepreneurs, educators, mentors, and institutions and support specialized education and training;

(4) researchers other than those funded by the Foundation may also benefit from the education and training described in paragraph (3); and

(5) I-Corps should continue to promote a strong innovation system by investing in and supporting female entrepreneurs through mentorship, education, and training because they are historically underrepresented in entrepreneurial fields.

(c) I-Corps program

(1) In general

In order to promote a strong, lasting foundation for the national innovation ecosystem and increase the positive economic and social impact of federally funded research, the Director of the Foundation shall set forth eligibility requirements and carry out a program to award grants for entrepreneurship and commercialization education, training, and mentoring.

(2) Expansion of I-Corps

(A) In general

The Director—

(i) shall encourage the development and expansion of I-Corps and other training programs that focus on professional development, including education in entrepreneurship and commercialization; and

(ii) may establish an agreement with another Federal science agency—

(I) to make researchers, students, and institutions funded by that agency eligible to participate in the I-Corps program; or

(II) to assist that agency with the design and implementation of its own program that is similar to the I-Corps program.

(B) Partnership funding

In negotiating an agreement with another Federal science agency under subparagraph (A)(ii), the Director shall require that Federal science agency to provide funding for—

(i) the training for researchers, students, and institutions selected for the I-Corps program; and

(ii) the locations that Federal science agency designates as regional and national infrastructure for science and engineering entrepreneurship.

(3) Follow-on grants

(A) In general

Subject to subparagraph (B), the Director, in consultation with the Director of the Small Business Innovation Research Program, shall make funds available for competitive grants,

including to I-Corps participants, to help support—

(i) prototype or proof-of-concept development; and

(ii) such activities as the Director considers necessary to build local, regional, and national infrastructure for science and engineering entrepreneurship.

(B) Limitation

Grants under subparagraph (A) shall be limited to participants with innovations that because of the early stage of development are not eligible to participate in a Small Business Innovation Research Program or a Small Business Technology Transfer Program.

(4) State and local partnerships

The Director may engage in partnerships with State and local governments, economic development organizations, and nonprofit organizations to provide access to the I-Corps program to support entrepreneurship education and training for researchers, students, and institutions under this subsection.

(5) Reports

The Director shall submit to the appropriate committees of Congress a biennial report on I-Corps program efficacy, including metrics on the effectiveness of the program. Each Federal science agency participating in the I-Corps program or that implements a similar program under paragraph (2)(A) shall contribute to the report.

(6) Definitions

In this subsection, the terms "Small Business Innovation Research Program" and "Small Business Technology Transfer Program" have the meanings given those terms in section 638 of title 15.

(Pub. L. 114–329, title VI, §601, Jan. 6, 2017, 130 Stat. 3033.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862s–9. Translational research grants

(a) Sense of Congress

It is the sense of Congress that—

(1) commercialization of federally funded research may benefit society and the economy; and

(2) not-for-profit organizations support the commercialization of federally funded research by providing useful business and technical expertise to researchers.

(b) Commercialization promotion

The Director of the Foundation shall continue to award grants on a competitive, merit-reviewed basis to eligible entities to promote the commercialization of federally funded research results.

(c) Use of funds

Activities supported by grants under this section may include—

(1) identifying Foundation-sponsored research and technologies that have the potential for accelerated commercialization;

(2) supporting prior or current Foundation-sponsored investigators, institutions of higher education, and non-profit organizations that partner with an institution of higher education in undertaking proof-of-concept work, including development of prototypes of technologies that are derived from Foundation-sponsored research and have potential market value;

(3) promoting sustainable partnerships between Foundation-funded institutions, industry, and other organizations within academia and the private sector with the purpose of accelerating the transfer of technology;

(4) developing multi-disciplinary innovation ecosystems which involve and are responsive to specific needs of academia and industry; and

(5) providing professional development, mentoring, and advice in entrepreneurship, project management, and technology and business development to innovators.

(d) Eligibility

(1) In general

The following organizations may be eligible for grants under this section:

(A) Institutions of higher education.

(B) Public or nonprofit technology transfer organizations.

(C) A nonprofit organization that partners with an institution of higher education.

(D) A consortia of 2 or more of the organizations described under subparagraphs (A) through (C).

(2) Lead organizations

Any eligible organization under paragraph (1) may apply as a lead organization.

(e) Applications

An eligible entity seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(Pub. L. 114–329, title VI, §602, Jan. 6, 2017, 130 Stat. 3035.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Innovation and Competitiveness Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.

§1862t. Supporting veterans in STEM education and computer science

(a) Supporting veteran involvement in scientific research and STEM education

The Director shall, through the research and education activities of the Foundation, encourage veterans to study and pursue careers in STEM and computer science, in coordination with other Federal agencies that serve veterans.

(b) Veteran outreach plan

Not later than 180 days after February 11, 2020, the Director shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce,

Science, and Transportation of the Senate a plan for how the Foundation can enhance its outreach efforts to veterans. Such plan shall—

(1) report on the Foundation's existing outreach activities;

(2) identify the best method for the Foundation to leverage existing authorities and programs to facilitate and support veterans in STEM careers and studies, including teaching programs; and

(3) include options for how the Foundation could track veteran participation in research and education programs of the Foundation, and describe any barriers to collecting such information.

(c) National Science Board indicators report

The National Science Board shall provide in its biennial report on indicators of the state of science and engineering in the United States any available and relevant data on veterans in science and engineering careers or education programs.

(d) to (g) Omitted

(h) Veterans and military families STEM education interagency working group

(1) In general

The Director of the Office of Science and Technology Policy shall establish, or designate, an interagency working group to improve veteran and military spouse equity and representation in STEM fields.

(2) Duties of interagency working group

An interagency working group established under paragraph (1) shall develop and facilitate the implementation by participating agencies of a strategic plan, which shall—

(A) specify and prioritize short- and long-term objectives;

(B) specify the common metrics that will be used by Federal agencies to assess progress toward achieving such objectives;

(C) identify barriers veterans face in reentering the workforce, including a lack of formal STEM education, career guidance, and the process of transferring military credits and skills to college credits;

(D) identify barriers military spouses face in establishing careers in STEM fields;

(E) describe the approaches that each participating agency will take to address administratively the barriers described in subparagraphs (C) and (D); and

(F) identify any barriers that require Federal or State legislative or regulatory changes in order to be addressed.

(3) Report

The Director of the Office of Science and Technology Policy shall—

(A) not later than 1 year after February 11, 2020, submit to Congress the strategic plan required under paragraph (2); and

(B) include in the annual report required by section 6621(d) of this title a description of any progress made in carrying out the activities described in paragraph (2) of this subsection.

(4) Sunset

An interagency working group established under paragraph (1) shall terminate on the date that is 3 years after the date that it is established.

(Pub. L. 116–115, §3, Feb. 11, 2020, 134 Stat. 106; Pub. L. 117–167, div. B, title III, §10399D, Aug. 9, 2022, 136 Stat. 1599.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 3 of Pub. L. 116–115. Subsec. (d) of section 3 of Pub. L. 116–115 amended section 1862n–1 of this title. Subsec. (e) of section 3 of Pub. L. 116–115 amended section 1862n–1a of this title. Subsecs. (f) and (g) of section 3 of Pub. L. 116–115 amended section 7404 of Title 15, Commerce and

Trade.

Section was enacted as part of the Supporting Veterans in STEM Careers Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Subsec. (c). Pub. L. 117–167 substituted "biennial" for "annual".

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 116–115, §2, Feb. 11, 2020, 134 Stat. 106, provided that: "In this Act [see Short Title of 2020 Amendment note set out under section 1861 of this title]:

"(1) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation.

"(2) FOUNDATION.—The term 'Foundation' means the National Science Foundation.

"(3) STEM.—The term 'STEM' has the meaning given the term in section 2 of the America COMPETES Reauthorization Act of 2010 [Pub. L. 111–358] (42 U.S.C. 6621 note).

"(4) VETERAN.—The term 'veteran' has the meaning given the term in section 101 of title 38, United States Code."

§1862u. NSF support of research on opioid addiction

The Director of the National Science Foundation, in consultation with the Director of the National Institutes of Health, shall support merit-reviewed and competitively awarded research on the science of opioid addiction.

(Pub. L. 116–335, §2, Jan. 13, 2021, 134 Stat. 5117.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Expanding Findings for Federal Opioid Research and Treatment Act, also known as the EFFORT Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 116–335, §1(b), Jan. 13, 2021, 134 Stat. 5117, provided that: "The Congress finds that—

"(1) research gaps currently exist in the prevention and treatment of opioid addiction;

"(2) the National Science Foundation's research on opioid addiction has increased understanding of the neuroscience of addiction, substance abuse intervention, the role of illicit supply networks, the secondary effects on families, the use of technology to address the opioid epidemic, and options for alternative, non-addictive therapeutics for pain; and

"(3) the National Science Foundation and the National Institutes of Health have recognized that fundamental questions in basic, clinical, and translational research would benefit greatly from multidisciplinary approaches and collaboration."

§1862v. National Science Foundation research

(a) In general

The Director of the National Science Foundation, in consultation with the Director of the National Institutes of Health and the Director of the National Institute of Mental Health and taking into consideration prioritized research agendas or strategic plans, as appropriate, shall, subject to the availability of appropriations, award grants on a competitive, merit-reviewed basis to institutions of

higher education (or consortia of such institutions) to support multidisciplinary, fundamental research with potential relevance to suicide, including potential relevance to prevention and treatment, including, but not limited to—

(1) basic understanding of human social behavior;

(2) the neural basis of human cognition;

(3) basic understanding of cognitive, linguistic, social, cultural, and biological processes related to human development across the lifespan;

(4) basic understanding of perceptual, motor, and cognitive processes, and their interaction, in typical human behavior; and

(5) basic understanding of the relevance of drug and alcohol abuse.

(b) Encouraging applications from early career researchers

To promote the development of early career researchers, in awarding funds under subsection (a), the Director of the National Science Foundation shall encourage applications submitted by early career researchers, including doctoral students or postdoctoral researchers.

(Pub. L. 116–339, §3, Jan. 13, 2021, 134 Stat. 5126.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Advancing Research to Prevent Suicide Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 116–339, §2, Jan. 13, 2021, 134 Stat. 5126, provided that: "Congress finds the following:

"(1) The rate of Americans dying by suicide is on the rise, increasing 10.7 to 14.0 deaths per 100,000 people from 2001 to 2017.

"(2) Suicide is the tenth-leading cause of death among people in the United States and the second-leading cause of death for young people between the ages of 15 and 34.

"(3) The National Science Foundation funds research that is improving our basic understanding of factors with potential relevance to suicide, including potential relevance to prevention and treatment.

"(4) Despite progress in mental health research, current gaps exist in scientific understanding and basic knowledge of human neural, genetic, cognitive, perceptual, behavioral, social, and environmental factors with potential relevance to suicide."

§1862w. NSF support of research on impacts of social media on human trafficking

(a) Definitions

In this section:

(1) Human trafficking

The term "human trafficking" means an act or practice described in section 7102(11) of title 22.

(2) Social media platform

The term "social media platform" means a website or internet medium that—

(A) permits a person to become a registered user, establish an account, or create a profile for the purpose of allowing users to create, share, and view user-generated content through such an account or profile;

(B) enables 1 or more users to generate content that can be viewed by other users of the medium; and

(C) primarily serves as a medium for users to interact with content generated by other users

of the medium.

(b) Support of research

The Director of the National Science Foundation, in consultation with the Attorney General, the Secretary of Homeland Security, and the Secretary of Health and Human Services, shall support merit-reviewed and competitively awarded research on the impact of online social media platforms on the maintenance or expansion of human trafficking, which may include—

(1) fundamental research on digital forensic tools or other technologies for verifying the authenticity of social media platform users and their materials, that are utilized in the promotion or operation of human trafficking networks;

(2) fundamental research on privacy preserving technical tools that may aid law enforcement's ability to identify and prosecute individuals or entities promoting or involved in human trafficking;

(3) social and behavioral research related to social media platform users who engage with those promoting or involved in human trafficking;

(4) research on the effectiveness of expanding public understanding, awareness, or law enforcement efforts in combating human trafficking through social media platforms; and

(5) research awards coordinated with other Federal agencies and programs, including the Information Integrity Research and Development Interagency Working Group and the Privacy Research and Development Interagency Working Group of the Networking and Information Technology Research and Development Program, the Office for Victims of Crime of the Department of Justice, the Blue Campaign of the Department of Homeland Security, the Office to Monitor and Combat Trafficking in Persons of the Department of State, and activities of the Department of Transportation and the Advisory Committee on Human Trafficking.

(c) Survivors

To the extent possible, the Director of the National Science Foundation shall ensure that research supported under subsection (b) incorporates the experiences, input, and safety and privacy concerns of human trafficking survivors.

(d) Reports

(1) Findings and recommendations

Not later than 1 year after January 5, 2023, the Director of the National Science Foundation shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the House of Representatives—

(A) the Director's findings with respect to the feasibility for research opportunities, including with the private sector social media platform companies, to improve the ability to combat human trafficking operations; and

(B) any recommendations of the Director that could facilitate and improve communication and coordination among the private sector, the National Science Foundation, and relevant Federal agencies to improve the ability to combat human trafficking operations through social media.

(2) Results of research

Not later than 4 years after January 5, 2023, the Director of the National Science Foundation shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the House of Representatives on the results of the research supported under this section.

(Pub. L. 117–348, title I, §124, Jan. 5, 2023, 136 Stat. 6218.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Trafficking Victims Prevention and Protection Reauthorization Act of 2022, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1863. National Science Board

(a) Composition; appointment; establishment of policies of the Foundation

The Board shall consist of twenty-four members to be appointed by the President and of the Director ex officio. In addition to any powers and functions otherwise granted to it by this chapter, the Board shall establish the policies of the Foundation, within the framework of applicable national policies as set forth by the President and the Congress.

(b) Executive Committee; delegation of powers and functions

The Board shall have an Executive Committee as provided in section 1865 of this title, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this chapter as it deems appropriate.

(c) Meetings; nominations; quorum; notice

The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific and engineering leaders in all areas of the Nation. In making nominations under this section, the President shall give due regard to equitable representation of scientists and engineers who are women or who represent minority groups. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Academy of Engineering, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific, engineering, or educational organizations.

(d) Term of office; reappointment

The term of office of each member of the Board shall be six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

(e) Meetings; quorum; notice

The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday, and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board.

(f) Election of Chairman and Vice Chairman; vacancy

The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the

Board shall elect a member to fill such vacancy.

(g) Appointment and assignment of staff; compensation; security requirements

The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of professional staff members, technical and professional personnel on leave of absence from academic, industrial, or research institutions for a limited term, and such operations and support staff members as may be necessary. Such staff shall be appointed by the Chairman and assigned at the direction of the Board. The professional members and limited term technical and professional personnel of such staff may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 of such title relating to classification, and shall be compensated at a rate not exceeding the maximum rate payable under section 5376 of such title, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this chapter. Section 1873(a)(3) of this title shall apply to each limited term appointment of technical and professional personnel under this subsection. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 1873(a) of this title.

(h) Special commissions

The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this chapter.

(i) Committees; survey and advisory functions

The Board is also authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this chapter.

(j) Report to President; submittal to Congress

(1) The Board shall render to the President and the Congress no later than March 15 of each even numbered year, a report on indicators of the state of science and engineering in the United States.

(2) The Board shall render to the President and the Congress reports on specific, individual policy matters within the authority of the Foundation (or otherwise as requested by the Congress or the President) related to science and engineering and education in science and engineering, as the Board, the President, or the Congress determines the need for such reports.

(k) Closed meetings

Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.

(l) Financial disclosure report for Board members

Members of the Board shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (5 U.S.C. App.; [1] 92 Stat. 1836), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(May 10, 1950, ch. 171, §4, 64 Stat. 150; Pub. L. 86–232, §2, Sept. 8, 1959, 73 Stat. 467; Pub. L. 86–507, §1(36), June 11, 1960, 74 Stat. 202; Pub. L. 90–407, §2, July 18, 1968, 82 Stat. 361; Pub. L. 94–273, §11(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–282, title V, §503, May 11, 1976, 90 Stat. 473; Pub. L. 94–471, §9, Oct. 11, 1976, 90 Stat. 2057; Pub. L. 95–99, §12(b), formerly §14(b), Aug. 15, 1977, 91 Stat. 835, renumbered §12(b), Pub. L. 99–159, title I, §109(h), Nov. 22, 1985, 99 Stat. 890; Pub. L. 96–516, §21(a), Dec. 12, 1980, 94 Stat. 3010; Pub. L. 97–375, title II, §214, Dec. 21, 1982, 96 Stat. 1826; Pub. L. 99–159, title I, §§109(a), 110(a)(12), Nov. 22, 1985, 99 Stat. 889, 891; Pub. L. 100–570, title I, §§105(a), 108, Oct. 31, 1988, 102 Stat. 2868, 2869; Pub. L. 105–207, title II, §202(a)(1), July 29, 1998, 112 Stat. 873; Pub. L. 107–368, §15(a)(1), (c), Dec. 19, 2002, 116 Stat.

3058, 3059; Pub. L. 110–69, title VII, §§7015(b), 7016, Aug. 9, 2007, 121 Stat. 683, 684; Pub. L. 111–358, title V, §504(a), (b), Jan. 4, 2011, 124 Stat. 4006; Pub. L. 112–166, §2(s), Aug. 10, 2012, 126 Stat. 1288; Pub. L. 117–167, div. B, title III, §10399F, Aug. 9, 2022, 136 Stat. 1599.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (l), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824. Title II of the Act was set out in the Appendix to Title 5, Government Organization and Employees, prior to repeal by Pub. L. 101–194, title II, §201, Nov. 30, 1989, 103 Stat. 1724. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2022—Subsec. (j)(1). Pub. L. 117–167 substituted "March 15" for "January 15".

2012—Subsec. (a). Pub. L. 112–166 struck out ", by and with the advice and consent of the Senate," after "appointed by the President".

2011—Subsec. (g). Pub. L. 111–358, §504(a), struck out "not more than 5" before "professional staff members".

Subsec. (j)(2). Pub. L. 111–358, §504(b), inserted "within the authority of the Foundation (or otherwise as requested by the Congress or the President)" after "individual policy matters".

2007—Subsec. (g). Pub. L. 110–69, §7015(b), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to the appointment of a Board staff of not more than five professional staff members and any necessary clerical staff members and the compensation and security requirements for such staff.

Subsec. (j). Pub. L. 110–69, §7016, substituted "President and" for "President, for submission to" in par. (1) and for "President for submission to" in par. (2).

2002—Subsec. (e). Pub. L. 107–368, §15(a)(1), substituted "The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board." for "A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, not less than fifteen days prior to any meeting, of the call of such meeting."

Subsec. (g). Pub. L. 107–368, §15(c), substituted "Such staff shall be appointed by the Chairman and assigned at the direction of the Board." for "Such staff shall be appointed by the Director, after consultation with the chairman of the Board and assigned at the direction of the Board."

1998—Subsec. (g). Pub. L. 105–207, §202(a)(1)(A), substituted "the maximum rate payable under section 5376" for "the appropriate rate provided for individuals in grade GS–18 of the General Schedule under section 5332".

Subsecs. (k), (l). Pub. L. 105–207, §202(a)(1)(B), redesignated subsec. (k), relating to requirement of Board members to file financial disclosure report, as (l).

1988—Subsec. (k). Pub. L. 100–570, §108, added subsec. (k) relating to requirement of Board members to file financial disclosure report.

Pub. L. 100–570, §105(a), added subsec. (k) relating to closed meetings.

1985—Subsec. (c). Pub. L. 99–159, §110(a)(12), inserted "and engineering", "and engineers", and "the National Academy of Engineering," and inserted ", engineering," after "other scientific".

Subsec. (e). Pub. L. 99–159, §109(a), struck out requirement that notice be made to members by registered or certified mail mailed to the last known address of record.

1982—Subsec. (j). Pub. L. 97–375 substituted provisions requiring a report in each even numbered year on the state of science and engineering, and reports on specific policy matters, as needed, for provisions requiring the Board to render an annual report to the President, for submission to the Congress on or before March 31 in each year, to deal essentially, though not necessarily exclusively, with policy issues or matters affecting the Foundation or with which the Board in its official role as the policymaking body of the Foundation was concerned.

1980—Subsec. (c). Pub. L. 96–516 inserted provisions respecting nominations of women and minority groups.

1977—Subsec. (j). Pub. L. 95–99 added subsec. (j).

1976—Subsec. (a). Pub. L. 94–471, §9(a), inserted reference to the framework of applicable national policies as set forth by the President and the Congress.

Subsec. (g). Pub. L. 94–471, §9(b), inserted reference to consultation of the Director with the Chairman of

the Board and substituted "GS–18" for "GS–15".

Pub. L. 94–282 redesignated subsec. (h), and all references thereto, as subsec. (g). Former subsec. (g), concerning the annual report by the National Science Board to the President and Congress, was deleted.

Pub. L. 94–273 substituted "April" for "January".

Subsecs. (h) to (j). Pub. L. 94–282 redesignated subsecs. (h) to (j) as (g) to (i), respectively.

1968—Subsec. (a). Pub. L. 90–407 substituted provisions which authorized the Board to establish the policies of the Foundation in addition to any powers and functions otherwise granted to it by this chapter, for provisions which authorized the Board, except as otherwise provided by this chapter, to exercise the authority granted to the Foundation by this chapter. Provisions of this subsection, which enumerated the qualifications of persons nominated for appointment to the Board and provided for the specified organizations to make recommendations to the President of individuals qualified for nomination, were designated as subsec. (c).

Subsec. (b). Pub. L. 90–407 added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 90–407 redesignated provisions of former subsec. (a) as (c) and added social science and research management to the enumerated fields of eminence, and substituted "the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities" for "the Association of Land Grant Colleges and Universities, the National Association of State Universities, the Association of American Colleges". Former subsec. (c), which provided that "The President shall call the first meeting of the Board, at which the first order of business shall be the election of a chairman and a vice chairman", was struck out as executed.

Subsec. (d). Pub. L. 90–407 redesignated former subsec. (b) as (d), substituted "term of office of each member" for "term of office of each voting member", struck out "the terms of office of the members first taking office after May 10, 1950, shall expire, as designated by the President at the time of appointment, eight at the end of two years, eight at the end of four years, and eight at the end of six years, after May 10, 1950", and provided for exemption of Director from prohibition against reappointment within two years following twelve consecutive years of Board membership. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 90–407 redesignated former subsec. (d) as (e) and substituted "A majority of the members of the Board shall constitute a quorum" for "A majority of the voting members of the Board shall constitute a quorum". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 90–407 redesignated former subsec. (e) as (f) and substituted provisions that the election of the Chairman and Vice Chairman take place at each annual meeting occurring in an even-numbered year for provisions that their election take place at the first meeting of the National Science Board following the enactment of Pub. L. 86–232, and that thereafter such election take place at the second annual meeting occurring after each such election.

Subsecs. (g) to (j). Pub. L. 90–407 added subsecs. (g) to (j).

1960—Subsec. (d). Pub. L. 86–507 inserted "or by certified mail" after "registered mail".

1959—Subsec. (d). Pub. L. 86–232 changed annual meeting of Board from first Monday in December to third Monday or other designated day in May.

Subsec. (e). Pub. L. 86–232 substituted provision for an election of a Chairman and Vice Chairman of the Board at first meeting of Board following enactment of Pub. L. 86–232 and at each second annual meeting thereafter in place of provision for election of the first Chairman and Vice Chairman to serve until first Monday in December next succeeding date of election and for election of subsequent officers for terms of two years thereafter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

REFERENCES TO MAXIMUM RATE UNDER 5 U.S.C. 5376

For reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, see section 2(d)(3) of Pub. L. 110–372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year

period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

[1] *See References in Text note below.*

§1864. Director of Foundation

(a) Appointment; compensation; term of office

The Director of the Foundation (referred to in this chapter as the "Director") shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, and shall serve for a term of six years unless sooner removed by the President.

(b) Exercise of authority of Foundation; actions as final and binding upon the Foundation

Except as otherwise specifically provided in this chapter (1) the Director shall exercise all of the authority granted to the Foundation by this chapter (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this chapter (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

(c) Delegation and redelegation of functions

The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this chapter, including functions delegated to him by the Board; except that the Director may not redelegate policymaking functions delegated to him by the Board.

(d) Formulation of programs

The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

(e) Authority to grant, contract, etc.; delegation of authority or imposition of conditions; reporting requirement

(1) The Director may make grants, contracts, and other arrangements pursuant to section 1870(c) of this title only with the prior approval of the Board or under authority delegated by the Board, and subject to such conditions as the Board may specify.

(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committee on Labor and Human Resources, and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Science of the House of Representatives.

(f) Status; power to vote and hold office

The Director, in his capacity as ex officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board.

(May 10, 1950, ch. 171, §5, 64 Stat. 151; Pub. L. 86–232, §3, Sept. 8, 1959, 73 Stat. 467; Pub. L. 90–407, §3, July 18, 1968, 82 Stat. 362; Pub. L. 99–159, title I, §109(b), Nov. 22, 1985, 99 Stat. 889; Pub. L. 103–437, §15(c)(1), Nov. 2, 1994, 108 Stat. 4591; Pub. L. 105–207, title II, §202(a)(2), July 29, 1998, 112 Stat. 873.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (e)(2). Pub. L. 105–207 added par. (2) and struck out former par. (2), which read as follows: "Any delegation of authority or imposition of conditions under the preceding sentence shall be effective only for such period of time, not exceeding two years, as the Board may specify, and shall be promptly published in the Federal Register and reported to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. On October 1 of each odd-numbered year the Board shall submit to the Congress a concise report which explains and justifies any actions taken by the Board under this subsection to delegate its authority or impose conditions within the preceding two years. The provisions of this subsection shall cease to be effective at the end of fiscal year 1989."

1994—Subsec. (e)(2). Pub. L. 103–437 substituted "Science, Space, and Technology" for "Science and Technology".

1985—Subsec. (e). Pub. L. 99–159 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Director shall not make any contract, grant, or other arrangement pursuant to section 1870(c) of this title without the prior approval of the Board, except that a grant, contract, or other arrangement involving a total commitment of less than $2,000,000, or less than $500,000 in any one year, or a commitment of such lesser amount or amounts and subject to such other conditions as the Board in its discretion may from time to time determine to be appropriate and publish in the Federal Register, may be made if such action is taken pursuant to the terms and conditions set forth by the Board, and if each such action is reported to the Board at the Board meeting next following such action."

1968—Subsec. (a). Pub. L. 90–407 inserted provision prescribing the annual rate of compensation of the Director, and struck out provision authorizing the Director to serve as a nonvoting ex officio member of the Board and as the chief executive officer of the Foundation.

Subsec. (b). Pub. L. 90–407 substituted provisions authorizing the Director, except as otherwise provided, to exercise all of the authority granted to the Foundation by this chapter and to take action final and binding upon the Foundation for provisions authorizing the Director, in addition to the powers and duties specifically vested in him by this chapter, to exercise the powers granted by sections 1869 or 1870(c) of this title and such other powers and duties delegated by the Board to him, and the proviso that no action taken by the Director pursuant to section 1869 or 1870(c) shall be final unless in each instance the Board has reviewed and approved the action proposed to be taken, or such action is taken pursuant to the terms of a delegation of authority from the Board or the Executive Committee to the Director.

Subsecs. (c) to (f). Pub. L. 90–407 added subsecs. (c) to (f).

1959—Subsec. (b). Pub. L. 86–232 provided for delegation of authority from the Board or the Executive Committee to the Director.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–407, insofar as related to rates of basic pay, effective on first day of first calendar month which begins on or after July 18, 1968, see section 15(a)(4), set out as a note under section 5313 of Title 5, Government Organization and Employees.

STUDY ON RESEARCH AND DEVELOPMENT FUNDING DATA DISCREPANCIES

Pub. L. 107–368, §25, Dec. 19, 2002, 116 Stat. 3067, required the Director of the National Science Foundation to enter into an agreement with the National Academy of Sciences to conduct a comprehensive study to determine the source of discrepancies in Federal reports on obligations and actual expenditures of Federal research and development funding and to submit a report on the results of the study to committees of Congress within one year after Dec. 19, 2002, and required the Director of the Office of Science and Technology Policy to submit to those committees a plan for implementation of the recommendations of the study, within 6 months after the completion of the study.

RESEARCH PURPOSES OF GRANTS; BRIEF STATEMENT IN TITLES

Pub. L. 96–516, §20, Dec. 12, 1980, 94 Stat. 3010, provided that: "The Director of the National Science Foundation shall require the titles of all its grants to contain a brief statement of the purpose of the research being undertaken. Insofar as possible such statements shall be in layman's language."

FEASIBILITY STUDY OF SOLAR ENERGY TRANSMISSION TO EARTH

Pub. L. 95–434, §8, Oct. 10, 1978, 92 Stat. 1050, provided that:

"(a) The Director of the National Science Foundation, in consultation with the Director of the Office of Science and Technology Policy, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and technical experts in public agencies, private organizations, and academic institutions, is authorized to determine the need to provide support under this Act for a study of the feasibility of transmitting solar energy to Earth by using orbital structures manufactured from lunar or asteroidal materials, and the impact of such a feasibility study, if any, on existing National Science Foundation programs.

"(b)(1) If the Foundation determines that such a feasibility study is necessary, the Foundation is authorized to conduct such a study directly or by grants or contracts with public agencies, private organizations, or academic institutions.

"(2) At the conclusion of any such study the Foundation shall prepare and submit to the President and to the Congress a report of the study, together with such recommendations as the Foundation deems appropriate.

"(3) Of the funds authorized in section 2, $500,000 shall be available to carry out the provisions of this subsection."

FEASIBILITY STUDY OF THE OPERATION OF THE PEER REVIEW SYSTEM IN THE EVALUATION OF GRANT PROPOSALS

Pub. L. 94–471, §2(f), Oct. 11, 1976, 90 Stat. 2053, provided that: "The Director of the National Science Foundation is authorized and directed to conduct a feasibility study of operating the peer review system used in the evaluation of grant proposals within the Foundation so as to assure that the identity of the proposer is not known to the reviewers of the proposal. Any such system shall be considered to supplement and not to supplant the peer review system in operation in the Foundation on the date of enactment of this Act [Oct. 11, 1976]."

SCIENCE FOR CITIZENS PROGRAM; PREPARATION AND SUBMISSION OF PLAN TO COMMITTEES OF CONGRESS

Pub. L. 94–86, §3, Aug. 9, 1975, 89 Stat. 429, directed the Director of the National Science Foundation to prepare a comprehensive plan for the establishment and conduct of a "Science for Citizens Program" and, within six months from Aug. 9, 1975, submit the plan to specific committees of the House of Representatives and Senate. See section 5 of Pub. L. 94–471, set out as a note under section 1862 of this title.

PARTICIPATION OF PUBLIC IN CONDUCT OF FOUNDATION PROGRAMS; PREPARATION AND SUBMISSION OF PLAN TO COMMITTEES OF CONGRESS

Pub. L. 94–86, §4, Aug. 9, 1975, 89 Stat. 430, authorized the Director of the National Science Foundation to prepare a comprehensive plan to facilitate the participation of members of the public in the formulation, development, and conduct of National Science Foundation programs, policies, and priorities and to submit the resulting recommendations, plans, or other findings to specific committees of the House of Representatives and the Senate within 120 days from Aug. 9, 1975.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Authority of Director of National Science Foundation, from time to time, to make appropriate provisions authorizing performance by any other officer, or by any agency or employee, of National Science Foundation of any of his functions (including functions delegated to him by National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

Office of Director of National Science Foundation established under provisions of this section abolished and functions transferred to Director of National Science Foundation appointed pursuant to Reorg. Plan No. 2 of 1962, see section 22 (a), (b) of Reorg. Plan No. 2 of 1962, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

§1864a. Deputy Director of the Foundation

There shall be a Deputy Director of the Foundation (referred to in this chapter as the "Deputy Director"), who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(May 10, 1950, ch. 171, §6, as added Pub. L. 90–407, §4, July 18, 1968, 82 Stat. 363; amended Pub. L. 99–383, §7(b)(1), Aug. 21, 1986, 100 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

1986—Pub. L. 99–383 struck out subsec. (a) designation and struck out subsec. (b) which provided for appointment of four Assistant Directors of the Foundation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section, insofar as related to rates of basic pay, effective on first day of first calendar month which begins on or after July 18, 1968, see section 15(a)(4) of Pub. L. 90–407, set out as an Effective Date of 1968 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1865. Executive Committee

(a) Composition; powers and functions; membership; chairman

There shall be an Executive Committee of the Board (referred to in this chapter as the "Executive Committee"), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b), and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

(b) Election to membership; term of office; eligibility for reelection

At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) Term of vacancy appointment

Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(d) Reports; minority views

The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports.

(May 10, 1950, ch. 171, §7, formerly §6, 64 Stat. 151; Pub. L. 86–232, §4, Sept. 8, 1959, 73 Stat. 467; renumbered and amended Pub. L. 90–407, §§4, 5, July 18, 1968, 82 Stat. 363, 364.)

EDITORIAL NOTES

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–407, §5, made mandatory the organization of the Executive Committee, struck out prohibition that the Board may not assign to the Executive Committee the function of establishing policies, and inserted provisions setting forth the number of members, their manner of election, and the status of the Director.

Subsec. (b). Pub. L. 90–407, §5, substituted provisions that Board elect two members as members of Executive Committee at its annual meeting, with period between any two consecutive annual meetings to be deemed one year, for provisions covering composition of Executive Committee, setting forth a special one year term of office for four members first elected after May 10, 1950, and directing that membership of Committee represent diverse interests and areas. Provisions of former subsecs. (b)(2)(A) and (b)(5) were redesignated as subsecs. (c) and (d), respectively.

Subsec. (c). Pub. L. 90–407, §5, redesignated former subsec. (b)(2)(A) as (c) and substituted "Any person elected as a member of the Executive Committee" for "any member elected". Former subsec. (c), authorizing the Board to appoint such additional committees as it deems necessary, and to delegate to such committees survey and advisory functions as it deems appropriate, was struck out.

Subsec. (d). Pub. L. 90–407, §5, redesignated former subsec. (b)(5) as (d) and substituted "The Executive Committee" for "Such Committee".

1959—Subsec. (a). Pub. L. 86–232 struck out prohibition against assignment to Executive Committee of function of review and approval.

Subsec. (b)(1). Pub. L. 86–232 authorized Board to have an Executive Committee consisting of from five to nine members rather than fixed number of nine.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Executive Committee of National Science Board appointed under provisions of this section abolished and functions conferred by this section transferred to Executive Committee of National Science Board established by Reorg. Plan No. 2 of 1962, see sections 21(e) and 23(a)(1) of Reorg. Plan No. 2 of 1962, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, set out as a note under section 1861 of this title.

§1866. Divisions within Foundation

There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine.

(May 10, 1950, ch. 171, §8, formerly §7, 64 Stat. 152; renumbered §8 and amended Pub. L. 90–407, §§4, 6, July 18, 1968, 82 Stat. 363, 364.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 8 of act May 10, 1950, which was classified to section 1867 of this title, was repealed by Pub. L. 90–407, §4, July 18, 1968, 82 Stat. 363.

AMENDMENTS

1968—Pub. L. 90–407, §6, substituted provisions that there be within the Foundation such divisions as the Director, in consultation with the Board, may from time to time determine for provisions that, unless otherwise provided by the Board, there be within the Foundation a Division of Medical Research, a Division of Mathematical, Physical, and Engineering Sciences, a Division of Biological Sciences, a Division of Scientific Personnel and Education, and such other divisions as the Board deems necessary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONSOLIDATION OF DIRECTORATES

Pub. L. 96–516, §18, Dec. 12, 1980, 94 Stat. 3009, directed National Science Foundation to consolidate all Directorates, including Science Education Directorate, under one roof, in present location of central administrative offices, on or before Aug. 1, 1982.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1867. Repealed. Pub. L. 90–407, §4, July 18, 1968, 82 Stat. 363

Section, act May 10, 1950, ch. 171, §8, 64 Stat. 152, authorized a committee for each division of the Foundation, and provided for the composition, terms of office, chairmenship, rules of procedure, and powers and duties of each divisional committee.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1868. Special commissions

(a) Each special commission established under section 1863(h) of this title shall be appointed by the Board and shall consist of such members as the Board considers appropriate.

(b) Special commissions may be established to study and make recommendations to the Foundation on issues relating to research and education in science and engineering.

(May 10, 1950, ch. 171, §9, 64 Stat. 152; Pub. L. 90–407, §7, July 18, 1968, 82 Stat. 364; Pub. L. 99–159, title I, §109(d), Nov. 22, 1985, 99 Stat. 889.)

EDITORIAL NOTES

AMENDMENTS

1985—Pub. L. 99–159 amended section generally. Prior to amendment, section read as follows:

"(a) Each special commission established pursuant to section 1863(i) of this title shall consist of eleven members appointed by the Board, six of whom shall be eminent scientists and five of whom shall be persons other than scientists. Each special commission shall choose its own chairman and vice chairman.

"(b) It shall be the duty of each such special commission to make a comprehensive survey of research, both public and private, being carried on in its field, and to formulate and recommend to the Foundation at the earliest practicable date an over-all research program in its field."

1968—Subsec. (a). Pub. L. 90–407 substituted "section 1863(i) of this title" for "section 1862(a)(7) of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1869. Scholarships and graduate fellowships

(a) In general

The Foundation is authorized to award scholarships and graduate fellowships for study and research in the sciences or in engineering at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time. Persons shall be selected for such scholarships and fellowships from among citizens, nationals or lawfully admitted permanent resident aliens of the United States, and such selections shall be made solely on the basis of ability; but in any case in which two or more applicants for scholarships or fellowships, as the case may be, are deemed by the Foundation to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships, as the case may be, available to grant one to each of such applicants, the available scholarship or scholarships or fellowship or fellowships shall be awarded to the applicants in such manner as will tend to result in a wide distribution of scholarships and fellowships throughout the United States and as will address national workforce demand in critical STEM fields. Nothing contained in this chapter shall prohibit the Foundation from refusing or

revoking a scholarship or fellowship award, in whole or in part, in the case of any applicant or recipient, if the Board is of the opinion that such award is not in the best interests of the United States.

(b) Amount

The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of at least $16,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.

(c) Outreach

The Director shall ensure program outreach to recruit fellowship applicants from fields of study that are in areas of critical national need from all regions of the country, and from historically underrepresented populations in STEM.

(May 10, 1950, ch. 171, §10, 64 Stat. 152; Pub. L. 86–232, §5, Sept. 8, 1959, 73 Stat. 468; Pub. L. 86–550, June 29, 1960, 74 Stat. 256; Pub. L. 87–835, §2, Oct. 16, 1962, 76 Stat. 1070; Pub. L. 90–407, §8, July 18, 1968, 82 Stat. 364; Pub. L. 99–159, title I, §110(a)(13), Nov. 22, 1985, 99 Stat. 891; Pub. L. 99–383, §7(c), Aug. 21, 1986, 100 Stat. 814; Pub. L. 101–589, title III, §302(c), Nov. 16, 1990, 104 Stat. 2895; Pub. L. 111–358, title V, §510(d), Jan. 4, 2011, 124 Stat. 4010; Pub. L. 117–167, div. B, title III, §10313(b)(2), Aug. 9, 2022, 136 Stat. 1524.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–167, §10313(b)(2)(A), inserted "and as will address national workforce demand in critical STEM fields" after "throughout the United States".

Subsec. (b). Pub. L. 117–167, §10313(b)(2)(B), substituted "of at least $16,000" for "of $12,000".

Subsec. (c). Pub. L. 117–167, §10313(b)(2)(C), added subsec. (c).

2011—Pub. L. 111–358 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1990—Pub. L. 101–589 substituted ", nationals or lawfully admitted permanent resident aliens" for "or nationals" in second sentence.

1986—Pub. L. 99–383 struck out ", within the limits of funds made available specifically for such purpose pursuant to section 1875 of this title," after "The Foundation is authorized to award".

1985—Pub. L. 99–159 substituted "study and research in the sciences or in engineering" for "scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences".

1968—Pub. L. 90–407 inserted social sciences to the enumerated list of sciences, and substituted "throughout the United States" for "among the States, Territories, possessions, and the District of Columbia".

1962—Pub. L. 87–835 authorized the Foundation to refuse or revoke a scholarship or fellowship award if they believe such award is not in the best interests of the United States.

1960—Pub. L. 86–550 authorized the selection of nationals for scholarships and fellowships.

1959—Pub. L. 86–232 substituted "appropriate" for "accredited" and struck out "of higher education" after "foreign institutions".

STATUTORY NOTES AND RELATED SUBSIDIARIES

GRADUATE STUDENT SUPPORT

Pub. L. 111–358, title V, §510(a), (b), Jan. 4, 2011, 124 Stat. 4010, provided that:

"(a) FINDING.—The Congress finds that—

"(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

"(2) the Integrative Graduate Education and Research Traineeship program is no less valuable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

"(b) EQUAL TREATMENT OF IGERT AND GRF.—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program."

[For definitions of terms used in section 510(a), (b) of Pub. L. 111–358, set out above, see section 2 of Pub. L. 111–358, set out as a note under section 6621 of this title, and section 502 of Pub. L. 111–358, set out as a note under section 1862p of this title.]

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1869a. Contracts for precollege science or engineering curriculum development activities; inspection of materials by parent or guardian

After August 9, 1975, the Director of the National Science Foundation, shall require, as a condition of any award made by the National Science Foundation for the purpose of precollege science or engineering curriculum development activities, that the awardee, and any subcontractors involved in the distribution, marketing, or selling of such science or engineering curricula, shall include in any testing agreement, sales contract, or other comparable legal instrument a provision requiring that all instructional materials, including teacher's manuals, films, tapes, or other supplementary instructional materials developed or provided under such award, subcontract, or other legal instrument, will be made available within the school district using such materials for inspection by parents or guardians of children engaged in educational programs or projects of that school district. In addition, the Director of the National Science Foundation shall take such action as may be necessary and feasible to modify awards made for the purpose of precollege science or engineering curriculum development and implementation activities on or before August 9, 1975, to include such a provision in all possible cases.

(Pub. L. 94–86, §2(b), Aug. 9, 1975, 89 Stat. 428; Pub. L. 99–159, title I, §110(b), Nov. 22, 1985, 99 Stat. 892.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

1985—Pub. L. 99–159 inserted "or engineering" after "science" in three places.

§1869b. Issuance of instructions to grantees of pre-college curriculum projects

The National Science Foundation is directed to issue instructions to grantees for pre-college curriculum projects covering the protection of pre-college students and procedures for involving such students in pre-college education research and development, pilot-testing, evaluation, and revision of experimental and innovative pre-college curriculum projects funded by the Foundation. These instructions shall require such grantees to obtain written approval of the school board or comparable authority responsible for the schools prior to the involvement of such students.

(Pub. L. 95–99, §8, formerly §9, Aug. 15, 1977, 91 Stat. 833; renumbered §8, Pub. L. 99–159, title I, §109(h), Nov. 22, 1985, 99 Stat. 890.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1869c. Low-income scholarship program

(1) Establishment

The Director of the National Science Foundation (referred to in this section as the "Director") shall award scholarships to low-income individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, computer science, or cybersecurity.

(2) Eligibility

(A) In general

To be eligible to receive a scholarship under this section, an individual—

(i) must be a citizen of the United States, a national of the United States (as defined in section 1101(a) of title 8), an alien admitted as a refugee under section 1157 of title 8, or an alien lawfully admitted to the United States for permanent residence;

(ii) shall prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(iii) shall certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 1001(a) of title 20) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, cybersecurity, or other technology and science programs designated by the Director.

(B) Ability

Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(3) Limitation

The amount of a scholarship awarded under this section shall be determined by the Director. The Director may renew scholarships for up to 5 years.

(4) Funding

The Director shall carry out this section only with funds made available under section 1356(s)(3) of title 8. The Director may use no more than 50 percent of such funds for undergraduate programs for curriculum development, professional and workforce development, and to advance technological education. Funds for these other programs may be used for purposes other than scholarships.

(5) Federal Register

Not later than 60 days after December 8, 2004, the Director shall publish in the Federal Register a list of eligible programs of study.

(Pub. L. 105–277, div. C, title IV, §414(d), Oct. 21, 1998, 112 Stat. 2681–653; Pub. L. 106–313, title I, §110(b), Oct. 17, 2000, 114 Stat. 1256; Pub. L. 108–447, div. J, title IV, §429, Dec. 8, 2004, 118 Stat. 3360; Pub. L. 116–283, div. H, title XCIV, §9405(c), Jan. 1, 2021, 134 Stat. 4812; Pub. L. 117–167, div. B, title III, §10393(f)(3), Aug. 9, 2022, 136 Stat. 1590.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1157 of title 8, referred to in par. (2)(A)(i), was in the original "section 207 of the Immigration and Nationality", and was translated as reading section 207 of the Immigration and Nationality Act to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the American Competitiveness and Workforce Improvement Act of 1998, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Par. (3). Pub. L. 117–167 struck out ", except that the Director shall not award a scholarship in an amount exceeding $10,000 per year" after "by the Director" and substituted "5 years" for "4 years".

2021—Par. (1). Pub. L. 116–283, §9405(c)(1), substituted "computer science, or cybersecurity" for "or computer science".

Par. (2)(A)(iii). Pub. L. 116–283, §9405(c)(2), inserted "cybersecurity," after "computer science,".

2004—Par. (2)(A)(iii). Pub. L. 108–447, §429(a), substituted "computer science, or other technology and science programs designated by the Director" for "or computer science".

Par. (3). Pub. L. 108–447, §429(b), substituted "$10,000 per year" for "$3,125 per year".

Par. (4). Pub. L. 108–447, §429(c), inserted at end "The Director may use no more than 50 percent of such funds for undergraduate programs for curriculum development, professional and workforce development, and to advance technological education. Funds for these other programs may be used for purposes other than scholarships."

Par. (5). Pub. L. 108–447, §429(d), added par. (5).

2000—Par. (3). Pub. L. 106–313 substituted "$3,125 per year. The Director may renew scholarships for up to 4 years" for "$2,500 per year."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–447 effective 90 days after Dec. 8, 2004, see section 430(a) of Pub. L. 108–447, set out as a note under section 1182 of Title 8, Aliens and Nationality.

§1870. General authority of Foundation

The Foundation shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this chapter, including, but without being limited thereto, the authority—

(a) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(b) to make such expenditures as may be necessary for administering the provisions of this chapter;

(c) to enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this chapter, and, at the request of the Secretary of State or Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements, or modifications thereof may be entered into without legal consideration, without performance or other bonds, and without regard to section 6101 of title 41;

(d) to make advance, progress, and other payments which relate to scientific or engineering

activities without regard to the provisions of section 3324(a) and (b) of title 31;

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this chapter;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation, except that funds may be donated for specific prize competitions for "basic research" as defined in the Office of Management and Budget Circular No. A–11;

(g) to publish or arrange for the publication of scientific and engineering information so as to further the full dissemination of information of scientific or engineering value consistent with the national interest, without regard to the provisions of section 501 of title 44;

(h) to accept and utilize the services of voluntary and uncompensated personnel and to provide transportation and subsistence as authorized by section 5703 of title 5 for persons serving without compensation;

(i) to prescribe, with the approval of the Comptroller General of the United States, the extent to which vouchers for funds expended under contracts for scientific or engineering research shall be subject to itemization or substantiation prior to payment, without regard to the limitations of other laws relating to the expenditure of public funds and accounting therefor;

(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct;

(k) during the 5-year period beginning on August 21, 1986, to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 [1] of title 10 with all approvals and certifications required by such indemnification made by the Director; and

(l) to provide for the widest practicable and appropriate dissemination of information within the United States concerning the Foundation's activities and the results of those activities.

(May 10, 1950, ch. 171, §11, 64 Stat. 153; Pub. L. 86–232, §6, Sept. 8, 1959, 73 Stat. 468; Pub. L. 90–407, §9, July 18, 1968, 82 Stat. 365; Pub. L. 99–159, title I, §110(a)(14), Nov. 22, 1985, 99 Stat. 891; Pub. L. 99–383, §7(d), Aug. 21, 1986, 100 Stat. 814; Pub. L. 110–69, title VII, §7023, Aug. 9, 2007, 121 Stat. 686; Pub. L. 117–167, div. B, title III, §10396(7), Aug. 9, 2022, 136 Stat. 1597.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2354 of title 10, referred to in subsec. (k), was renumbered section 3861 of title 10 by Pub. L. 116–283, div. A, title XVIII, §1836(b), Jan. 1, 2021, 134 Stat. 4241.

CODIFICATION

In subsec. (c), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (d), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes (31 U.S.C., sec. 529)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (g), "section 501 of title 44" substituted for "section 87 of the Act of January 12, 1895 (28 Stat. 622), and section 11 of the Act of March 1, 1919 (40 Stat. 1270; 44 U.S.C., sec. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

AMENDMENTS

2022—Subsec. (l). Pub. L. 117–167 added subsec. (l).

2007—Subsec. (f). Pub. L. 110–69 inserted before semicolon at end ", except that funds may be donated for specific prize competitions for 'basic research' as defined in the Office of Management and Budget Circular No. A–11".

1986—Subsec. (k). Pub. L. 99–383 added subsec. (k).

1985—Subsecs. (c), (d). Pub. L. 99–159, §110(a)(14)(A), inserted references to engineering.

Subsec. (g). Pub. L. 99–159, §110(a)(14)(B), (C), substituted "engineering" for "technical" and inserted reference to engineering value.

Subsec. (i). Pub. L. 99–159, §110(a)(14)(A), inserted applicability to engineering.

1968—Subsec. (c). Pub. L. 90–407, §9(a), substituted "scientific activities" for "basic scientific research activities" and "scientific research activities", "international cooperation or national security" for "national defense", and inserted "Secretary of State" after "at the request of the".

Subsec. (d). Pub. L. 90–407, §9(b), substituted "activities" for "research".

Subsec. (h). Pub. L. 90–407, §9(c), substituted "section 5703 of title 5" for "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b–2)".

Subsec. (j). Pub. L. 90–407, §9(d), added subsec. (j).

1959—Subsec. (e). Pub. L. 86–232 included acquisition of property by condemnation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

MISREPRESENTATION OF RESEARCH RESULTS

Pub. L. 114–329, title I, §115, Jan. 6, 2017, 130 Stat. 2994, provided that:

"(a) PROHIBITION.—The Director of the Foundation may revise the regulations under part 689 of title 45, Code of Federal Regulations (relating to research misconduct) to ensure that the findings and conclusions of any article authored by a principal investigator, using the results of research conducted under a Foundation grant, that is published in a peer-reviewed publication, made publicly available, or incorporated in an application for a research grant or grant extension from the Foundation, does not contain any falsification, fabrication, or plagiarism.

"(b) INTERAGENCY COMMUNICATION.—Upon a finding that research misconduct has occurred, the Foundation shall, in addition to any possible final action under section 689.3 of title 45, Code of Federal Regulations, notify other Federal science agencies of the finding."

[For definitions of "Foundation" and "Federal science agency" as used in section 115 of Pub. L. 114–329, set out above, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of this title.]

[1] *See References in Text note below.*

§1870a. Buy-American requirements

(a) Award of contracts

The Director shall, to the maximum extent practicable and consistent with current law, award to domestic firms any contracts for the purchase of goods and services intended for direct use by the Foundation.

(b) Report

The Director shall, as soon as possible after October 31, 1988, prepare a report on—

(1) the number of Foundation contracts entered into with foreign firms in fiscal year 1988;

(2) the number of such contracts entered into with domestic firms in that fiscal year;

(3) the number of contracts entered into with foreign firms where the Foundation also received a technically acceptable bid from a domestic firm; and

(4) any steps the Foundation will take to increase the number of contracts awarded to domestic firms.

Such report shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate.

(c) Definitions

For the purposes of this section—

(1) the term "domestic firm" means a business entity which is organized under the laws of the United States or the laws of a State, district, commonwealth, territory, or possession of the United States, and which conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(Pub. L. 100–570, title I, §111, Oct. 31, 1988, 102 Stat. 2869.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§1871. Disposition of inventions produced under contracts or other arrangements

Each contract or other arrangement executed pursuant to this chapter which relates to scientific or engineering research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however*, That nothing in this chapter shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents.

(May 10, 1950, ch. 171, §12, 64 Stat. 154; Pub. L. 99–159, title I, §§109(c), 110(a)(15), Nov. 22, 1985, 99 Stat. 889, 891.)

EDITORIAL NOTES

AMENDMENTS

1985—Pub. L. 99–159 struck out subsec. (a) designation, inserted "or engineering" after "scientific", and struck out subsec. (b) which prohibited Foundation officers and employees from acquiring, etc., patent rights in inventions.

§1872. International cooperation and coordination with foreign policy

(a) The Foundation is authorized to cooperate in any international scientific or engineering activities consistent with the purposes of this chapter and to expend for such international scientific or engineering activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director may defray the expenses of representatives of Government agencies and other organizations and of individual scientists or engineers to accredited international scientific or engineering congresses and meetings whenever he deem [1] it necessary in the promotion of the objectives of this chapter. In this connection, with the approval of the Secretary of State, the Foundation may undertake programs granting fellowships to, or making other similar arrangements with, foreign nationals for study and research in the sciences or in engineering in the United States without regard to section 1869 of this title or the affidavit of allegiance to the United States required by section 1874(d)(2) [2] of this title.

(b)(1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 1870(c) of this title, and the authority to cooperate in international scientific or engineering activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director.

(May 10, 1950, ch. 171, §13, 64 Stat. 154; Pub. L. 86–232, §7, Sept. 8, 1959, 73 Stat. 468; Pub. L. 90–407, §10, July 18, 1968, 82 Stat. 365; Pub. L. 99–159, title I, §110(a)(16), (17), Nov. 22, 1985, 99 Stat. 891.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1874(d)(2) of this title, referred to in subsec. (a), was redesignated section 1874(c)(2) by Pub. L. 96–516, §21(b)(2), Dec. 12, 1980, 94 Stat. 3010.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–159, §110(a)(16), inserted "or engineering" after "scientific" the first three places appearing and "or engineers" after "scientists" and substituted "study and research in the sciences or in engineering" for "scientific study or scientific work".

Subsec. (b)(1). Pub. L. 99–159, §110(a)(17), inserted reference to engineering.

1968—Subsec. (a). Pub. L. 90–407 struck out ", with the approval of the Board," after "The Director", and substituted "section 15(d)(2) of this Act" for "section 16(d)(2) of this Act", which resulted in no change in text because, for purposes of classification, provision was translated as "section 1874(d)(2) of this title".

1959—Subsec. (a). Pub. L. 86–232 authorized the Foundation, with approval of the Secretary of State, to cooperate in scientific activities rather than scientific research activities, and to grant fellowships or make other arrangements with foreign nationals for scientific study or scientific work in the United States.

Subsec. (b)(1). Pub. L. 86–232 struck out "research" from phrase "scientific research activities".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

[1] So in original. Probably should be "deems".

[2] See References in Text note below.

§1872a. Repealed. Pub. L. 90–407, §11(1), July 18, 1968, 82 Stat. 365

Section, act May 10, 1950, ch. 171, §14, as added July 11, 1958, Pub. L. 85–510, §2, 72 Stat. 353, authorized the Foundation, in carrying out a program of study, research, and evaluation in the field of weather modification, to consult with meteorologists and scientists, make contracts and grants, accept gifts, loan property, conduct hearings, and subpoena books and records.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 90–407, §11(1), July 18, 1968, 82 Stat. 365, provided that the repeal of this section is effective Sept. 1, 1968, and that provisions authorizing Foundation to initiate and support programs in field of weather modification should remain in effect until Sept. 1, 1968, for purpose of this section.

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Repeal by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1873. Employment of personnel

(a) Appointment; compensation; application of civil service provisions; technical and professional personnel; members of special commissions; temporary appointments; travel expenses

(1) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter. Except as provided in section 1863(h) [1] of this title, such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates: *Provided*, That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this chapter. The members of the special commissions shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service.

(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

(3) The Foundation may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5 to such an individual, in lieu of transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.

(b) Operation of laboratories and pilot plants

The Foundation shall not, itself, operate any laboratories or pilot plants.

(c) Compensation of members of Board and special commissions

The members of the Board and the members of each special commission shall be entitled to receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the maximum rate payable under section 5376 of title 5 and shall be allowed travel expenses as authorized by section 5703 of title 5. For the purposes of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the

Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses.

(d) Federal officers as members of special commissions; compensation

Persons holding other offices in the executive branch of the Federal Government may serve as members of special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(e) Utilization of appropriations in making contracts

In making contracts or other arrangements for scientific or engineering research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) adding institutions, agencies, or organizations which, if aided, will advance scientific or engineering research, and (4) encouraging independent scientific or engineering research by individuals.

(f) Transfer of research and education funds of other Government departments or agencies

Funds available to any department or agency of the Government for scientific or engineering research or education, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(g) "United States" defined

For purposes of this chapter, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(h) Expiration of authorization

Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made.

(i) Public disclosure of information

(1)(A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 1862(a)(5) or (6) of this title by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.

(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.

(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.

(2) In support of functions authorized by section 1862(a)(5) or (6) of this title, the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 1862(a)(5) or (6) of this title that allows for the identification of the supplier. No such person may—

(A) publish information collected pursuant to section 1862(a)(5) or (6) of this title in such a

manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

(B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or

(C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.

(3) Violation of this subsection is punishable by a fine of not more than $10,000, imprisonment for not more than 5 years, or both.

(May 10, 1950, ch. 171, §14, 64 Stat. 154; renumbered §15, Pub. L. 85–510, §2, July 11, 1958, 72 Stat. 353; amended Pub. L. 86–232, §8, Sept. 8, 1959, 73 Stat. 469; renumbered §14 and amended Pub. L. 90–407, §§11(2), 12, July 18, 1968, 82 Stat. 365, 366; Pub. L. 91–120, §3, Nov. 18, 1969, 83 Stat. 203; Pub. L. 95–99, §12(c), formerly §14(c), Aug. 15, 1977, 91 Stat. 835, renumbered §12(c), Pub. L. 99–159, title I, §109(h), Nov. 22, 1985, 99 Stat. 890; Pub. L. 99–159, title I, §§109(e)(1), 110(a)(18), Nov. 22, 1985, 99 Stat. 889, 891; Pub. L. 100–570, title I, §§106, 107, Oct. 31, 1988, 102 Stat. 2868, 2869; Pub. L. 101–589, title II, §251, Nov. 16, 1990, 104 Stat. 2894; Pub. L. 102–139, title III, Oct. 28, 1991, 105 Stat. 774; Pub. L. 104–66, title II, §2141(b), Dec. 21, 1995, 109 Stat. 731; Pub. L. 105–207, title II, §202(a)(3), July 29, 1998, 112 Stat. 873; Pub. L. 107–368, §15(b), Dec. 19, 2002, 116 Stat. 3058.)

EDITORIAL NOTES

REFERENCES OF TEXT

Section 1863(h) of this title, referred to in subsec. (a), was redesignated section 1863(g) of this title by Pub. L. 94–282, title V, §503, May 11, 1976, 90 Stat. 473.

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5.

AMENDMENTS

2002—Subsec. (i). Pub. L. 107–368 amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: "Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsection (a)(5) or (a)(6) of section 1862 of this title may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats that do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public."

1998—Subsec. (c). Pub. L. 105–207 substituted "shall be entitled to receive" for "shall receive" and "the maximum rate payable under section 5376" for "the rate specified for the daily rate for GS–18 of the General Schedule under section 5332" and inserted at end "For the purposes of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses."

1995—Subsec. (j). Pub. L. 104–66 struck out subsec. (j) which read as follows: "Starting with fiscal year 1990, the Foundation shall submit to the Congress in each fiscal year, at the time of the release of the President's budget, a three-year budget estimate for the Foundation. The three-year budget shall include funding estimates for each major activity, including each scientific directorate, the United States Antarctic Program, the Science and Engineering Education Directorate, and the Program Development and Management activity."

1991—Subsec. (a)(3). Pub. L. 102–139 struck out "and when less than" after "in lieu of".

1990—Subsec. (f). Pub. L. 101–589 inserted "or education" after "research".

1988—Subsec. (a). Pub. L. 100–570, §106, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (j). Pub. L. 100–570, §107, added subsec. (j).

1985—Subsec. (b). Pub. L. 99–159, §109(e)(1)(A), (B), struck out subsec. (b) relating to outside

employment and activities, and redesignated subsec. (c) as (b).

Subsecs. (c), (d). Pub. L. 99–159, §109(e)(1)(B), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 99–159, §§109(e)(1)(B), 110(a)(18)(A), redesignated subsec. (f) as (e) and inserted "or engineering" after "scientific" wherever appearing. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 99–159, §§109(e)(1)(B), 110(a)(18)(B), redesignated subsec. (g) as (f) and substituted "engineering" for "technical". Former subsec. (f) redesignated (e).

Subsecs. (g), (h). Pub. L. 99–159, §109(e)(1)(B), redesignated subsecs. (h) and (i) as (g) and (h), respectively. Former subsec. (g) redesignated (f).

Subsec. (i). Pub. L. 99–159, §109(e)(1)(B), (C), added subsec. (i). Former subsec. (i) redesignated (h).

1977—Subsec. (d). Pub. L. 95–99 substituted provisions authorizing compensation at a daily rate fixed by the chairman but not exceeding the rate specified for the daily rate for GS–18 of the General Schedule under section 5332 of title 5 for provisions authorizing a daily rate of $100.

1969—Subsec. (i). Pub. L. 91–120 added subsec. (i).

1968—Subsec. (a). Pub. L. 90–407, §12, substituted provisions making applicable chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, for provisions making applicable the civil-service laws and regulations and the Classification Act of 1949, and provisions that the members of special commissions be appointed without regard to the provisions of title 5, governing appointments in the competitive service, for provisions that the Deputy Director, and members of divisional committees and special commissions be appointed without regard to the civil-service laws or regulations. Provisions this subsection, relating to outside employment and activities of certain specified officers of the Foundation, were designated as subsec. (b).

Subsec. (b). Pub. L. 90–407, §12, redesignated provisions of former subsec. (a) as (b) and added Assistant Directors to specified officers of Foundation prohibited from engaging in outside employment and activities. Former subsec. (b), providing for the appointment of a Deputy Director, was struck out.

Subsec. (d). Pub. L. 90–407, §12, struck out applicability to members of each divisional committee, and substituted "$100" for "$50" and "section 5703" for "section 73b–2".

Subsec. (e). Pub. L. 90–407, §12, struck out "the divisional committees and" after "may serve as members of".

Subsec. (f). Pub. L. 90–407, §12, redesignated subsec. (g) as (f), in cl. (2) substituted "United States" for "States, Territories, possessions, and the District of Columbia", in cl. (3) substituted "advance scientific research" for "advance basic research", and in cl. (4) substituted "independent scientific research" for "independent basic research". Former subsec. (f), exempting members of Board, divisional committees, or special commissions form provisions of former sections 281, 283, or 284 of title 18 or former section 99 of title 5, unless the act made unlawful by the aforementioned former sections directly involved or directly interested the Foundation, was struck out.

Subsec. (g). Pub. L. 90–407, §12, redesignated subsec. (h) as (g) and struck out "and, until such time as an appropriation is made available directly to the Foundation, for general administrative expenses of the Foundation without regard to limitations otherwise applicable to such funds" after "the purposes for which the transfer was made". Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 90–407, §12, added subsec. (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 90–407, §12, struck out subsec. (i) which provided for transfer of National Roster of Scientific and Specialized Personnel from United States Employment Service to Foundation.

1959—Subsec. (d). Pub. L. 86–232 increased compensation for $25 to $50 per diem.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO MAXIMUM RATE UNDER 5 U.S.C. 5376

For reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, see section 2(d)(3) of Pub. L. 110–372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.

EMPLOYMENT OF MINORITIES, WOMEN, AND HANDICAPPED INDIVIDUALS IN EXECUTIVE LEVEL POSITIONS

Pub. L. 94–471, §7, Oct. 11, 1976, 90 Stat. 2056, provided that:

"(a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, members of minority groups, and handicapped individuals to fill executive level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with

organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation. The Director of the National Science Foundation shall report quarterly to the Congress on the status of minorities, women, and handicapped individuals and activities undertaken pursuant to this section.

"(b) Notwithstanding any other provision of this or any other Act, the National Science Foundation shall, with funds available from the program 'Minorities, Women, and Handicapped Individuals in Science' conduct experimental forums, conferences, workshops or other activities designed to improve scientific literacy and to encourage and assist minorities, women, and handicapped individuals to undertake and to advance in careers in scientific research and science education.

"(c)(1) In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to make available planning and study grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering in accordance with this subsection.

"(2) The grants for Minority Centers for Graduate Education shall be used to determine the need for and feasibility of developing Centers to be established at geographically dispersed educational institutions which—

"(A) have substantial minority student enrollment;

"(B) are geographically located near minority population centers;

"(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

"(D) have an existing or developing capacity to offer doctoral programs in science and engineering;

"(E) will support basic research and the acquisition of necessary research facilities and equipment;

"(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

"(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

"(3) The Director, in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, shall establish criteria for the award of the grants, and shall report to the Committee on Science and Technology of the House of Representatives [now Committee on Science, Space, and Technology] and the Committee on Labor and Public Welfare [now Committee on Health, Education, Labor, and Pensions] of the Senate on the results of activities including an evaluation and assessment of the entire program carried out under this subsection, not later than March 1, 1977."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Authority of Director of National Science Foundation, from time to time, to make appropriate provisions authorizing performance by any other officer, or by any agency or employee, of National Science Foundation of any of his functions (including functions delegated to him by National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

§1873a. Repealed. Pub. L. 99–159, title I, §109(f), Nov. 22, 1985, 99 Stat. 890

Section, Pub. L. 95–99, §10, Aug. 15, 1977, 91 Stat. 834; amended Pub. L. 96–470, title I, §119, Oct. 19, 1980, 94 Stat. 2241, related to prohibition respecting financial or other interest of employees processing

applications or proposals for Foundation grants or contracts.

§1874. Security provisions

(a) Nuclear energy research and development

The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authority pursuant to section 1870(e) of this title in respect to that field, without first having obtained the concurrence of the Secretary of Energy that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this chapter shall supersede or modify any provision of the Atomic Energy Act of 1954.

(b) Research relating to national defense

(1) In the case of scientific or engineering research activities under this chapter in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 1873(f) of this title, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific or engineering research activities under this chapter in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

(May 10, 1950, ch. 171, §15, 64 Stat. 156; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43; renumbered §16, Pub. L. 85–510, §2, July 11, 1958, 72 Stat. 353; amended Pub. L. 87–835, §1, Oct. 16, 1962, 76 Stat. 1069; renumbered §15 and amended Pub. L. 90–407, §§11(2), 13, July 18, 1968, 82 Stat. 365, 366; Pub. L. 96–516, §21(b), Dec. 12, 1980, 94 Stat. 3010; Pub. L. 99–159, title I, §§109(e)(2), 110(a)(19), Nov. 22, 1985, 99 Stat. 890, 891; Pub. L. 100–570, title I, §105(b), Oct. 31, 1988, 102 Stat. 2868; Pub. L. 105–207, title II, §202(a)(4), July 29, 1998, 112 Stat. 874.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–207 substituted "Secretary of Energy" for "Atomic Energy Commission".

1988—Subsec. (c). Pub. L. 100–570 struck out subsec. (c) which related to oath and statement prerequisite to acceptance of scholarship or fellowship, ineligibility of Communist organization members, and penalties for violation.

1985—Subsec. (b)(1). Pub. L. 99–159, §§109(e)(2), 110(a)(19)(A), substituted "engineering" for "technical" and "1873(f)" for "1873(g)".

Subsec. (b)(2). Pub. L. 99–159, §110(a)(19)(B), inserted applicability to engineering.

1980—Subsecs. (c), (d). Pub. L. 96–516 redesignated subsec. (d) as (c), and struck out former subsec. (c) relating to clearance of personnel by the Civil Service Commission.

1968—Subsec. (a). Pub. L. 90–407, §13, substituted "1954" for "1946".

Subsec. (b)(1). Pub. L. 90–407, §13, substituted "section 1873(g) of this title" for section 1873(h) of this title".

1962—Subsec. (d). Pub. L. 87–835 designated existing provisions as par. (1), inserted reference to section 1869 of this title, and substituted the requirement, for applications made on or after Oct. 1, 1962, of a full statement regarding convictions for crimes, other than any committed before age 16 or for minor traffic violations, and any criminal charges punishable by thirty days confinement, or more, pending at time of application for scholarship or fellowship, for the requirement of an affidavit stating the affiant did not believe in, and was not a member or supporter of any organization believing in, or teaching, the violent overthrow of the United States Government, or by any illegal means, in such par. (1), and added par. (2).

1952—Subsec. (c). Act Apr. 5, 1952, substituted "Civil Service Commission" for "Federal Bureau of Investigation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SUBVERSIVE ACTIVITIES CONTROL BOARD

The Subversive Activities Control Board, established by act Sept. 23, 1950, ch. 1024, title I, §12, 64 Stat. 997, ceased to operate as of June 30, 1973, due to lack of funding.

BASIC SCIENTIFIC RESEARCH; INCREASE IN GOVERNMENT SUPPORT; NATIONAL SCIENCE FOUNDATION

Pub. L. 91–441, title II, §205, Oct. 7, 1970, 84 Stat. 908, provided that: "It is the sense of the Congress that—

"(1) an increase in Government support of basic scientific research is necessary to preserve and strengthen the sound technological base essential both to protection of the national security and the solution of unmet domestic needs; and

"(2) a larger share of such support should be provided hereafter through the National Science Foundation."

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1875. Appropriations

To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.

(May 10, 1950, ch. 171, §16, 64 Stat. 157; Aug. 8, 1953, ch. 377, 67 Stat. 488; renumbered §17, Pub. L. 85–510, §2, July 11, 1958, 72 Stat. 353; renumbered §16 and amended Pub. L. 90–407, §§11(2), (14), July 18, 1968, 82 Stat. 365, 366; Pub. L. 96–516, §21(c), Dec. 12, 1980, 94 Stat. 3010.)

EDITORIAL NOTES

AMENDMENTS

1980—Pub. L. 96–516 amended subsec. (a) generally, striking out specific dollar amounts for fiscal years ending June 30, 1969, and June 30, 1970, reference to subsequent fiscal years, and provisions relating to sums as additional to sums under section 1122(b)(1) of title 33, and struck out subsec. (b) which related to availability of sums for obligation and expenditure.

1968—Subsec. (a). Pub. L. 90–407, §14, substituted provisions authorizing the appropriation of funds for the fiscal year ending June 30, 1969, June 30, 1970, and each subsequent fiscal year, such sums to be in addition to sums authorized by section 1122(b)(1) of title 33, for provisions authorizing the appropriation of such sums as may be necessary to carry out the provisions of this chapter out of any money in the Treasury not otherwise appropriated.

1953—Subsec. (a). Act Aug. 8, 1953, removed the $15 million limitation on the amount of the annual appropriations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DRUG-FREE WORKPLACE

Pub. L. 100–570, title I, §118, Oct. 31, 1988, 102 Stat. 2873, provided that:

"(a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Foundation, shall be obligated or expended unless the Foundation has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act [21 U.S.C. 801 et seq.]) by the officers and employees of the Foundation.

"(b) No funds authorized to be appropriated to the Foundation for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other governing authority of such recipient, contractor, or party, satisfactory to the Director of the Foundation, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party."

[Section 118 of Pub. L. 100–570, set out above, effective Jan. 16, 1989, see section 215(c) of Pub. L. 100–685, set out as a note under section 5110 of Title 15, Commerce and Trade.]

CONTINUATION OF EXISTING OFFICES, PROCEDURES, AND ORGANIZATION OF THE NATIONAL SCIENCE FOUNDATION

Amendment by Pub. L. 90–407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90–407, set out as a note under section 1862 of this title.

§1875a. National Science Foundation Nonrecurring Expenses Fund

There is hereby established in the Treasury of the United States a fund to be known as the "National Science Foundation Nonrecurring Expenses Fund" (the Fund). Unobligated balances of expired discretionary funds appropriated for this or any succeeding fiscal year from the General Fund of the Treasury to the National Science Foundation by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund. Amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for information and business technology system modernization and facilities infrastructure improvements, including nonrecurring maintenance, necessary for the operation of the Foundation or its funded research facilities, subject to approval by the Office of Management and Budget. Amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

(Pub. L. 117–328, div. B, title III, Dec. 29, 2022, 136 Stat. 4551.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Science Appropriations Act, 2023, and also as part of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2023, and the Consolidated Appropriations Act, 2023, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§§1876 to 1879. Repealed. Pub. L. 99–383, §11, Aug. 21, 1986, 100 Stat. 817

Section 1876, Pub. L. 85–864, title IX, §901, Sept. 2, 1958, 72 Stat. 1601, authorized establishment of a

Science Information Service by National Science Foundation.

Section 1877, Pub. L. 85–864, title IX, §902, Sept. 2, 1958, 72 Stat. 1601; Pub. L. 90–407, §15(b), July 18, 1968, 82 Stat. 367, authorized establishment of a Science Information Council within National Science Foundation.

Section 1878, Pub. L. 85–864, title IX, §903, Sept. 2, 1958, 72 Stat. 1601, provided National Science Foundation with same power and authority in carrying out its functions under sections 1876 to 1879 of this title as it had in carrying out its functions under this chapter.

Section 1879, Pub. L. 85–864, title IX, §904, Sept. 2, 1958, 72 Stat. 1602, authorized appropriations to carry out programs of the Science Information Service and the Science Information Council.

§1880. National Medal of Science

There is established a National Medal of Science (hereinafter referred to as the "medal"), which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the National Science Foundation, may prescribe, and shall be awarded as provided in section 1881 of this title.

(Pub. L. 86–209, §1, Aug. 25, 1959, 73 Stat. 431.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1881. Award of National Medal of Science

(a) Recommendations

The President shall from time to time award the medal, on the basis of recommendations received from the National Academy of Sciences or on the basis of such other information and evidence as he deems appropriate, to individuals who in his judgment are deserving of special recognition by reason of their outstanding contributions to knowledge in the physical, biological, mathematical, engineering, behavioral or social sciences.

(b) Number

Not more than twenty individuals may be awarded the medal in any one calendar year.

(c) Citizenship

An individual may not be awarded the medal unless at the time such award is made he—

(1) is a citizen or other national of the United States; or

(2) is an alien lawfully admitted to the United States for permanent residence who (A) has filed an application for petition for naturalization in the manner prescribed by section 1445(b) of title 8 and (B) is not permanently ineligible to become a citizen of the United States.

(d) Ceremonies

The presentation of the award shall be made by the President with such ceremonies as he may deem proper, including attendance by appropriate Members of Congress.

(Pub. L. 86–209, §2, Aug. 25, 1959, 73 Stat. 431; Pub. L. 96–516, §22(a)(1), Dec. 12, 1980, 94 Stat. 3010.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the National Science Foundation Act of 1950 which comprises this

chapter.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–516 inserted applicability to behavioral and social sciences.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11287. AWARD AND PRESENTATION OF NATIONAL MEDAL OF SCIENCE

Ex. Ord. No. 11287, eff. June 28, 1966, 31 F.R. 8995, as amended by Ex. Ord. No. 11502, eff. Dec. 22, 1969, 34 F.R. 20171; Ex. Ord. No. 11734, July 30, 1973, 38 F.R. 20433; Ex. Ord. No. 14048, §4, Sept. 30, 2021, 86 F.R. 55466, provided:

By virtue of the authority vested in me by the Act of August 25, 1959, entitled "An Act To Establish a National Medal of Science To Provide Recognition for Individuals Who Make Outstanding Contributions in the Physical, Biological, Mathematical, and Engineering Sciences," 73 Stat. 431 (hereinafter referred to as the Act) [42 U.S.C. 1880, 1881], and as President of the United States, it is ordered as follows:

SECTION 1. *Award of Medal*. (a) The President shall award the National Medal of Science (hereinafter referred to as the Medal) established by the Act, the specifications of which are prescribed by Executive Order No. 10910 of January 17, 1961, as amended, on the basis of recommendations received by him in accordance with the provisions of this Order to individuals who in his judgment are deserving of special recognition by reason of their outstanding contributions to knowledge in the physical, biological, mathematical, or engineering sciences.

(b) The following-described criteria shall govern the award of the Medal—

(1) Not more than twenty individuals shall be awarded the Medal in any one calendar year.

(2) No individual shall be awarded the Medal unless, at the time such award is made, he:

(A) is a citizen or other national of the United States; or

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed a petition for naturalization in the manner prescribed by Section 334(b) of the Immigration and Nationality Act [8 U.S.C. 1445(b)], and (ii) is not permanently ineligible to become a citizen of the United States.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, the Medal may be awarded posthumously, but only to individuals who, at the time of their death, met the conditions set forth in paragraph (2). The Medal shall not be awarded to any individual after the fifth anniversary of the day of his death.

(c) Each Medal awarded shall be suitably inscribed. Each individual awarded the Medal shall also receive a citation descriptive of the award.

(d) The presentation of the Medal shall be made in accordance with Section 2(d) of the Act.

SEC. 2. *The President's Committee*. (a) There is hereby established the President's Committee on the National Medal of Science (hereinafter referred to as the Committee), which shall be composed of fourteen appointive members and two ex officio members and shall assist the President, as provided in this order, in connection with the carrying out of the Act.

(b) Each appointive member of the Committee shall be appointed by the President from among appropriately qualified citizens of the United States. Except as otherwise provided in subsection (e) of this Section, each such member shall be so appointed for a term of three years or for the balance of the unexpired term of his predecessor, whichever is appropriate. Members may be reappointed to serve one additional term of three years. As nearly as practicable, the appointive members of the Committee shall comprise a cross section of the major fields of science and engineering.

(c) The following shall be ex officio members of the Committee:

(1) The Science Adviser.

(2) The President of the National Academy of Sciences.

(d) The President shall from time to time designate one of the members of the Committee as Chairman thereof.

(e) Of the persons first designated as members of the Committee under the provisions of subsection (b) of this Section, four shall be designated to serve until December 31, 1966, four shall be designated to serve until December 31, 1967, and four shall be designated to serve until December 31, 1968.

SEC. 3. *Preliminary Procedure*. (a) The Committee shall receive, on behalf of the President, (1) the recommendations made by the National Academy of Sciences respecting the award of the Medal pursuant to the provisions of Section 2(a) of the Act [subsec. (a) of this section], and (2) such similar recommendations as may be made by any other nationally representative scientific or engineering organization or other qualified source. Each such recommendation shall include or be accompanied by such appropriate supporting material as the Committee may from time to time specify.

(b) On the basis of such criteria, information, and evidence as it may deem appropriate, and subject to the provisions of Section 1 of this Order, the Committee shall designate, from among the individuals who are recommended in accordance with Section 3(a) of this Order, those individuals whom the Committee recommends for the award of the Medal and shall transmit the names of those individuals to the President, together with its recommendations. In so transmitting its recommendations, the Committee (1) shall include expressions of its views concerning, and such other information as may be pertinent to, its recommendations, and (2) may arrange the names of all or some of the recommended individuals in a sequence deemed by it to indicate the order of precedence in which the individuals involved deserve to receive the Medal.

(c) Each recommendation respecting the award of the Medal to an individual which is transmitted to the President by the Committee shall be accompanied by a draft of a citation describing the contributions which are being recognized by the award.

SEC. 4. *Time of Awards and Recommendations*. (a) Unless otherwise directed by the President, announcement of the award of the Medal shall be made during the last sixty days of each calendar year and ceremonies for presentation of the Medal shall be held during the first ninety days of the calendar year following the announcement of the award.

(b) Recommendations for awards of the Medals shall be submitted to the Committee, pursuant to Section 3(a) of this Order, by the first day of July of the year in which it is proposed that they be announced by the President. Recommendations of the Committee shall be delivered to the President by the fifteenth day of October of the year in which it is proposed that they be announced. Awards of the Medal may be based upon recommendations of the Committee or upon such other information and evidence as the President deems appropriate.

SEC. 5. *Services and Expenses*. (a) The National Science Foundation is authorized to provide such assistance as may be necessary and appropriate to carry out the purposes of this Order.

(b) The members of the Committee shall serve without compensation, but the National Science Foundation is authorized to reimburse them for travel expenses and to pay them per diem in lieu of subsistence as authorized for persons serving without compensation (5 U.S.C. 73b–2) [see 5 U.S.C. 703].

SEC. 6. *Prior Orders*. (a) Subject to the provisions of this Order, the President's Committee on the National Medal of Science established by Section 2 of this Order shall be deemed to constitute a continuation of the Committee of the same name established by Executive Order No. 10961 of August 21, 1961. The latter Order is hereby revoked.

(b) Executive Order No. 10910 of January 17, 1961, is hereby amended by deleting from its title the words "AND AWARD", and by deleting the last two sentences of Section 1, and all of Section 2, thereof.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON THE NATIONAL MEDAL OF SCIENCE

Term of President's Committee on the National Medal of Science extended until Sept. 30, 2025, by Ex. Ord. No. 14109, Sept. 29, 2023, 88 F.R. 68447, set out as a note under section 1013 of Title 5, Government Organization and Employees.

Previous extensions of term of President's Committee on the National Medal of Science were contained in the following prior Executive Orders:

Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, extended term until Sept. 30, 2023.
Ex. Ord. No. 13889, Sept. 27, 2019, 84 F.R. 52743, extended term until Sept. 30, 2021.
Ex. Ord. No. 13811, Sept. 29, 2017, 82 F.R. 46363, extended term until Sept. 30, 2019.
Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, extended term until Sept. 30, 2017.
Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.
Ex. Ord. No. 13585, Sept. 30, 2011, 76 F.R. 62281, extended term until Sept. 30, 2013.
Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, extended term until Sept. 30, 2011.
Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, extended term until Sept. 30, 2009.
Ex. Ord. No. 13385, §1(j), Sept. 29, 2005, 70 F.R. 57989, extended term until Sept. 30, 2007.
Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, extended term until Sept. 30, 2005.
Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, extended term until Sept. 30, 2003.
Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, extended term until Sept. 30, 2001.
Ex. Ord. No. 13062, §1(j), Sept. 29, 1997, 62 F.R. 51755, extended term until Sept. 30, 1999.
Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, extended term until Sept. 30, 1997.
Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, extended term until Sept. 30, 1995.
Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, extended term until Sept. 30, 1993.
Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, extended term until Sept. 30, 1991.
Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, extended term until Sept. 30, 1989.

Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, extended term until Sept. 30, 1987.
Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, extended term until Sept. 30, 1985.
Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, extended term until Sept. 30, 1984.
Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, extended term until Dec. 31, 1982.
Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, extended term until Dec. 31, 1980.
Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, extended term until Dec. 31, 1978.

§1881a. Alan T. Waterman Award

(a) Establishment; amounts; terms

The National Science Foundation is authorized to establish the Alan T. Waterman Award for research or advanced study in the mathematical, physical, medical, biological, engineering, behavioral, social, or other sciences. The award authorized by this section shall consist of a suitable medal and a grant to support further research or study by the recipient. The National Science Board will periodically establish the amounts and terms of such grants under this section.

(b) Purpose

Awards under this section shall be made to recognize and encourage the work of younger scientists whose capabilities and accomplishments show exceptional promise of significant future achievement.

(c) Number

Not more than three awards may be made under this section in any one fiscal year.

(Pub. L. 94–86, §6, Aug. 9, 1975, 89 Stat. 430; Pub. L. 96–516, §22(b), Dec. 12, 1980, 94 Stat. 3010; Pub. L. 99–159, title I, §109(g), Nov. 22, 1985, 99 Stat. 890; Pub. L. 105–207, title II, §202(b), July 29, 1998, 112 Stat. 874; Pub. L. 110–69, title VII, §7015(c), Aug. 9, 2007, 121 Stat. 684.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act, 1976, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2007—Subsec. (c). Pub. L. 110–69 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "No more than one award shall be made under this section in any one fiscal year."

1998—Subsec. (a). Pub. L. 105–207 substituted "social," for "social, social,".

1985—Subsec. (a). Pub. L. 99–159 substituted provisions requiring the National Science Board to periodically establish amounts and terms of grants, for provisions limiting the grant awarded to $50,000 per year for a period not exceeding three years.

1980—Subsec. (a). Pub. L. 96–516 inserted ", behavioral, social" after "engineering".

§1881b. Presidential awards for teaching excellence

(1)(A) The President is authorized to make Presidential Awards for Excellence in Mathematics and Science Teaching to kindergarten through grade 12 school teachers of mathematics and science who have demonstrated outstanding teaching ability in the field of teaching mathematics or science.

(B) Each year the President is authorized to make no fewer than 110 awards under subparagraph (A).

(C) In selecting teachers for an award authorized by this subsection, the President shall select—

(i) at least two teachers—

(I) from each of the several States;

(II) from the District of Columbia;

(III) from the Commonwealth of Puerto Rico;

(IV) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of the employees of such agency; and

(ii) at least one teacher—
(I) from the Commonwealth of the Northern Mariana Islands;
(II) from American Samoa;
(III) from the Virgin Islands of the United States; and
(IV) from Guam.

(2) The President shall carry out this subsection, including the establishment of the selection procedures, after consultation with the Director and other appropriate officials of Federal agencies.

(3)(A) Funds to carry out this subsection for any fiscal year shall be made available from amounts appropriated pursuant to annual authorization of appropriations for the Foundation for Education and Human Resources.

(B) Amounts made available pursuant to subparagraph (A) shall be available for making awards under this subsection, for administrative expenses, for necessary travel by teachers selected under this subsection, and for special activities related to carrying out this subsection.

(Pub. L. 100–570, title I, §117(a), Oct. 31, 1988, 102 Stat. 2872; Pub. L. 105–207, title II, §202(c), July 29, 1998, 112 Stat. 874; Pub. L. 117–167, div. B, title III, §10321(a), Aug. 9, 2022, 136 Stat. 1538.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act of 1988, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2022—Par. (1)(B). Pub. L. 117–167, §10321(a)(1)(E), which directed amendment of subpar. (B) by redesignating second sentence as subpar. (C), without specifying the paragraph to be amended, was executed in subpar. (B) of par. (1), to reflect the probable intent of Congress.

Pub. L. 117–167, §10321(a)(1)(A), which directed substitution of "110" for "108" in subpar. (B), without specifying the paragraph to be amended, was executed in subpar. (B) of par. (1), to reflect the probable intent of Congress.

Par. (1)(B)(iv). Pub. L. 117–167, §10321(a)(1)(B), which directed the striking out of cl. (iv) of subpar. (B), without specifying the paragraph to be amended, was executed in subpar. (B) of par. (1), to reflect the probable intent of Congress. Prior to amendment, cl. (iv) read as follows: "from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other commonwealths, territories, and possessions of the United States; and".

Par. (1)(C). Pub. L. 117–167, §10321(a)(1)(C)–(E), which directed amendment of subpar. (B) by redesignating second sentence as (C), inserting cl. (i) designation before "at least two teachers—", redesignating former cls. (i), (ii), (iii), and (v) of subpar. (B) as subcls. (I) to (IV), respectively, of cl. (i) of subpar. (C), and realigning margins, without specifying the paragraph to be amended, was executed in par. (1), to reflect the probable intent of Congress.

Par. (1)(C)(ii). Pub. L. 117–167, §10321(a)(2), which directed the addition of cl. (ii) in subpar. (C), without specifying the paragraph to be amended, was executed in subpar. (C) of par. (1), to reflect the probable intent of Congress.

1998—Par. (1)(B)(v). Pub. L. 105–207, §202(c)(1), added cl. (v) and struck out former cl. (v) which read as follows: "from the United States Department of Defense Dependents' School."

Par. (3)(A). Pub. L. 105–207, §202(c)(2), substituted "Education and Human Resources" for "Science and Engineering Education".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–167, div. B, title III, §10321(b), Aug. 9, 2022, 136 Stat. 1538, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to awards made on or after the date of the enactment of this Act [Aug. 9, 2022]."

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1882. Information furnished to Congressional committees

Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation and the National Science Board shall keep the Committee on Labor and Human Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with respect to all of the activities of the National Science Foundation.

(Pub. L. 96–44, §9, Aug. 2, 1979, 93 Stat. 335; Pub. L. 99–159, title I, §109(i), Nov. 22, 1985, 99 Stat. 890; Pub. L. 103–437, §15(c)(2), Nov. 2, 1994, 108 Stat. 4591.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–44, known as the National Science Foundation Authorization Act for Fiscal Year 1980. For classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the authorization act cited as the credit to this section, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior authorization acts:
Pub. L. 95–434, §7, Oct. 10, 1978, 92 Stat. 1050.
Pub. L. 95–99, §11, formerly §13, Aug. 15, 1977, 91 Stat. 835, renumbered §11, Pub. L. 99–159, title I, §109(h), Nov. 22, 1985, 99 Stat. 890.
Pub. L. 94–471, §11, Oct. 11, 1976, 90 Stat. 2058.
Pub. L. 94–86, §11, Aug. 9, 1975, 89 Stat. 431.
Pub. L. 93–413, §7, Sept. 4, 1974, 88 Stat. 1095.
Pub. L. 93–96, §9, Aug. 16, 1973, 87 Stat. 317.
Pub. L. 91–120, §6, Nov. 18, 1969, 83 Stat. 203.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Science, Space, and Technology" for "Science and Technology".
1985—Pub. L. 99–159 inserted "and the National Science Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§1883. Office of Small Business Research and Development

The National Science Foundation is authorized and directed to establish an Office of Small

Business Research and Development. The Foundation through the Office of Small Business Research and Development and in cooperation and consultation with the Small Business Administration shall—

(1) foster communication between the National Science Foundation and the small business community, and insure that the set-aside for small business concerns provided under this Act or any other Act authorizing appropriations for the National Science Foundation is fully and effectively utilized;

(2) collect, analyze, compile, and publish information concerning grants and contracts awarded to small business concerns by the Foundation, and the procedures for handling proposals submitted by small business concerns;

(3) assist individual small business concerns in obtaining information regarding programs, policies, and procedures of the Foundation, and assure the expeditious processing of proposals by small business concerns based on scientific and technical merit; and

(4) recommend to the Director and to the National Science Board such changes in the procedures and practices of the Foundation as may be required to enable the Foundation to draw fully on the resources of the small business research and development community.

(Pub. L. 94–471, §8, Oct. 11, 1976, 90 Stat. 2057; Pub. L. 99–386, title I, §108, Aug. 22, 1986, 100 Stat. 822.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in par. (1), is Pub. L. 94–471, Oct. 11, 1976, 90 Stat. 2053, known as the National Science Foundation Authorization Act, 1977, which, insofar as classified to the Code, enacted sections 1882 and 1883 of this title, amended section 1863 of this title, and enacted provisions set out as notes under sections 1862, 1864, 1873, and 5820 of this title. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act, 1977, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

1986—Par. (5). Pub. L. 99–386 struck out par. (5) which related to quarterly reports to Congress concerning activities of Office of Small Business Research and Development.

§1884. Repealed. Pub. L. 99–159, title I, §109(h), Nov. 22, 1985, 99 Stat. 890

Section, Pub. L. 95–99, §6, Aug. 15, 1977, 91 Stat. 833, related to the establishment, etc., of the Resource Center for Science and Engineering.

§1885. Congressional statement of findings and declaration of policy respecting equal opportunities in science and engineering

(a) The Congress finds that it is in the national interest to promote the full use of human resources in science and engineering and to insure the full development and use of the scientific and engineering talents and skills of men and women, equally, of all ethnic, racial, and economic backgrounds, including persons with disabilities.

(b) The Congress declares it is the policy of the United States to encourage men and women, equally, of all ethnic, racial, and economic backgrounds, including persons with disabilities, to acquire skills in science, engineering, and mathematics, to have equal opportunity in education, training, and employment in scientific and engineering fields, and thereby to promote scientific and engineering literacy and the full use of the human resources of the Nation in science and engineering.

To this end, the Congress declares that the highest quality science and engineering over the long-term requires substantial support, from currently available research and educational funds, for increased participation in science and engineering by women, minorities, and persons with disabilities. The Congress further declares that the impact on women, minorities, and persons with disabilities which is produced by advances in science and engineering must be included as essential factors in national and international science, engineering, and economic policies.

(Pub. L. 96–516, §32, Dec. 12, 1980, 94 Stat. 3010; Pub. L. 99–159, title I, §111(b)(2)–(5), Nov. 22, 1985, 99 Stat. 892; Pub. L. 107–368, §16, Dec. 19, 2002, 116 Stat. 3059.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Science and Engineering Equal Opportunities Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–368, §16(1), substituted "backgrounds, including persons with disabilities" for "backgrounds".

Subsec. (b). Pub. L. 107–368, §16(2), inserted ", including persons with disabilities," after "backgrounds" and substituted ", minorities, and persons with disabilities" for "and minorities" in two places.

1985—Subsec. (a). Pub. L. 99–159, §111(b)(2), substituted "engineering" for "technology" and "scientific and engineering talents and skills" for "scientific talent and technical skills".

Subsec. (b). Pub. L. 99–159, §111(b)(3)–(5), inserted ", engineering," after "skills in science", substituted "engineering" for "technical", "scientific and engineering literacy" for "scientific literacy", and "engineering" for "technology" wherever appearing, and inserted "and engineering" after "highest quality science".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of sections 31 et seq. of Pub. L. 96–516 as the "Science and Engineering Equal Opportunities Act", see section 31 of Pub. L. 96–516, as amended, set out as a Short Title of 1980 Amendment note under section 1861 of this title.

SEVERABILITY OF SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT

Pub. L. 96–516, §38, Dec. 12, 1980, 94 Stat. 3014, provided that: "If a provision of this Act [enacting sections 1885 to 1885d of this title and provisions set out as notes under sections 1861 and 1885 of this title] is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected."

REPORTS TO CONGRESS CONCERNING NATIONAL POLICY DEVELOPMENT OF PROMOTION, ETC., OF EQUAL OPPORTUNITY FOR WOMEN AND MINORITIES IN SCIENCE AND TECHNOLOGY, AND IMPACTS OF SCIENCE AND TECHNOLOGY ON WOMEN AND MINORITIES

Pub. L. 96–516, §35, Dec. 12, 1980, 94 Stat. 3012, directed President, with assistance of Director of Office of Science and Technology Policy and Director of Foundation, to prepare and transmit before Jan. 20, 1982, a report to Congress proposing a comprehensive national policy and program, including budgetary and legislative recommendations, for promotion of equal opportunity for women and minorities in science and technology, and directed President, with assistance of Director of Office of Science and Technology Policy, heads of appropriate executive departments, and Director of the Foundation to prepare and transmit before Jan. 1, 1983, a report to Congress proposing a comprehensive policy, including budgetary and legislative recommendations, concerning direct and indirect impacts of science and technology on women and minorities.

§1885a. Women in science and engineering; support of activities by Foundation

for promotion, etc.

The Foundation is authorized to—

(1) support activities designed to—

(A) increase the participation of women in courses of study at the undergraduate, graduate, and postgraduate levels leading to degrees in scientific and engineering fields;

(B) encourage women to consider and prepare for careers in science and engineering; or

(C) provide traineeship and fellowship opportunities for women in science and engineering;

(2) support programs in science, engineering, and mathematics in elementary and secondary schools so as to stimulate the acquisition of knowledge, skills, and information by female students and to increase female student awareness of career opportunities requiring scientific and engineering skills;

(3) support activities in continuing education in science and engineering which provide opportunities for women who—

(A) are in the work force, or

(B) who are not in the work force because their careers have been interrupted,

to acquire new knowledge, techniques, and skills in scientific and engineering fields;

(4) undertake a comprehensive research program designed to increase public understanding of (A) the potential contribution of women in science and engineering and (B) the means to facilitate the participation and advancement of women in scientific and engineering careers;

(5) establish a visiting women scientists and engineers program;

(6) support activities designed to improve the availability and quality of public information concerning the importance of the participation of women in careers in science and engineering;

(7) support activities of museums and science centers which demonstrate potential to interest and involve women in science and engineering;

(8) make grants, to be known as the National Research Opportunity Grants, to women scientists and engineers who (A) have received their doctorates within five years prior to the date of the award or (B) have received their doctorates, have had their careers interrupted, and are re-entering the work force within five years after such interruption;

(9) make grants to women eligible under paragraph (8) to assist such women in planning and developing a research project eligible for support under such paragraph;

(10) provide support to individuals or academic institutions for full-time or part-time visiting professorships for women in science and engineering;

(11) support demonstration project activities of individuals, public agencies, and private entities designed to encourage the employment and advancement of women in science and engineering; and

(12) encourage its entrepreneurial programs to recruit and support women to extend their focus beyond the laboratory and into the commercial world.

(Pub. L. 96–516, §33, Dec. 12, 1980, 94 Stat. 3011; Pub. L. 99–159, title I, §111(b)(6), Nov. 22, 1985, 99 Stat. 892; Pub. L. 115–6, §3, Feb. 28, 2017, 131 Stat. 11.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Science and Engineering Equal Opportunities Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Par. (12). Pub. L. 115–6 added par. (12).

1985—Par. (1). Pub. L. 99–159, §111(b)(6)(A), substituted "engineering" for "technology" and "technical" wherever appearing.

Par. (2). Pub. L. 99–159, §111(b)(6)(A), (B), inserted ", engineering," after "science", and substituted

"engineering" for "technical".

Par. (3). Pub. L. 99–159, §111(b)(6)(A), substituted "engineering fields" for "technical fields".

Par. (4). Pub. L. 99–159, §111(b)(6)(A), substituted "engineering" for "technology" and "technical".

Par. (5). Pub. L. 99–159, §111(b)(6)(C), inserted applicability to engineers.

Pars. (6), (7). Pub. L. 99–159, §111(b)(6)(A), substituted "engineering" for "technology".

Par. (8). Pub. L. 99–159, §111(b)(6)(C), inserted applicability to engineers.

Par. (10). Pub. L. 99–159, §111(b)(6)(D), inserted applicability to engineering.

Par. (11). Pub. L. 99–159, §111(b)(6)(E), substituted "science and engineering" for "science, engineering, and technology".

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 115–6, §2, Feb. 28, 2017, 131 Stat. 11, provided that: "The Congress finds that—

"(1) women make up almost 50 percent of the workforce, but less than 25 percent of the workforce in science, technology, engineering, and mathematics (STEM) professions;

"(2) women are less likely to focus on the STEM disciplines in undergraduate and graduate study;

"(3) only 26 percent of women who do attain degrees in STEM fields work in STEM jobs;

"(4) there is an increasing demand for individuals with STEM degrees to extend their focus beyond the laboratory so they can be leaders in discovery commercialization;

"(5) studies have shown that technology and commercialization ventures are successful when women are in top management positions; and

"(6) the National Science Foundation's mission includes supporting women in STEM disciplines."

COMMISSION ON THE ADVANCEMENT OF WOMEN AND MINORITIES IN SCIENCE, ENGINEERING, AND TECHNOLOGY DEVELOPMENT

Pub. L. 105–255, Oct. 14, 1998, 112 Stat. 1889, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development Act'.

"SEC. 2. FINDINGS.

"The Congress finds the following:

"(1) According to the National Science Foundation's 1996 report, Women, Minorities, and Persons with Disabilities in Science and Engineering—

"(A) women have historically been underrepresented in scientific and engineering occupations, and although progress has been made over the last several decades, there is still room for improvement;

"(B) female and minority students take fewer high-level mathematics and science courses in high school;

"(C) female students earn fewer bachelors, masters, and doctoral degrees in science and engineering;

"(D) among recent bachelors of science and bachelors of engineering graduates, women are less likely to be in the labor force, to be employed full-time, and to be employed in their field than are men;

"(E) among doctoral scientists and engineers, women are far more likely to be employed at 2-year institutions, are far less likely to be employed in research universities, and are much more likely to teach part-time;

"(F) among university full-time faculty, women are less likely to chair departments or hold high-ranked positions;

"(G) a substantial salary gap exists between men and women with doctorates in science and engineering;

"(H) Blacks, Hispanics, and Native Americans continue to be seriously underrepresented in graduate science and engineering programs; and

"(I) Blacks, Hispanics, and Native Americans as a group are 23 percent of the population of the United States, but only 6 percent are scientists or engineers.

"(2) According to the National Research Council's 1995 report, Women Scientists and Engineers Employed in Industry: Why So Few?—

"(A) limited access is the first hurdle faced by women seeking industrial jobs in science and engineering, and while progress has been made in recent years, common recruitment and hiring practices

that make extensive use of traditional networks often overlook the available pool of women;

"(B) once on the job, many women find paternalism, sexual harassment, allegations of reverse discrimination, different standards for judging the work of men and women, lower salary relative to their male peers, inequitable job assignments, and other aspects of a male-oriented culture that are hostile to women; and

"(C) women to a greater extent than men find limited opportunities for advancement, particularly for moving into management positions, and the number of women who have achieved the top levels in corporations is much lower than would be expected, based on the pipeline model.

"(3) The establishment of a commission to examine issues raised by the findings of these two reports would help—

"(A) to focus attention on the importance of eliminating artificial barriers to the recruitment, retention, and advancement of women and minorities in the fields of science, engineering, and technology, and in all employment sectors of the United States;

"(B) to promote work force diversity;

"(C) to sensitize employers to the need to recruit and retain women and minority scientists, engineers, and computer specialists; and

"(D) to encourage the replication of successful recruitment and retention programs by universities, corporations, and Federal agencies having difficulties in employing women or minorities in the fields of science, engineering, and technology.

"SEC. 3. ESTABLISHMENT.

"There is established a commission to be known as the 'Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development' (in this Act referred to as the 'Commission').

"SEC. 4. DUTY OF THE COMMISSION.

"The Commission shall review available research, and, if determined necessary by the Commission, conduct additional research to—

"(1) identify the number of women, minorities, and individuals with disabilities in the United States in specific types of occupations in science, engineering, and technology development;

"(2) examine the preparedness of women, minorities, and individuals with disabilities to—

"(A) pursue careers in science, engineering, and technology development; and

"(B) advance to positions of greater responsibility within academia, industry, and government;

"(3) describe the practices and policies of employers and labor unions relating to the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development;

"(4) identify the opportunities for, and artificial barriers to, the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development in academia, industry, and government;

"(5) compile a synthesis of available research on lawful practices, policies, and programs that have successfully led to the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in science, engineering, and technology development;

"(6) issue recommendations with respect to lawful policies that government (including Congress and appropriate Federal agencies), academia, and private industry can follow regarding the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in science, engineering, and technology development;

"(7) identify the disincentives for women, minorities, and individuals with disabilities to continue graduate education in the fields of engineering, physics, and computer science;

"(8) identify university undergraduate programs that are successful in retaining women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development;

"(9) identify the disincentives that lead to a disproportionate number of women, minorities, and individuals with disabilities leaving the fields of science, engineering, and technology development before completing their undergraduate education;

"(10) assess the extent to which the recommendations of the Task Force on Women, Minorities, and the Handicapped in Science and Technology established under section 8 of the National Science Foundation Authorization Act for Fiscal Year 1987 (Public Law 99–383; 42 U.S.C. 1885a note) have been implemented;

"(11) compile a list of all federally funded reports on the subjects of encouraging women, minorities, and individuals with disabilities to enter the fields of science and engineering and retaining women,

minorities, and individuals with disabilities in the science and engineering workforce that have been issued since the date that the Task Force described in paragraph (10) submitted its report to Congress;

"(12) assess the extent to which the recommendations contained in the reports described in paragraph (11) have been implemented; and

"(13) evaluate the benefits of family-friendly policies in order to assist recruiting, retaining, and advancing women in the fields of science, engineering, and technology such as the benefits or disadvantages of the Family and Medical Leave Act of 1993 (29 U.S.C. 2001 et seq. [see Short Title note set out under section 2601 of Title 29, Labor, and Tables]).

"SEC. 5. MEMBERSHIP.

"(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 11 members as follows:

"(1) One member appointed by the President from among for-profit entities that hire individuals in the fields of engineering, science, or technology development.

"(2) Two members appointed by the Speaker of the House of Representatives from among such entities.

"(3) One member appointed by the minority leader of the House of Representatives from among such entities.

"(4) Two members appointed by the majority leader of the Senate from among such entities.

"(5) One member appointed by the minority leader of the Senate from among such entities.

"(6) Two members appointed by the Chairman of the National Governors Association from among individuals in education or academia in the fields of life science, physical science, or engineering.

"(7) Two members appointed by the Vice Chairman of the National Governors Association from among such individuals.

"(b) INITIAL APPOINTMENTS.—Initial appointments shall be made under subsection (a) not later than 90 days after the date of the enactment of this Act [Oct. 14, 1998].

"(c) TERMS.—

"(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

"(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(d) PAY OF MEMBERS.—Members shall not be paid by reason of their service on the Commission.

"(e) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(g) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

"(h) MEETINGS.—The Commission shall meet not fewer than 5 times in connection with and pending the completion of the report described in section 8. The Commission shall hold additional meetings for such purpose if the Chairperson or a majority of the members of the Commission requests the additional meetings in writing.

"(i) EMPLOYMENT STATUS.—Members of the Commission shall not be deemed to be employees of the Federal Government by reason of their work on the Commission except for the purposes of—

"(1) the tort claims provisions of chapter 171 of title 28, United States Code; and

"(2) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

"SEC. 6. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Commission shall appoint a Director who shall be paid at a rate not to exceed the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

"(b) STAFF.—The Commission may appoint and fix the pay of additional personnel as the Commission considers appropriate.

"(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

"(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

"(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Director of the National Science Foundation or the head of any other Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

"SEC. 7. POWERS OF COMMISSION.

"(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

"(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

"(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

"(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

"(f) CONTRACT AUTHORITY.—To the extent provided in advance in appropriations Acts, the Commission may contract with and compensate Government and private agencies or persons for the purpose of conducting research or surveys necessary to enable the Commission to carry out its duties under this Act.

"SEC. 8. REPORT.

"Not later than 1 year after the date on which the initial appointments under section 5(a) are completed, the Commission shall submit to the President, the Congress, and the highest executive official of each State, a written report containing the findings, conclusions, and recommendations of the Commission resulting from the study conducted under section 4.

"SEC. 9. CONSTRUCTION; USE OF INFORMATION OBTAINED.

"(a) IN GENERAL.—Nothing in this Act shall be construed to require any non-Federal entity (such as a business, college or university, foundation, or research organization) to provide information to the Commission concerning such entity's personnel policies, including salaries and benefits, promotion criteria, and affirmative action plans.

"(b) USE OF INFORMATION OBTAINED.—No information obtained from any entity by the Commission may be used in connection with any employment related litigation.

"SEC. 10. TERMINATION; ACCESS TO INFORMATION.

"(a) TERMINATION.—The Commission shall terminate 30 days after submitting the report required by section 8.

"(b) ACCESS TO INFORMATION.—On or before the date of the termination of the Commission under subsection (a), the Commission shall provide to the National Science Foundation the information gathered by the Commission in the process of carrying out its duties under this Act. The National Science Foundation shall act as a central repository for such information and shall make such information available to the public, including making such information available through the Internet.

"SEC. 11. REVIEW OF INFORMATION PROVIDED BY THE NATIONAL SCIENCE FOUNDATION AND OTHER AGENCIES.

"(a) PROVISION OF INFORMATION.—At the request of the Commission, the National Science Foundation and any other Federal department or agency shall provide to the Commission any information determined necessary by the Commission to carry out its duties under this Act, including—

"(1) data on academic degrees awarded to women, minorities, and individuals with disabilities in science, engineering, and technology development, and workforce representation and the retention of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development; and

"(2) information gathered by the National Science Foundation in the process of compiling its biennial report on Women, Minorities, and Persons with Disabilities in Science and Engineering.

"(b) REVIEW OF INFORMATION.—The Commission shall review any information provided under subsection (a) and shall include in the report required under section 8—

"(1) recommendations on how to correct any deficiencies in the collection of the types of information described in that subsection, and in the analysis of such data, which might impede the characterization of the factors which affect the attraction and retention of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development; and

"(2) an assessment of the biennial report of the National Science Foundation on Women, Minorities, and Persons with Disabilities in Science and Engineering, and recommendations on how that report could be improved.

"SEC. 12. DEFINITION OF STATE.

"In this Act, the term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

"SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act—

"(1) $400,000 for fiscal year 1999; and

"(2) $400,000 for fiscal year 2000."

TASK FORCE ON WOMEN, MINORITIES, AND THE HANDICAPPED IN SCIENCE AND TECHNOLOGY

Pub. L. 99–383, §8, Aug. 21, 1986, 100 Stat. 815, provided that:

"(a) It is the purpose of this section to establish a task force on women, minorities, and the handicapped in science and technology to—

"(1) examine the current status of women, minorities, and the handicapped in science and engineering positions in the Federal Government and in federally assisted research programs;

"(2) coordinate existing Federal programs designed to promote the employment of women, minorities, and the handicapped in such positions;

"(3) suggest cooperative interagency programs for promoting such employment;

"(4) identify exemplary State, local, or private sector programs designed to promote such employment; and

"(5) develop a long-range plan to advance opportunities for women, minorities, and the handicapped in Federal scientific and technical positions in federally assisted research, and to coordinate the activities of participating agencies with the Committee on Equal Opportunities in Science and Engineering established by section 36 of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act [now the National Science Foundation Authorization and Science and Engineering Equal Opportunities Act] (42 U.S.C. 1885c), after the termination of the task force established by this section.

"(b) For purposes of this section, the term 'participating agency' means—

"(1) the National Science Foundation;

"(2) the Department of Health and Human Services;

"(3) the National Aeronautics and Space Administration;

"(4) the Environmental Protection Agency;

"(5) the Department of Agriculture;

"(6) the Department of Defense;

"(7) the Department of Education;

"(8) the Department of Energy;

"(9) the Department of Commerce; and

"(10) the Department of the Interior.

"(c)(1) The task force on women, minorities, and the handicapped in science and technology shall be composed of individuals appointed by participating agencies pursuant to this subsection.

"(2) The head of each participating agency shall appoint two individuals to serve as members of the task force. If an appointed member is unable to serve for the duration of the task force, the head of the participating agency who appointed that member shall appoint another individual to fill the vacancy.

"(3) Task force members may be appointed from private business, academia, professional associations, or nonprofit foundations.

"(d) The task force shall prepare and submit a report on its findings and recommendations to the President, the Congress, and the head of each participating agency not later than December 31, 1989.

"(e) The Office of Science and Technology Policy shall call the first meeting of the task force not later than 90 days after the date of enactment of this Act [Aug. 21, 1986], shall ensure that each participating agency has appointed two members, and shall assist the task force to meet its objectives.

"(f)(1) Members of the task force not otherwise employed by the Federal Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the task force.

"(2) The Director of the National Science Foundation shall make provision for administrative support of the task force, and may enter into agreements with the heads of other participating agencies to facilitate the work of the task force.

"(g) The task force shall terminate on January 31, 1990."

§1885b. Participation in science and engineering of minorities and persons with disabilities

(a) The Foundation is authorized (1) to undertake or support a comprehensive science and engineering education program to increase the participation of minorities in science and engineering, and (2) to support activities to initiate research at minority institutions.

(b) The Foundation is authorized to undertake or support programs and activities to encourage the participation of persons with disabilities in the science and engineering professions.

(Pub. L. 96–516, §34, Dec. 12, 1980, 94 Stat. 3012; Pub. L. 99–159, title I, §111(b)(7), Nov. 22, 1985, 99 Stat. 892; Pub. L. 105–207, title II, §202(d)(1), July 29, 1998, 112 Stat. 874.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Science and Engineering Equal Opportunities Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–207, §202(d)(1)(A), substituted section catchline for former section catchline.

Subsec. (b). Pub. L. 105–207, §202(d)(1)(B), added subsec. (b) and struck out former subsec. (b), which read as follows: "By September 30, 1981, the Director, with the advice and assistance of the Committee on Equal Opportunities in Science and Technology established in section 1885c of this title, shall prepare and transmit to the Committee on Labor and Human Resources of the Senate and the Committee on Science and Technology of the House of Representatives a report proposing a comprehensive and continuing program at the Foundation to promote the full participation of minorities in science and engineering. Such report shall contain budgetary and legislative recommendations for the carrying out of such program by the Foundation."

1985—Subsec. (a). Pub. L. 99–159, §111(b)(7), substituted "science and engineering education" for "science education" and "engineering" for "technology".

Subsec. (b). Pub. L. 99–159, §111(b)(7)(B), substituted "engineering" for "technology".

§1885c. Committee on Equal Opportunities in Science and Engineering

(a) Establishment; purposes

There is established within the Foundation a Committee on Equal Opportunities in Science and Engineering (hereinafter referred to as the "Committee"). The Committee shall provide advice to the Foundation concerning (1) the implementation of the provisions of sections 1885 to 1885d of this title and (2) other policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in scientific, engineering, and professional fields.

(b) Membership; Chairperson; term of members

Each member of the Committee shall be appointed by the Director. In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee. Members of the Committee shall be appointed to serve for a three-year term, and may be reappointed to serve one additional term of three years.

(c) Responsibilities of Committee

The Committee shall be responsible for reviewing and evaluating all Foundation matters relating to opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education, training, and science and engineering research programs.

(d) Standing or ad hoc subcommittees

The Committee may organize such standing or ad hoc subcommittees as the Committee finds appropriate.

(e) Biennial report

Every 2 years, the Committee shall prepare and submit to the Director a report on its activities during the previous 2 years and proposed activities for the next 2 years. The Director shall submit to Congress the report, unaltered, together with such comments as the Director considers appropriate, including—

(1) review data on the participation in Foundation activities of institutions serving populations that are underrepresented in STEM disciplines, including poor, rural, and tribal populations; and

(2) recommendations regarding how the Foundation could improve outreach and inclusion of these populations in Foundation activities.

(Pub. L. 96–516, §36, Dec. 12, 1980, 94 Stat. 3012; Pub. L. 99–159, title I, §111(b)(8), Nov. 22, 1985, 99 Stat. 893; Pub. L. 100–570, title I, §105(c), Oct. 31, 1988, 102 Stat. 2868; Pub. L. 105–207, title II, §202(d)(2), July 29, 1998, 112 Stat. 874; Pub. L. 114–329, title III, §313, Jan. 6, 2017, 130 Stat. 3014.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1885 to 1885d of this title, referred to in subsec. (a), was in the original "this Act", meaning sections 31 et seq. of Pub. L. 96–516, known as the Science and Engineering Equal Opportunities Act, which enacted sections 1885 to 1885d of this title and provisions set out as notes under sections 1861 and 1885 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the Science and Engineering Equal Opportunities Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2017—Subsec. (e). Pub. L. 114–329, which directed the general amendment of section 204(e) of Pub. L. 100–570, was executed by making the amendment to subsec. (e) of this section, meaning section 36(e) of Pub. L. 96–516, to reflect the probable intent of Congress. Prior to amendment, text read as follows: "Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate."

1998—Subsec. (a). Pub. L. 105–207, §202(d)(2)(A), substituted "minorities, and persons with disabilities in scientific" for "minorities, and other groups currently underrepresented in scientific".

Subsec. (b). Pub. L. 105–207, §202(d)(2)(B), struck out "with the concurrence of the National Science Board" after "the Director" and substituted "In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee." for "The Chairperson of the National Science Board Committee on Minorities and Women shall be an ex officio member of the Committee."

Subsec. (c). Pub. L. 105–207, §202(d)(2)(C), (D), added subsec. (c) and struck out former subsec. (c) which read as follows: "There shall be a subcommittee of the Committee which shall be known as the Subcommittee on Women in Science and Engineering. The Subcommittee on Women in Science and Engineering shall have responsibility for all Committee matters relating to (1) the participation in and opportunities for the education, training, and research of women in science and engineering and (2) the impact of science and engineering on women. The Subcommittee shall be composed of all the women members of the Committee and such other members of the Committee as the Committee may designate."

Subsec. (d). Pub. L. 105–207, §202(d)(2)(F), struck out "additional" after "organize such".

Pub. L. 105–207, §202(d)(2)(C), (E), redesignated subsec. (e) as (d) and struck out former subsec. (d)

which read as follows: "There shall be a subcommittee of the Committee which shall be known as the Subcommittee on Minorities in Science and Engineering. The Subcommittee on Minorities in Science and Engineering shall have responsibility for all Committee matters relating to (1) the participation in and opportunities for education, training, and research for minorities in science and engineering and (2) the impact of science and engineering on minorities. The Subcommittee shall be composed of all minority members of the Committee and such other members of the Committee as the Committee may designate."

Subsecs. (e), (f). Pub. L. 105–207, §202(d)(2)(E), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

1988—Subsec. (f). Pub. L. 100–570 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "Each year the Committee shall prepare and transmit to the Director a report concerning its activities during the previous year and its proposed activities for the next year. The Director shall transmit to Congress the report, unaltered, along with comments."

1985—Pub. L. 99–159, §111(b)(8)(A), substituted "Engineering" for "Technology" in section catchline.

Subsec. (a). Pub. L. 99–159 substituted "Engineering" for "Technology" and "scientific, engineering, and professional" for "scientific engineering, professional, and technical".

Subsecs. (c), (d). Pub. L. 99–159, §111(b)(8)(A), substituted "Engineering" for "Technology" and "engineering" for "technology" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973 to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

REPORT BY COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING

Pub. L. 107–368, §20, Dec. 19, 2002, 116 Stat. 3063, provided that: "As part of the first report required by section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)) transmitted to Congress after the date of enactment of this Act [Dec. 19, 2002], the Committee on Equal Opportunities in Science and Engineering shall include—

"(1) a summary of its findings over the previous 10 years;

"(2) a description of past and present policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in science, mathematics, and engineering fields, including activities in support of minority-serving institutions; and

"(3) an assessment of the trends in participation in Foundation activities, and an assessment of the success of Foundation policies and activities, along with proposals for new strategies or the broadening of existing successful strategies toward facilitating the goals of that Act [42 U.S.C. 1885 et seq.]."

[For definitions of terms used in section 20 of Pub. L. 107–368, set out above, see section 4 of Pub. L. 107–368, set out as a note under section 1862n of this title.]

§1885d. Biennial reports

(a) By January 30 of each odd-numbered year, the Director shall simultaneously transmit a report to the Congress, the Attorney General, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Personnel Management, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services.

(b) The report required by subsection (a) shall contain—

(1) an accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of women and men in scientific and engineering positions, including—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and engineering positions by appropriate level or similar category;

(B) the average salary of individuals in such scientific and engineering positions;

(C) the number and type of promotional opportunities realized by individuals in such

scientific and engineering positions;

(D) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(E) the unemployment rate of individuals seeking scientific and engineering positions;

(2) an assessment, including quantitative and other data, of the proportion of women and minorities studying scientific and engineering fields, including mathematics and computer skills, at all educational levels; and

(3) such other data, analyses, and evaluations as the Director, acting on the advice of the Committee on Equal Opportunities in Science and Engineering, determines appropriate to carry out the Foundation's functions as well as the policies and programs of sections 1885 to 1885d of this title.

(Pub. L. 96–516, §37, Dec. 12, 1980, 94 Stat. 3013; Pub. L. 99–159, title I, §111(b)(9), Nov. 22, 1985, 99 Stat. 893; Pub. L. 108–360, title II, §208, Oct. 25, 2004, 118 Stat. 1679.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1885 to 1885d of this title, referred to in subsec. (b)(3), was in the original "this Act", meaning sections 31 et seq. of Pub. L. 96–516, known as the Science and Engineering Equal Opportunities Act, which enacted sections 1885 to 1885d of this title and provisions set out as notes under sections 1861 and 1885 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section was enacted as part of the Science and Engineering Equal Opportunities Act, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–360 substituted "By January 30 of each odd-numbered year" for "By January 30, 1982, and biennially thereafter".

1985—Subsec. (b)(1), (2). Pub. L. 99–159, §111(b)(9)(A), substituted "engineering" for "technical" wherever appearing.

Subsec. (b)(3). Pub. L. 99–159, §111(b)(9)(B), substituted "Engineering" for "Technology".

§1886. Data collection and analysis

The National Science Foundation is authorized to design, establish, and maintain a data collection and analysis capability in the Foundation for the purpose of identifying and assessing the research facilities needs of universities. The needs of universities, by major field of science and engineering, for construction and modernization of research laboratories, including fixed equipment and major research equipment, shall be documented. University expenditures for the construction and modernization of research facilities, the sources of funds, and other appropriate data shall be collected and analyzed. The Foundation, in conjunction with other appropriate Federal agencies, shall conduct the necessary surveys every 2 years and report the results to the Congress. The first report shall be submitted to the Congress by September 1, 1986.

(Pub. L. 99–159, title I, §108, Nov. 22, 1985, 99 Stat. 888.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Science Foundation Authorization Act for Fiscal Year 1986, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

§1886a. Data on specific fields of study

The National Science Foundation shall continue to collect statistically reliable data on the field of degree of college-educated individuals to fulfill obligations under section 1863(j)(1) of this title and the Science and Engineering Equal Opportunities Act [42 U.S.C. 1885 et seq.]. If the Director of the Foundation determines that there is a legal impediment to the continued collection of this data, he shall inform the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after December 30, 2005.

(Pub. L. 109–155, title VII, §721, Dec. 30, 2005, 119 Stat. 2938.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Science and Engineering Equal Opportunities Act, referred to in text, is Part B of Pub. L. 96–516, Dec. 12, 1980, 94 Stat. 3010, which enacted sections 1885 to 1885d of this title and provisions set out as notes under sections 1861 and 1885 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1861 of this title and Tables.

CODIFICATION

Section, formerly classified to section 16831 of this title, was transferred following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

Section was enacted as part of the National Aeronautics and Space Administration Authorization Act of 2005, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§1887. Indemnification of grantees, contractors, and subcontractors under ocean drilling program; approvals and certifications by Director

The Foundation is on and after November 25, 1985, authorized to indemnify grantees, contractors, and subcontractors associated with the ocean drilling program under the provisions of section 3861 of title 10, with all approvals and certifications required thereby made by the Director of the National Science Foundation.

(Pub. L. 99–160, title II, §201, Nov. 25, 1985, 99 Stat. 922; Pub. L. 117–81, div. A, title XVII, §1702(j)(3), Dec. 27, 2021, 135 Stat. 2159.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the National Science Foundation Act of 1950 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriation act: Pub. L. 98–371, title II, §201, July 18, 1984, 98 Stat. 1228.

AMENDMENTS

2021—Pub. L. 117–81 substituted "section 3861" for "section 2354".

CHAPTER 16A—GRANTS FOR SUPPORT OF SCIENTIFIC RESEARCH

§§1891, 1892. Repealed. Pub. L. 95–224, §10(a), Feb. 3, 1978, 92 Stat. 6

Section 1891, Pub. L. 85–934, §1, Sept. 6, 1958, 72 Stat. 1793, authorized the head of each executive agency to make grants for support of scientific research with institutions of higher education, etc. See section 6301 et seq. of Title 31, Money and Finance.

Section 1892, Pub. L. 85–934, §2, Sept. 6, 1958, 72 Stat. 1793, authorized the head of each executive agency to vest title to equipment, where feasible, in institutions of higher education, etc., involved in basic or applied scientific research pursuant to grants.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Section 10(a) of Pub. L. 95–224 provided that sections 1891 and 1892 are repealed effective one year after the date of enactment of Pub. L. 95–224, which was approved Feb. 3, 1978.

REPEALS

Pub. L. 95–224, §10(a), Feb. 3, 1978, 92 Stat. 6, which repealed these sections and provided for the effective date of that repeal was itself repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1083.

§1893. Repealed. Pub. L. 93–608, §1(1), Jan. 2, 1975, 88 Stat. 1967

Section, Pub. L. 85–934, §3, Sept. 6, 1958, 72 Stat. 1793; Pub. L. 94–273, §2(24), Apr. 21, 1976, 90 Stat. 376, required a report to the appropriate committees of Congress by agencies or departments making grants for basic scientific research under this chapter.

CHAPTER 16B—CONTRACTS FOR SCIENTIFIC AND TECHNOLOGICAL RESEARCH

Sec.

1900. Interior Department programs.
1900a. Rules and regulations.
1900b. Amendment, modification, or repeal of authorizations for execution of contracts for research.

§1900. Interior Department programs

(a) Authorization for research contracts

The Secretary of the Interior is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department of the Interior which are authorized by statute.

(b) Capabilities of prospective contractors; advice and assistance, coordination of research, lines of inquiry, and cooperation

The Secretary shall require a showing that the institutions, agencies, organizations, or persons with

which he expects to enter into contracts pursuant to this section have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department of the Interior, participate in coordinating all research initiated under this section, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the United States Department of the Interior, and other Federal agencies.

(c) Research reports or publications

The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems desirable on the research carried out pursuant to this section.

(Pub. L. 89–672, §1, Oct. 15, 1966, 80 Stat. 951; Pub. L. 96–470, title I, §108(a), Oct. 19, 1980, 94 Stat. 2239.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (d). Pub. L. 96–470 struck out subsec. (d) which provided that no contract involving more than $25,000 be executed under subsec. (a) of this section prior to 30 calendar days from the date submitted to the President of the Senate and Speaker of the House of Representatives and the 30 calendar days not include days on which either the Senate or House of Representatives is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die.

§1900a. Rules and regulations

The Secretary shall prescribe such rules and regulations as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 89–672, §2, Oct. 15, 1966, 80 Stat. 951.)

§1900b. Amendment, modification, or repeal of authorizations for execution of contracts for research

Nothing contained in this chapter is intended to amend, modify, or repeal any provisions of law administered by the Secretary of the Interior which authorize the making of contracts for research.

(Pub. L. 89–672, §3, Oct. 15, 1966, 80 Stat. 951.)

CHAPTER 17—FEDERAL EMPLOYMENT SERVICE

§§1901 to 1918. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1901, act June 6, 1933, ch. 49, §1, 48 Stat. 113, which related to establishment of United States Employment Service, was transferred to section 49 of Title 29, Labor.

Section 1902, act June 6, 1933, ch. 49, §2, 48 Stat. 114; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, which related to establishment of officers and employees of the Service, was transferred to section 49a of Title 29.

Section 1903, act June 6, 1933, ch. 49, §3, 48 Stat. 114, which related to promotion and development of national system of employment offices, was transferred to section 49b of Title 29.

Section 1904, act June 6, 1933, ch. 49, §4, 48 Stat. 114, which related to establishment of state agencies, was transferred to section 49c of Title 29.

Section 1905, acts June 6, 1933, ch. 49, §5, 48 Stat. 114; May 10, 1935, ch. 102, 49 Stat. 216; June 29, 1938, ch. 816, 52 Stat. 1244; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to authorization of appropriations, was transferred to section 49d of Title 29.

Section 1906, act June 6, 1933, ch. 49, §6, 48 Stat. 115; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to apportionment among States, was transferred to section 49e of Title 29.

Section 1907, act June 6, 1933, ch. 49, §7, 48 Stat. 115; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to ascertainment of amount due to States and certification thereof to Secretary of the Treasury, was transferred to section 49f of Title 29.

Section 1908, act June 6, 1933, ch. 49, §8, 48 Stat. 115; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to submission of State plans, was transferred to section 49g of Title 29.

Section 1909, act June 6, 1933, ch. 49, §9, 48 Stat. 116; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to reports by State agencies, was transferred to section 49h of Title 29.

Section 1910, act June 6, 1933, ch. 49, §11, 48 Stat. 116; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to establishment of a Federal Advisory Council, was transferred to section 49j of Title 29.

Section 1911, act June 6, 1933, ch. 49, §12, 48 Stat. 117; 1939 Reorg. Plan No. I, §§201, 203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, which related to issuance of rules and regulations, was transferred to section 49k of Title 29.

Section 1912, act Aug. 11, 1939, ch. 693, 53 Stat. 1409, which related to transfer to States of property used by United States Employment Service, was transferred to section 49c–1 of Title 29.

Section 1913, acts July 26, 1946, ch. 672, title I, §101, 60 Stat. 684; June 16, 1948, ch. 472, title I, §101, 62 Stat. 446, which related to Federal employees employed in State and local employment service and their conditions of service, was transferred to section 49c–2 of Title 29 and subsequently omitted from the Code.

Section 1914, act July 26, 1946, ch. 672, title I, §101, 60 Stat. 685, which related to refund of contributions to Federal Retirement System, was transferred to section 49c–3 of Title 29 and was repealed.

Section 1915, acts July 26, 1946, ch. 672, title I, §101, 60 Stat. 685; July 8, 1947, ch. 210, title I, §101, 61 Stat. 263; June 16, 1948, ch. 472, title I, §101, 62 Stat. 446, which related to establishment and maintenance of personnel standards on merit basis, was transferred to section 49c–4 of Title 29 and subsequently omitted from the Code.

Section 1916, acts July 26, 1946, ch. 672, title I, §101, 60 Stat. 686; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; July 8, 1947, ch. 210, title I, §101, 61 Stat. 263; June 16, 1948, ch. 472, title I, §101, 62 Stat. 446, which related to joint budget for grants under this chapter and for certain grants under the Social Security Act, was transferred to section 49c–5 of Title 29 and subsequently omitted from the Code.

Section 1917, act June 16, 1948, ch. 472, title I, §101, 62 Stat. 445, which related to payment to States for administrative expenses, was transferred to section 49m of Title 29 and subsequently omitted from the Code.

Section 1918, act June 16, 1948, ch. 472, title I, §101, 62 Stat. 445, which related to personnel standards, was transferred to section 49n of Title 29 and subsequently omitted from the Code.

CHAPTER 18—YOUTH MEDALS

Sec.

1921. Establishment of medals for bravery; rules and regulations; conditions governing awards.
1922. Establishment of medals for character and service; condition governing awards.
1923. Names of medals; presentation.
1924. Certificate of commendation accompanying awards; limitation on number of yearly

awards.
1925. Omitted.
1926. Authorization of appropriations.

§1921. Establishment of medals for bravery; rules and regulations; conditions governing awards

The Department of Justice be, and it is, authorized and directed to promulgate rules and regulations establishing a medal; the method of selecting such recipient thereof so that an award shall be made to any child residing in the United States, who is eighteen years old or under, who has exhibited exceptional courage, extraordinary decision, presence of mind, and unusual swiftness of action, regardless of his or her own personal safety, in an effort to save or successfully saving the life or lives of any person or persons whose life or lives were in actual imminent danger.

(Aug. 3, 1950, ch. 520, §1, 64 Stat. 397.)

§1922. Establishment of medals for character and service; condition governing awards

The Department of Justice shall also honor by an appropriate medal such American boy or girl citizens, eighteen years old or under, who, in the opinion of the said Department of Justice, shall have achieved outstanding or unusual recognition for character and service during any given year.

(Aug. 3, 1950, ch. 520, §2, 64 Stat. 397.)

§1923. Names of medals; presentation

The medal to be awarded for bravery or valor as defined in section 1921 of this title shall be known as the Young American Medal for Bravery, while the medal for outstanding character and service as defined in section 1922 of this title shall be known as the Young American Medal for Service, and such medals shall be presented personally by the President of the United States for and on behalf, and in the name of the President and the Congress of the United States of America.

(Aug. 3, 1950, ch. 520, §3, 64 Stat. 398.)

§1924. Certificate of commendation accompanying awards; limitation on number of yearly awards

Accompanying such medals designated in this chapter there shall be an appropriate certificate of commendation presented to the recipient or recipients stating (a) the circumstances under which the act of bravery was performed, and (b) citing the outstanding recognition for character and service: *Provided*, That there shall not be awarded in any one calendar year in excess of four such medals, to wit, two for bravery and two for character and service, as herein authorized.

(Aug. 3, 1950, ch. 520, §4, 64 Stat. 398.)

§1925. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Aug. 3, 1950, ch. 520, §5, 64 Stat. 398, which required the Department of Justice to submit an annual report furnishing a list of the names of all those upon whom the President has conferred either the

Young American Medal for Bravery or the Young American Medal for Service, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 6 on page 117 of House Document No. 103–7.

§1926. Authorization of appropriations

It shall also be the duty of the Department of Justice to list in its annual budget request the sum of money necessary to carry out the provisions of this chapter, which sum is authorized in a sum not to exceed $5,000 per annum.

(Aug. 3, 1950, ch. 520, §6, 64 Stat. 398.)

CHAPTER 19—SALINE AND SALT WATERS

SUBCHAPTER I—SALINE WATER DEVELOPMENT PROGRAM

§§1951 to 1958. Repealed. Pub. L. 92–60, §11, July 29, 1971, 85 Stat. 163

Section 1951, acts July 3, 1952, ch. 568, §1, 66 Stat. 328; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 628, stated Congressional policy on conversion of sea and saline waters and defined "saline water" and "United States". See sections 1959 and 1959g(b) and (d) of this title.

Section 1952, acts July 3, 1952, ch. 568, §2, 66 Stat. 328; June 29, 1955, ch. 227, §1(1), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 628; Aug. 11, 1965, Pub. L. 89–118, §1(1), 79 Stat. 509; June 24, 1967, Pub. L. 90–30, §1(b)–(d), 81 Stat. 78, prescribed duties of Secretary of the Interior relating to (a) research and studies for development of processes and methods for converting saline water; (b) research and technical development work for developing processes and plant designs; reports to Congress; and treatment of demonstration projects as test beds; (c) recommendations to Congress for prototype plant; (d) methods for recovery and marketing of byproducts; and (e) economic studies and surveys on water production costs. See sections 1959a and 1959b(b) of this title.

Section 1953, acts July 3, 1952, ch. 568, §3, 66 Stat. 329; June 29, 1955, ch. 227, §1(2), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 628, provided for powers of Secretary of the Interior. See section 1959c of this title.

Section 1954, acts July 3, 1952, ch. 568, §4, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 629, provided for coordination or joint conduct of activities with Department of Defense; cooperation with other Federal agencies; and availability to public of resulting information and developments. See section 1959d of this title.

Section 1955, acts July 3, 1952, ch. 568, §5, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 629, related to disposal of water and byproducts, disposition of moneys and alteration of existing law. See section 1959d(e) and (f) of this title.

Section 1956, acts July 3, 1952, ch. 568, §6, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 629, provided for reports to President and Congress. See section 1959f of this title.

Section 1957, acts July 3, 1952, ch. 568, §7, 66 Stat. 329; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 629, authorized issuance of rules and regulations. See section 1959e of this title.

Section 1958, acts July 3, 1952, ch. 568, §8, 66 Stat. 329; June 29, 1955, ch. 227, §1(3), 69 Stat. 198; Sept. 22, 1961, Pub. L. 87–295, §1, 75 Stat. 629; Aug. 11, 1965, Pub. L. 89–118, §1(2), 79 Stat. 509; June 24, 1967, Pub. L. 90–30, §1(a), 81 Stat. 78; Apr. 29, 1968, Pub. L. 90–297, §1, 82 Stat. 110, authorized appropriations. See section 1959h of this title.

SUBCHAPTER II—SALINE WATER DEMONSTRATION PROGRAM

§§1958a to 1958g. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1958a, Pub. L. 85–883, §1, Sept. 2, 1958, 72 Stat. 1706, which related to demonstration plants for production of consumptive water from saline water, was omitted pursuant to section 1958d of this title.

Section 1958b, Pub. L. 85–883, §2, Sept. 2, 1958, 72 Stat. 1707, which related to contracts for construction, operation, and maintenance of demonstration plants, was omitted pursuant to section 1958d of this title.

Section 1958c, Pub. L. 85–883, §3, Sept. 2, 1958, 72 Stat. 1707, which related to acceptance of assistance from State and public agencies, and contracts for such assistance and its use, was omitted pursuant to section 1958d of this title.

Section 1958d, Pub. L. 85–883, §4, Sept. 2, 1958, 72 Stat. 1707; Pub. L. 87–295, §2, Sept. 22, 1961, 75 Stat. 630, provided for termination of authority of the Secretary to construct, operate, and maintain demonstration plants upon the expiration of twelve years after Sept. 2, 1958.

Section 1958e, Pub. L. 85–883, §5, Sept. 2, 1958, 72 Stat. 1708, which related to additional powers of the Secretary, was omitted pursuant to section 1958d of this title.

Section 1958f, Pub. L. 85–883, §6, Sept. 2, 1958, 72 Stat. 1708, which related to contracts for construction, materials, and supplies, was omitted pursuant to section 1958d of this title.

Section 1958g, Pub. L. 85–883, §7, Sept. 2, 1958, 72 Stat. 1708, which related to authorization of appropriations, was omitted pursuant to section 1958d of this title.

SUBCHAPTER III—SALINE WATER CONVERSION PROGRAM

§§1959 to 1959h. Repealed. Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316

Section 1959, Pub. L. 92–60, §2, July 29, 1971, 85 Stat. 159, set out Congressional findings and policy in enacting conversion of saline water legislation. See section 7831 of this title.

Section 1959a, Pub. L. 92–60, §3, July 29, 1971, 85 Stat. 159, set out general duties of Secretary of the Interior in the area of conversion of saline water. See section 7832 of this title.

Section 1959b, Pub. L. 92–60, §4, July 29, 1971, 85 Stat. 160, set out additional duties of Secretary of the Interior in area of conversion of saline water, such as conducting preliminary investigations, exploring potential cooperative agreements, reporting to the President and Congress, utilizing Federal agencies' expertise and accepting financial assistance from State and other public agencies. See section 7833 of this title.

Section 1959c, Pub. L. 92–60, §5, July 29, 1971, 85 Stat. 160, set out powers of Secretary of the Interior. See section 7871 of this title.

Section 1959d, Pub. L. 92–60, §6, July 29, 1971, 85 Stat. 161, provided for coordination of saline water conversion activities with Department of Defense, cooperation of Secretary of the Interior's activities with the Environmental Protection Agency and other Federal agencies, availability of research information and developments, continued validity of patent rights, publication of rules in the Federal Register, disposal of water and byproducts, dispositions of moneys and nonalteration of existing water ownership and control laws. See sections 7877(a) and 7879 of this title.

Section 1959e, Pub. L. 92–60, §7, July 29, 1971, 85 Stat. 162, authorized Secretary of the Interior to issue rules and regulations. See section 7834 of this title.

Section 1959f, Pub. L. 92–60, §8, July 29, 1971, 85 Stat. 162, required Secretary of the Interior to submit a report to the President and Congress. See section 7880 of this title.

Section 1959g, Pub. L. 92–60, §9, July 29, 1971, 85 Stat. 162, defined terms used in this chapter. See section 7835 of this title.

Section 1959h, Pub. L. 92–60, §10, July 29, 1971, 85 Stat. 162; Pub. L. 95–84, §1(a)(2), Aug. 2, 1977, 91 Stat. 400, authorized appropriations for saline water conversion programs. See sections 7873 and 7874 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 92–60, §1, July 29, 1971, 85 Stat. 159, which provided that Pub. L. 92–60, which enacted sections 1959 to 1959h of this title and repealed sections 1951 to 1958 of this title may be cited as "The Saline Water Conversion Act of 1971" was repealed by Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316.

ANNUAL AUTHORIZATION OF APPROPRIATIONS

Annual authorization for appropriations for the saline water conversion programs for fiscal years authorized by former section 1959h(b) of this title were contained in the following appropriations acts:

Pub. L. 95–84, §1(b), Aug. 2, 1977, 91 Stat. 400.
Pub. L. 94–316, §1, June 22, 1976, 90 Stat. 694.
Pub. L. 94–38, June 19, 1975, 89 Stat. 217.
Pub. L. 93–342, July 10, 1974, 88 Stat. 295.
Pub. L. 92–51, July 1, 1973, 87 Stat. 129.
Pub. L. 92–273, Apr. 17, 1972, 86 Stat. 122.

INVENTIONS—DEFINITION, TITLE, AND LICENSING

Pub. L. 94–316, §3, June 22, 1976, 90 Stat. 694, which provided that relative to the definition of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to the Water Resources Research Act of 1964 (42 U.S.C. 1961 et seq.) or the Saline Water Conversion Act of 1971 (42 U.S.C. 1959 et seq.), and that notwithstanding any other provision of law, the Secretary was to be governed by the provisions of sections 9 and 10 of the Federal Non-nuclear Energy, Research, and Development Act of 1974 (42 U.S.C. 5908, 5909), provided, however, that subsecs. (l) and (n) of section 5908 of this title were not to apply to this act, was omitted in view of the repeal of the Water Resources Research Act of 1964 and the Saline Water Conversion Act of 1971 by Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316.

§1959i. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 95–84, §2, Aug. 2, 1977, 91 Stat. 400, which related to desalting plants, was transferred to section 7836 of this title.

CHAPTER 19A—WATER RESOURCES RESEARCH PROGRAM

GENERAL PROVISIONS

§1961. Repealed. Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316

Section, Pub. L. 88–379, §1(b), July 17, 1964, 78 Stat. 329, set out Congressional purpose in enacting water resources research program legislation. See section 7802 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 88–379, §1(a), July 17, 1964, 78 Stat. 329, provided that Pub. L. 88–379, which enacted sections 1961 to 1961c–8, may be cited as the "Water Resources Research Act of 1964", prior to repeal by Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316.

SUBCHAPTER I—STATE WATER RESOURCES RESEARCH INSTITUTE

§§1961a to 1961a–5. Repealed. Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316

Section 1961a, Pub. L. 88–379, title I, §100, July 17, 1964, 78 Stat. 329; Pub. L. 92–175, §§1–3, Dec. 2, 1971, 85 Stat. 493, related to water resources research institutes. See section 7811 of this title.

Section 1961a–1, Pub. L. 88–379, title I, §101, July 17, 1964, 78 Stat. 330, authorized appropriations for specific water resources research projects, including regional projects. See sections 7815(a) and 7872 of this title.

Section 1961a–2, Pub. L. 88–379, title I, §102, July 17, 1964, 78 Stat. 330; Pub. L. 92–175, §4, Dec. 2, 1971, 85 Stat. 493, set time and amount of payments to institutes, directed that an accounting officer be appointed to each State institute and submit an annual report to Secretary of the Interior, and required that State replace diminished, lost or misapplied funds. See section 7876 of this title.

Section 1961a–3, Pub. L. 88–379, title I, §103, July 17, 1964, 78 Stat. 330, made appropriated funds available for printing and publishing results of research and for the planning, coordinating and conducting of cooperative research. See section 7812 of this title.

Section 1961a–4, Pub. L. 88–379, title I, §104, July 17, 1964, 78 Stat. 331; Pub. L. 89–404, §2, Apr. 19, 1966, 80 Stat. 130, related to powers and duties of Secretary of the Interior. See section 7813 of this title.

Section 1961a–5, Pub. L. 88–379, title I, §105, July 17, 1964, 78 Stat. 331, related to legal relationship of educational institutions and State governments and Federal control or direction of education. See section 7814 of this title.

SUBCHAPTER II—ADDITIONAL WATER RESOURCES RESEARCH PROGRAMS

§1961b. Repealed. Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316

Section, Pub. L. 88–379, title II, §200, July 17, 1964, 78 Stat. 331; Pub. L. 89–404, §1, Apr. 19, 1966, 80 Stat. 129; Pub. L. 92–175, §5, Dec. 2, 1971, 85 Stat. 493; Pub. L. 93–608, §1(17), Jan. 2, 1975, 88 Stat. 1970; Pub. L. 95–84, §1(a)(1), Aug. 2, 1977, 91 Stat. 400, authorized appropriations for research into water problems related to the mission of the Department of the Interior and required that the Secretary's annual report to the President and Congress identify each approved contract and grant award. See section 7815 of this title.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§1961c to 1961c–8. Repealed. Pub. L. 95–467, title IV, §410(a), Oct. 17, 1978, 92 Stat. 1316

Section 1961c, Pub. L. 88–379, title III, §300, July 17, 1964, 78 Stat. 332, related to cooperation of Federal, State and private agencies with Secretary of the Interior who was directed to make information on relevant projects available. See section 7877(a) of this title.

Section 1961c–1, Pub. L. 88–379, title III, §301, July 17, 1964, 78 Stat. 332, related to lack of authority of

Secretary of the Interior over water resources research of other Federal agencies and lack of effect that this chapter had on existing authorities and responsibilities of Federal agencies. See section 7881 of this title.

Section 1961c–2, Pub. L. 88–379, title III, §302, July 17, 1964, 78 Stat. 332, related to advance payments of initial expenses. See section 7818 of this title.

Section 1961c–3, Pub. L. 88–379, title III, §303, July 17, 1964, 78 Stat. 332, made expenditures of funds for scientific or technological research or development activity conditioned upon availability to public of resulting information and developments, and provided that background patent rights would be unaffected. See section 7879 of this title.

Section 1961c–4, Pub. L. 88–379, title III, §304, July 17, 1964, 78 Stat. 332, established a cataloging center. See section 7853 of this title.

Section 1961c–5, Pub. L. 88–379, title III, §305, July 17, 1964, 78 Stat. 332, related to interagency coordination of water resources research. See section 7877(b) of this title.

Section 1961c–6, Pub. L. 88–379, title III, §306, July 17, 1964, 78 Stat. 333; Pub. L. 92–175, §6, Dec. 2, 1971, 85 Stat. 494, defined "State". See section 7817 of this title.

Section 1961c–7, Pub. L. 88–379, title III, §307, as added Pub. L. 89–404, §2, Apr. 19, 1966, 80 Stat. 130, and amended Pub. L. 92–175, §7, Dec. 2, 1971, 85 Stat. 494, required Secretary of the Interior to make an annual report to the President and Congress. See section 7880 of this title.

Section 1961c–8, Pub. L. 88–379, title III, §308, as added Pub. L. 92–175, §8, Dec. 2, 1971, 85 Stat. 494, empowered Secretary of the Interior to convey excess personal property to cooperating institutes, educational institutions and nonprofit organizations. See section 7878 of this title.

CHAPTER 19B—WATER RESOURCES PLANNING

Sec.

1962. Congressional statement of policy.
1962–1. Effect on existing laws.
1962–2. Congressional statement of objectives.
1962–3. Water resources principles and guidelines.
1962–4. Implementation of water resources principles and requirements.

SUBCHAPTER I—WATER RESOURCES COUNCIL

1962a. Establishment; composition; other Federal agency participation; designation of Chairman.
1962a–1. Powers and duties.
1962a–2. Principles, standards, and procedures for Federal projects.
1962a–3. Review of river basin commission plans; report to President and Congress.
1962a–4. Administrative provisions.

SUBCHAPTER II—RIVER BASIN COMMISSIONS

1962b. Creation of commissions; powers and duties.
1962b–1. Membership of commissions; appointment of chairman.
1962b–2. Organization of commissions.
1962b–3. Duties of commissions.
1962b–4. Administrative provisions.
1962b–5. Compensation of members and chairmen.
1962b–6. Expenses of commissions.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

1962c. Authorization of appropriations; coordination of related Federal planning assistance programs; utilization of Federal agencies administering programs contributing to water resources planning.
1962c–1. Allotments to States: basis, population and land area determinations; payments to States: amount.
1962c–2. State programs; approval by Council; submission; requirements; notice and hearing prior to disapproval.

1962c–3. Noncompliance; curtailing of payments.
1962c–4. Payments to States; computation of amount.
1962c–5. "State" defined.
1962c–6. Records; audit and examination.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

1962d. Authorization of appropriations to the Water Resources Council.
1962d–1. Rules and regulations.
1962d–2. Delegation of functions.
1962d–3. Utilization of personnel.
1962d–4. Northeastern United States water supply.
1962d–5. Water resources development projects involving navigation, flood control, and shore protection.
1962d–5a. Reimbursement to States.
1962d–5b. Written agreement requirement for water resources projects.
1962d–5c. Non-Federal public bodies, installment construction payments.
1962d–5d. Authorization of Secretary of the Army to contract with States and political subdivisions for increased law enforcement services during peak visitation periods; authorization of appropriations.
1962d–5e. Wetland areas.
1962d–5f. Beach nourishment.
1962d–5g. Hydroelectric power resources.
1962d–6. Feasibility studies; acceleration; advancement of costs by non-Federal sources.
1962d–7. Delmarva Peninsula hydrologic study; duties of Secretary of the Interior.
1962d–8. Reports on Delmarva Peninsula hydrologic study.
1962d–9. Information from Federal agencies for Delmarva Peninsula study.
1962d–10. Cooperation with agencies on Delmarva Peninsula study.
1962d–11. Authorization of appropriation for Delmarva Peninsula study.
1962d–11a. Potomac River water diversion structure.
1962d–11b. Dalecarlia Reservoir; delivery of water to metropolitan Maryland; expenses; payments; purchase of water from State or local authorities in Maryland or Virginia.
1962d–12 to 1962d–14. Repealed.
1962d–14a. Alaska hydroelectric power development.
1962d–15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States.
1962d–16. Comprehensive plans for development, utilization, and conservation of water and related resources.
1962d–17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation.
1962d–18. Study of depletion of natural resources of regions of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska utilizing Ogallala aquifer; plans; reports to Congress; authorization of appropriation.
1962d–19. Cooperation of Secretary of the Interior with State and local regulatory and law enforcement officials in enforcement of laws or ordinances in connection with Federal resource protection, etc., within Federal water resource development project; funding.
1962d–20. Prohibition on Great Lakes diversions.
1962d–21. John Glenn Great Lakes basin program.
1962d–22. Great Lakes fishery and ecosystem restoration.

§1962. Congressional statement of policy

In order to meet the rapidly expanding demands for water throughout the Nation, it is hereby declared to be the policy of the Congress to encourage the conservation, development, and utilization

of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned.

(Pub. L. 89–80, §2, July 22, 1965, 79 Stat. 244.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–251, title I, §109, Mar. 16, 1974, 88 Stat. 49, provided that: "This title [enacting sections 1962d–5c and 1962d–15 to 1962d–17 of this title, section 460ee of Title 16, Conservation, and sections 59c–2, 59k, 579, 701b–11, and 1252a of Title 33, Navigation and Navigable Waters, amending section 4482 of this title, sections 460l–13(a), (a)(3) and 460l–14(b)(1) of Title 16, section 275a of Title 22, Foreign Relations and Intercourse, and sections 701g, 701n, 701r, 701r–1(c), 701s, 709a(b), and 1165a(d) of Title 33, and enacting provisions set out as notes under sections 1962d–5 and 1962d–7 of this title and section 460l–13 of Title 16] may be cited as the 'Water Resources Development Act of 1974'."

SHORT TITLE

Pub. L. 89–80, §1, July 22, 1965, 79 Stat. 244, provided that: "This Act [enacting this chapter] may be cited as the 'Water Resources Planning Act'."

WATER REUSE INTERAGENCY WORKING GROUP

Pub. L. 117–58, div. E, title II, §50218, Nov. 15, 2021, 135 Stat. 1179, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Nov. 15, 2021], the Administrator [of the Environmental Protection Agency] shall establish a Water Reuse Interagency Working Group (referred to in this section as the 'Working Group').

"(b) PURPOSE.—The purpose of the Working Group is to develop and coordinate actions, tools, and resources to advance water reuse across the United States, including through the implementation of the February 2020 National Water Reuse Action Plan, which creates opportunities for water reuse in the mission areas of each of the Federal agencies included in the Working Group under subsection (c) (referred to in this section as the 'Action Plan').

"(c) CHAIRPERSON; MEMBERSHIP.—The Working Group shall be—

"(1) chaired by the Administrator; and

"(2) comprised of senior representatives from such Federal agencies as the Administrator determines to be appropriate.

"(d) DUTIES OF THE WORKING GROUP.—In carrying out this section, the Working Group shall—

"(1) with respect to water reuse, leverage the expertise of industry, the research community, nongovernmental organizations, and government;

"(2) seek to foster water reuse as an important component of integrated water resources management;

"(3) conduct an assessment of new opportunities to advance water reuse and annually update the Action Plan with new actions, as necessary, to pursue those opportunities;

"(4) seek to coordinate Federal programs and policies to support the adoption of water reuse;

"(5) consider how each Federal agency can explore and identify opportunities to support water reuse through the programs and activities of that Federal agency; and

"(6) consult, on a regular basis, with representatives of relevant industries, the research community, and nongovernmental organizations.

"(e) REPORT.—Not less frequently than once every 2 years, the Administrator shall submit to Congress a report on the activities and findings of the Working Group.

"(f) SUNSET.—

"(1) IN GENERAL.—Subject to paragraph (2), the Working Group shall terminate on the date that is 6 years after the date of enactment of this Act.

"(2) EXTENSION.—The Administrator may extend the date of termination of the Working Group under paragraph (1)."

UNITED STATES-MEXICO TRANSBOUNDARY AQUIFER ASSESSMENT

Pub. L. 109–448, Dec. 22, 2006, 120 Stat. 3328, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'United States-Mexico Transboundary Aquifer Assessment Act'.

"SEC. 2. PURPOSE.

"The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to systematically assess priority transboundary aquifers.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) AQUIFER.—The term 'aquifer' means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

"(2) IBWC.—The term 'IBWC' means the International Boundary and Water Commission, an agency of the Department of State.

"(3) INDIAN TRIBE.—The term 'Indian tribe' means an Indian tribe, band, nation, or other organized group or community—

"(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

"(4) PARTICIPATING STATE.—The term 'Participating State' means each of the States of Arizona, New Mexico, and Texas.

"(5) PRIORITY TRANSBOUNDARY AQUIFER.—The term 'priority transboundary aquifer' means a transboundary aquifer that has been designated for study and analysis under the program.

"(6) PROGRAM.—The term 'program' means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

"(7) RESERVATION.—The term 'reservation' means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

"(9) TRANSBOUNDARY AQUIFER.—The term 'transboundary aquifer' means an aquifer that underlies the boundary between a Participating State and Mexico.

"(10) TRI-REGIONAL PLANNING GROUP.—The term 'Tri-Regional Planning Group' means the binational planning group comprised of—

"(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

"(B) the El Paso Water Utilities Public Service Board; and

"(C) the Lower Rio Grande Water Users Organization.

"(11) WATER RESOURCES RESEARCH INSTITUTES.—The term 'water resources research institutes' means the institutes within the Participating States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

"SEC. 4. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Participating States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, and the IBWC, as appropriate, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model priority transboundary aquifers along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

"(b) OBJECTIVES.—The objectives of the program are to—

"(1) develop and implement an integrated scientific approach to identify and assess priority transboundary aquifers, including—

"(A) for purposes of subsection (c)(2), specifying priority transboundary aquifers for further analysis by assessing—

"(i) the proximity of a proposed priority transboundary aquifer to areas of high population density;

"(ii) the extent to which a proposed priority transboundary aquifer would be used;

"(iii) the susceptibility of a proposed priority transboundary aquifer to contamination; and

"(iv) any other relevant criteria;

"(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

"(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

"(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

"(i) the additional data necessary to adequately define aquifer characteristics; and

"(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

"(2) consider the expansion or modification of existing agreements, as appropriate, between the United States Geological Survey, the Participating States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

"(A) conduct joint scientific investigations;

"(B) archive and share relevant data; and

"(C) carry out any other activities consistent with the program; and

"(3) produce scientific products for each priority transboundary aquifer that—

"(A) are capable of being broadly distributed; and

"(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

"(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

"(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

"(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

"(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

"(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

"(2) ADDITIONAL AQUIFERS.—The Secretary may, using the criteria under subsection (b)(1)(A), evaluate and designate additional priority transboundary aquifers which underlie New Mexico or Texas.

"(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of priority transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

"(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Participating State entities to carry out the program.

"SEC. 5. IMPLEMENTATION OF PROGRAM.

"(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

"(1) the appropriate water resource agencies in the Participating States;

"(2) any affected Indian tribes;

"(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer; and

"(4) the IBWC, as appropriate.

"(b) NEW ACTIVITY.—After the date of enactment of this Act [Dec. 22, 2006], the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Participating State water resource agencies that have jurisdiction over the aquifer.

"(c) STUDY PLANS; COST ESTIMATES.—

"(1) IN GENERAL.—The Secretary shall work closely with appropriate Participating State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

"(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

"(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

"(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

"(C) be consistent with appropriate State guidelines and goals.

"SEC. 6. EFFECT.

"(a) IN GENERAL.—Nothing in this Act affects—

"(1) the jurisdiction or responsibility of a Participating State with respect to managing surface or groundwater resources in the Participating State;

"(2) the water rights of any person or entity using water from a transboundary aquifer; or

"(3) State water law, or an interstate compact or international treaty governing water.

"(b) TREATY.—Nothing in this Act shall delay or alter the implementation or operation of any works constructed, modified, acquired, or used within the territorial limits of the United States relating to the waters governed by the Treaty Between the United States and Mexico Regarding Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Series 994 (59 Stat. 1219).

"SEC. 7. REPORTS.

"Not later than 5 years after the date of enactment of this Act [Dec. 22, 2006], and on completion of the program in fiscal year 2016, the Secretary shall submit to the appropriate water resource agency in the Participating States, an interim and final report, respectively, that describes—

"(1) any activities carried out under the program;

"(2) any conclusions of the Secretary relating to the status of priority transboundary aquifers; and

"(3) the level of participation in the program of entities in Mexico.

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2007 through 2016.

"(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

"(c) CRITERIA.—Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

"SEC. 9. SUNSET OF AUTHORITY.

"The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of enactment of this Act [Dec. 22, 2006]."

WATERSHED PROTECTION AND FLOOD PREVENTION PROJECTS EXEMPT FROM REQUIREMENTS FOR INDEPENDENT WATER PROJECT REVIEW

Provisions exempting watershed projects under the Watershed Protection and Flood Prevention Act, Aug. 4, 1954, ch. 656, 68 Stat. 666, which is classified generally to chapter 18 (§1001 et seq.) of Title 16, Conservation, from the requirements of Executive Orders 12113 and 12141, formerly set out below, were contained in the following appropriation acts:

Pub. L. 97–370, title VI, §619, Dec. 18, 1982, 96 Stat. 1811.

Pub. L. 97–103, title VI, §619, Dec. 23, 1981, 95 Stat. 1490.

Pub. L. 96–528, title VI, §622, Dec. 15, 1980, 94 Stat. 3118.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12113

Ex. Ord. No. 12113, Jan. 4, 1979, 44 F.R. 1955, as amended by Ex. Ord. No. 12141, June 5, 1979, 44 F.R. 32635, which provided for independent review of Federal water resources programs and projects by the Water Resources Council, was revoked by section 4 of Ex. Ord. No. 12322, Sept. 17, 1981, 46 F.R. 46561, set out below.

EX. ORD. NO. 12322. WATER RESOURCES PROGRAMS AND PROJECTS REVIEW

Ex. Ord. No. 12322, Sept. 17, 1981, 46 F.R. 46561, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to ensure efficient and coordinated planning and review of water resources programs and projects, it is hereby ordered as follows:

SECTION 1. Before any agency or officer thereof submits to the Congress, or to any committee or member thereof, for approval, appropriations, or legislative action any report, proposal, or plan relating to a Federal or Federally assisted water and related land resources project or program, such report, proposal, or plan shall be submitted to the Director of the Office of Management and Budget.

SEC. 2. The Director of the Office of Management and Budget shall examine each report, proposal, or plan for consistency with, and shall advise the agency of the relationship of the project to, the following:

(a) the policy and programs of the President;

(b) the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies or other such planning guidelines for water and related land resources planning, as shall hereafter be issued; and

(c) other applicable laws, regulations, and requirements relevant to the planning process.

SEC. 3. When such report, proposal, or plan is thereafter submitted to the Congress, or to any committee or member thereof, it shall include a statement of the advice received from the Office of Management and Budget.

SEC. 4. Executive Order No. 12113, as amended [formerly set out above], is revoked.

RONALD REAGAN.

EX. ORD. NO. 13956. MODERNIZING AMERICA'S WATER RESOURCE MANAGEMENT AND WATER INFRASTRUCTURE

Ex. Ord. No. 13956, Oct. 13, 2020, 85 F.R. 65647, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. Abundant, safe, and reliable supplies of water are critical to quality of life for all Americans, fueling our economy, providing food for our citizens and the world, generating energy, protecting public health, supporting rich and diverse wildlife and plant species, and affording recreational opportunities. While America is blessed with abundant natural resources, those resources must be effectively managed, and our water infrastructure must be modernized to meet the needs of current and future generations.

Executive departments and agencies (agencies) that engage in water-related matters, including water storage and supply, water quality and restoration activities, water infrastructure, transportation on our rivers and inland waterways, and water forecasting, must work together where they have joint or overlapping responsibilities. This order will ensure that agencies do that more efficiently and effectively to improve our country's water resource management, modernize our water infrastructure, and prioritize the availability of clean, safe, and reliable water supplies.

SEC. 2. *Policy*. It is the policy of the United States to:

(a) Improve coordination among agencies on water resource management and water infrastructure issues;

(b) Reduce unnecessary duplication across the Federal Government by coordinating and consolidating existing water-related task forces, working groups, and other formal cross-agency initiatives, as appropriate;

(c) Efficiently and effectively manage America's water resources and promote resilience of America's water-related infrastructure;

(d) Promote integrated planning among agencies for Federal investments in water-related infrastructure; and

(e) Support workforce development and efforts to recruit, train, and retain professionals to operate and maintain America's essential drinking water, wastewater, flood control, hydropower, and delivery and storage facilities.

SEC. 3. *Interagency Water Subcabinet*. To promote efficient and effective coordination across agencies engaged in water-related matters, and to prioritize actions to modernize and safeguard our water resources and infrastructure, an interagency Water Policy Committee (to be known as the Water Subcabinet) is hereby established. The Water Subcabinet shall be co-chaired by the Secretary of the Interior and the Administrator of the Environmental Protection Agency (Co-Chairs), and shall include the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, the Secretary of the Army, and the heads of such other agencies as the Co-Chairs deem appropriate. The Department of the Interior or the Environmental Protection Agency (EPA) shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative support as needed for the Water Subcabinet to implement this order.

SEC. 4. *Reducing Inefficiencies and Duplication*. Currently, hundreds of Federal water-related task forces, working groups, and other formal cross-agency initiatives (Federal interagency working groups) exist to address water resource management. Within 90 days of the date of this order [Oct. 13, 2020], the Water Subcabinet shall, to the extent practicable, identify all such Federal interagency working groups and provide recommendations to the Chairman of the Council on Environmental Quality (CEQ), the Director of the Office of Management and Budget (OMB), and the Director of the Office of Science and Technology Policy (OSTP)

on coordinating and consolidating these Federal interagency working groups, as appropriate and consistent with applicable law.

SEC. 5. *Improving Water Resource Management*. Federal agencies engage in a wide range of activities relating to water resource management. Within 120 days of the date of this order, the Water Subcabinet shall submit to the Chairman of CEQ, the Director of OMB, and the Director of OSTP a report that recommends actions to address the issues described below, and for each recommendation identifies a lead agency, other relevant agencies, and agency milestones for fiscal years 2021 through 2025:

(a) Actions to increase water storage, water supply reliability, and drought resiliency, including through:

(i) developing additional storage capacity, including an examination of operational changes and opportunities to update dam water control manuals for existing facilities during routine operations, maintenance, and safety assessments;

(ii) coordinating agency reviews when there are multi-agency permitting and other regulatory requirements;

(iii) increasing engagement with State, local, and tribal partners regarding the ongoing drought along the Colorado River and regarding irrigated agriculture in the Colorado Basin;

(iv) implementing the "Priority Actions Supporting Long-Term Drought Resilience" document issued on July 31, 2019, by the National Drought Resilience Partnership; and

(v) improving coordination among State, local, tribal, and territorial governments and rural communities, including farmers, ranchers, and landowners, to develop voluntary, market-based water and land management practices and programs that improve conservation efforts, economic viability, and water supply, sustainability, and security;

(b) Actions to improve water quality, source water protection, and nutrient management; to promote restoration activities; and to examine water quality challenges facing our Nation's minority and low-income communities, including through:

(i) implementing the "Great Lakes Restoration Initiative (GLRI) Action Plan III" issued on October 22, 2019, by the EPA for the GLRI Interagency Task Force and Regional Working Group, established pursuant to the Water Infrastructure Improvements for the Nation Act (Public Law 114–322);

(ii) enhancing coordination among the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force partners to support State implementation of nutrient reduction strategies;

(iii) increasing coordination between agencies and members of the South Florida Ecosystem Restoration Task Force, established pursuant to the Water Resources Development Act of 1996 (Public Law 104–303), and implementing and completing the activities included in the Comprehensive Everglades Restoration Plan, established pursuant to the Water Resources Development Act of 2000 (Public Law 106–541); and

(iv) continuing implementation of the EPA's memorandum entitled "Updating the Environmental Protection Agency's Water Quality Trading Policy to Promote Market-Based Mechanisms for Improving Water Quality" issued on February 6, 2019;

(c) Actions to improve water systems, including for drinking water, desalination, water reuse, wastewater, and flood control, including through:

(i) finalizing and implementing, as appropriate and consistent with applicable law, the proposed rule entitled "National Primary Drinking Water Regulations: Proposed Lead and Copper Rule Revisions," 84 Fed. Reg. 61684 (Nov. 13, 2019);

(ii) implementing the "National Water Reuse Action Plan" issued on February 27, 2020, by the EPA;

(iii) coordinating with the Federal Interagency Floodplain Management Task Force, established pursuant to the National Flood Insurance Act of 1968 ([title XIII of] Public Law 90–448 [42 U.S.C. 4001 et seq.]), on Federal flood risk management policies and programs to better support community needs; and

(iv) continuing coordination among agencies concerning the Department of Energy's Water Security Grand Challenge to advance transformational technology and innovation to provide safe, secure, and affordable water; and

(d) Actions to improve water data management, research, modeling, and forecasting, including through:

(i) aligning efforts and developing research plans among the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the National Oceanic and Atmospheric Administration, and the Secretary of the Army, through the Assistant Secretary of the Army (Civil Works), to ensure that America remains a global leader for water-related science and technology capabilities;

(ii) implementing common methods of water forecasting, including the use of snow monitoring tools, on a national and basin scale, supported by weather forecasting on all scales;

(iii) developing state-of-the-art geospatial data tools, including maps, through Federal, State, tribal, and territorial partnerships to depict the scope of waters regulated under the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500); and

(iv) implementing actions identified in the "Federal Action Plan for Improving Forecasts of Water

Availability" issued on October 18, 2019, by the Department of the Interior and the Department of Commerce pursuant to section 3 of the Presidential Memorandum of October 19, 2018 (Promoting the Reliable Supply and Delivery of Water in the West) [33 U.S.C. 2201 note].

SEC. 6. *Report*. Within 1 year of submitting the report required by section 5 of this order, and annually thereafter, the Water Subcabinet shall update the Chairman of CEQ, the Director of OMB, and the Director of OSTP on the status of the actions identified in the report.

SEC. 7. *Integrated Infrastructure Planning*. Agencies oversee a number of programs to enhance coordination of cross-agency water infrastructure planning and to protect taxpayer investments. Within 150 days of the date of this order, the Water Subcabinet shall identify and recommend actions and priorities to the Director of OMB, the Chairman of CEQ, and the Assistant to the President for Economic Policy to support integrated planning and coordination among agencies to maintain and modernize our Nation's water infrastructure, including for drinking water, desalination, water reuse, wastewater, irrigation, flood control, transportation on our rivers and inland waterways, and water storage and conveyance. The recommendations shall consider water infrastructure programs that are funded by the Department of Defense through the Army Corps of Engineers, and by the Department of the Interior, the Department of Agriculture, the Department of Energy, the EPA, the Federal Emergency Management Agency, the Economic Development Administration, and other agencies, as appropriate. Such programs include the EPA's Water Infrastructure Finance and Innovation Act program, established pursuant to the Water Resources Reform and Development Act of 2014 (Public Law 113–121) and amended by the America's Water Infrastructure Act of 2018 (Public Law 115–270), which modernizes the aging water infrastructure of the United States, improves public health protections, and creates jobs; the Department of Agriculture's rural development programs, which make and support investments in water infrastructure; and the Department of Agriculture's Natural Resources Conservation Service programs, which promote source water protection, improve water quality, and assist with developing new water infrastructure projects.

SEC. 8. *Water Sector Workforce*. Trained water-sector professionals are vital to protecting public health and the environment through strategic planning, operation and maintenance of treatment facilities, and implementation of water management programs. Within 150 days of the date of this order, the Water Subcabinet, in consultation with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of Veterans Affairs, and the heads of other agencies, as appropriate, shall identify actions and develop recommendations to improve interagency coordination and provide assistance and technical support to State, local, tribal, and territorial governments in order to enhance the recruitment, training, and retention of water professionals within drinking water, desalination, water reuse, wastewater, flood control, hydropower, and delivery and storage sectors. Such recommendations shall be submitted to the Chairman of CEQ, the Assistant to the President for Domestic Policy, the Assistant to the President for Economic Policy, and the Chairman of the Council of Economic Advisers.

SEC. 9. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§1962–1. Effect on existing laws

Nothing in this chapter shall be construed—

(a) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this chapter

with respect to the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this chapter; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;

(d) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission.

(Pub. L. 89–80, §3, July 22, 1965, 79 Stat. 244.)

EDITORIAL NOTES

REFERENCES IN TEXT

The International Joint Commission, United States and Canada, referred to in subsec. (c), was organized in 1911 pursuant to article VII of the treaty of January 11, 1909, with Great Britain, 36 Stat. 2448. Provisions relating to such Commission are contained in sections 267b and 268 of Title 22, Foreign Relations and Intercourse.

§1962–2. Congressional statement of objectives

It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in federally financed water resource projects (including shore protection projects such as projects for beach nourishment, including the replacement of sand), and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

(Pub. L. 91–611, title II, §209, Dec. 31, 1970, 84 Stat. 1829; Pub. L. 104–303, title II, §227(f), Oct. 12, 1996, 110 Stat. 3703.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as a part of the Flood Control Act of 1970 and not as a part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1996—Pub. L. 104–303 inserted "(including shore protection projects such as projects for beach nourishment, including the replacement of sand)" after "water resource projects".

§1962–3. Water resources principles and guidelines

(a) National water resources planning policy

It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by—

(1) seeking to maximize sustainable economic development;

(2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing

adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and

(3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

(b) Principles and guidelines

(1) Principles and guidelines defined

In this subsection, the term "principles and guidelines" means the principles and guidelines contained in the document prepared by the Water Resources Council pursuant to section 1962a–2 of this title, entitled "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies", and dated March 10, 1983.

(2) In general

Not later than 2 years after November 8, 2007, the Secretary shall issue revisions, consistent with paragraph (3), to the principles and guidelines for use by the Secretary in the formulation, evaluation, and implementation of water resources projects.

(3) Considerations

In developing revisions to the principles and guidelines under paragraph (2), the Secretary shall evaluate the consistency of the principles and guidelines with, and ensure that the principles and guidelines address, the following:

(A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.

(B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.

(C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.

(D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.

(E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.

(F) Evaluation methods that ensure that water resources projects are justified by public benefits.

(4) Consultation and public participation

In carrying out paragraph (2), the Secretary shall—

(A) consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, the National Academy of Sciences, and the Council on Environmental Quality; and

(B) solicit and consider public and expert comments.

(5) Publication

The Secretary shall—

(A) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives copies of—

(i) the revisions to the principles and guidelines for use by the Secretary; and

(ii) an explanation of the intent of each revision, how each revision is consistent with this section, and the probable impact of each revision on water resources projects carried out by the Secretary; and

(B) make the revisions to the principles and guidelines for use by the Secretary available to the public, including on the Internet.

(6) Effect

Subject to the requirements of this subsection, the principles and guidelines as revised under this subsection shall apply to water resources projects carried out by the Secretary instead of the principles and guidelines for such projects in effect on the day before November 8, 2007.

(7) Applicability

After the date of issuance of the revisions to the principles and guidelines, the revisions shall apply—

(A) to all water resources projects carried out by the Secretary, other than projects for which the Secretary has commenced a feasibility study before the date of such issuance;

(B) at the request of a non-Federal interest, to a water resources project for which the Secretary has commenced a feasibility study before the date of such issuance; and

(C) to the reevaluation or modification of a water resources project, other than a reevaluation or modification that has been commenced by the Secretary before the date of such issuance.

(8) Existing studies

Revisions to the principles and guidelines issued under paragraph (2) shall not affect the validity of any completed study of a water resources project.

(9) Recommendation

Upon completion of the revisions to the principles and guidelines for use by the Secretary, the Secretary shall make a recommendation to Congress as to the advisability of repealing subsections (a) and (b) of section 1962d–17 of this title.

(Pub. L. 110–114, title II, §2031, Nov. 8, 2007, 121 Stat. 1082.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the Water Resources Planning Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110–114, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

§1962–4. Implementation of water resources principles and requirements

(a) In general

Not later than 180 days after December 27, 2020, the Secretary shall issue final agency-specific procedures necessary to implement the principles and requirements and the interagency guidelines.

(b) Development of future water resources development projects

The procedures required by subsection (a) shall ensure that the Secretary, in the formulation of future water resources development projects—

(1) develops such projects in accordance with—

(A) the guiding principles established by the principles and requirements; and

(B) the national water resources planning policy established by section 1962–3(a) of this title; and

(2) fully identifies and analyzes national economic development benefits, regional economic development benefits, environmental quality benefits, and other societal effects.

(c) Review and update

Every 5 years, the Secretary shall review and, where appropriate, revise the procedures required by subsection (a).

(d) Public review, notice, and comment

In issuing, reviewing, and revising the procedures required by this section, the Secretary shall—

(1) provide notice to interested non-Federal stakeholders of the Secretary's intent to revise the procedures;

(2) provide opportunities for interested non-Federal stakeholders to engage with, and provide input and recommendations to, the Secretary on the revision of the procedures; and

(3) solicit and consider public and expert comments.

(e) Definitions

In this section:

(1) Interagency guidelines

The term "interagency guidelines" means the interagency guidelines contained in the document finalized by the Council on Environmental Quality pursuant to section 1962–3 of this title in December 2014, to implement the principles and requirements.

(2) Principles and requirements

The term "principles and requirements" means the principles and requirements contained in the document prepared by the Council on Environmental Quality pursuant to section 1962–3 of this title, entitled "Principles and Requirements for Federal Investments in Water Resources", and dated March 2013.

(Pub. L. 116–260, div. AA, title I, §110, Dec. 27, 2020, 134 Stat. 2624.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as a part of the Water Resources Development Act of 2020, and not as a part of the Water Resources Planning Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116–260, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

SUBCHAPTER I—WATER RESOURCES COUNCIL

§1962a. Establishment; composition; other Federal agency participation; designation of Chairman

There is hereby established a Water Resources Council (hereinafter referred to as the "Council") which shall be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and the Secretary of Energy. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President.

(Pub. L. 89–80, title I, §101, July 22, 1965, 79 Stat. 245; Pub. L. 94–112, §1(a), Oct. 16, 1975, 89 Stat. 575; Pub. L. 95–91, title III, §301(b), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 578, 606, 607.)

EDITORIAL NOTES

AMENDMENTS

1975—Pub. L. 94–112 included in the membership of the Water Resources Council, the Secretaries of Commerce, Housing and Urban Development, and Transportation and the Administrator of the Environmental Protection Agency, and terminated the membership for the Secretary of Health, Education, and Welfare.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Chairman of the Federal Power Commission" in text pursuant to sections 301(b), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(b), 7293, and 7297 of this title, and which terminated the Federal Power Commission and transferred its functions and functions of Chairman thereof (with certain exceptions) to the Secretary of Energy.

NATIONAL WATER COMMISSION

Pub. L. 90–515, Sept. 26, 1968, 82 Stat. 868, provided for establishment of National Water Commission, its membership, chairman, compensation, powers, duties, and functions, required Commission to review national water resource problems and submit interim and final reports, and provided that Commission terminate no later than five years from Sept. 26, 1968.

§1962a–1. Powers and duties

The Council shall—

(a) maintain a continuing study and prepare an assessment biennially, or at such less frequent intervals as the Council may determine, of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and the national interest therein; and

(b) maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs.

(Pub. L. 89–80, title I, §102, July 22, 1965, 79 Stat. 245.)

§1962a–2. Principles, standards, and procedures for Federal projects

(a) Establishment, consultation, revision

The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission.

(b) Economic evaluation; primary criterion

The Council shall develop standards and criteria for economic evaluation of water resource

projects. For the purpose of those standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway. "Savings to shippers" means the difference between (1) the freight rates or charges prevailing at the time of the study for the movement by the alternative means, and (2) those which would be charged on the proposed waterway. Estimated traffic that would use the waterway will be based on those freight rates, taking into account projections of the economic growth of the area.

(Pub. L. 89–80, title I, §103, July 22, 1965, 79 Stat. 245; Pub. L. 97–449, §4(a), Jan. 12, 1983, 96 Stat. 2441.)

EDITORIAL NOTES

AMENDMENTS

1983—Pub. L. 97–449 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

COMPUTATION OF PRICES FOR AGRICULTURAL COMMODITIES FOR USE IN EVALUATION OF WATER RESOURCES DEVELOPMENT PROJECTS

Pub. L. 100–460, title VI, §632, Oct. 1, 1988, 102 Stat. 2262, provided that: "Hereafter, none of the funds appropriated in this or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986."

Similar provisions were contained in Pub. L. 100–202, §101(k) [title VI, §634], Dec. 22, 1987, 101 Stat. 1329–322, 1329–357.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Chairman of Water Resources Council, see Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, as amended, set out as a note under section 1962a–3 of this title.

§1962a–3. Review of river basin commission plans; report to President and Congress

Upon receipt of a plan or revision thereof from any river basin commission under the provisions of section 1962b–3(3) of this title, the Council shall review the plan or revision with special regard to—

(1) the efficacy of such plan or revision in achieving optimum use of the water and related land resources in the area involved;

(2) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and

(3) the contributions which such plan or revision will make in obtaining the Nation's economic and social goals.

Based on such review the Council shall—

(a) formulate such recommendations as it deems desirable in the national interest; and

(b) transmit its recommendations, together with the plan or revision of the river basin commission and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or United States section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects.

(Pub. L. 89–80, title I, §104, July 22, 1965, 79 Stat. 245.)

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11747. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11747, eff. Nov. 7, 1973, 38 F.R. 30993, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

The Chairman of the Water Resources Council is designated and empowered to exercise, without the approval, ratification, or other action of the President, the approval function for standards and procedures vested in the President by section 103 of the Water Resources Planning Act, as amended (42 U.S.C. 1962a–2).

§1962a–4. Administrative provisions

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel; consultants; motor vehicles; necessary expenses; other powers

For the purpose of carrying out the provisions of this chapter, the Council may: (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable, in accordance with the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5; (5) procure services as authorized by section 3109 of title 5, at rates not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

(b) Oaths

Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

(c) Records; public inspection

To the extent permitted by law, all appropriate records and papers of the Council may be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies

Upon request of the Council, the head of any Federal department or agency is authorized (1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Council on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds

The Council shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditures of funds.

(Pub. L. 89–80, title I, §105, July 22, 1965, 79 Stat. 246; Pub. L. 94–112, §1(b), Oct. 16, 1975, 89 Stat. 575.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "Classification Act of 1949, as amended" and "section 3109 of title 5" substituted for "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)", on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (a)(5). Pub. L. 94–112 substituted "not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 in the case of individual experts or consultants" for "not to exceed $100 per diem for individuals".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SUBCHAPTER II—RIVER BASIN COMMISSIONS

§1962b. Creation of commissions; powers and duties

(a) The President is authorized to declare the establishment of a river basin water and related land resources commission upon request therefor by the Council, or request addressed to the Council by a State within which all or part of the basin or basins concerned are located if the request by the Council or by a State (1) defines the area, river basin, or group of related river basins for which a commission is requested, (2) is made in writing by the Governor or in such manner as State law may provide, or by the Council, and (3) is concurred in by the Council and by not less than one-half of the States within which portions of the basin or basins concerned are located and, in the event the Upper Colorado River Basin is involved, by at least three of the four States of Colorado, New Mexico, Utah, and Wyoming or, in the event the Columbia River Basin is involved, by at least three of the four States of Idaho, Montana, Oregon, and Washington. Such concurrences shall be in writing.

(b) Each such commission for an area, river basin, or group of river basins shall, to the extent consistent with section 1962–1 of this title—

(1) serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernmental plans for the development of water and related land resources in its area, river basin, or group of river basins;

(2) prepare and keep up to date, to the extent practicable, a comprehensive, coordinated, joint plan for Federal, State, interstate, local and nongovernmental development of water and related resources: *Provided*, That the plan shall include an evaluation of all reasonable alternative means of achieving optimum development of water and related land resources of the basin or basins, and it may be prepared in stages, including recommendations with respect to individual projects;

(3) recommend long-range schedules of priorities for the collection and analysis of basic data and for investigation, planning, and construction of projects; and

(4) foster and undertake such studies of water and related land resources problems in its area, river basin, or group of river basins as are necessary in the preparation of the plan described in clause (2) of this subsection.

(Pub. L. 89–80, title II, §201, July 22, 1965, 79 Stat. 246.)

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11331

Ex. Ord. No. 11331, Mar. 6, 1967, 32 F.R. 3875, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Pacific Northwest River Basins Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(1) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, set out below.

EXECUTIVE ORDER NO. 11345

Ex. Ord. No. 11345, Apr. 20, 1967, 32 F.R. 6329, as amended by Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11646, Feb. 8, 1972, 37 F.R. 2925; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Great Lakes Basin Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(2) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, set out below.

EXECUTIVE ORDER NO. 11359

Ex. Ord. No. 11359, eff. June 20, 1967, 32 F.R. 8851, as amended by Ex. Ord. No. 11613, eff. Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11635, eff. Dec. 9, 1971, 36 F.R. 23615, which established the Souris-Red-Rainy Basins Commission, was superseded by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, formerly set out below.

EXECUTIVE ORDER NO. 11371

Ex. Ord. No. 11371, Sept. 6, 1967, 32 F.R. 12903, as amended by Ex. Ord. No. 11528, Apr. 24, 1970, 35 F.R. 6695; Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299; Ex. Ord. No. 11707, Mar. 12, 1973, 38 F.R. 6877; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the New England River Basins Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(3) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

EXECUTIVE ORDER NO. 11578

Ex. Ord. No. 11578, Jan. 13, 1971, 36 F.R. 683, as amended by Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Ohio River Basin Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(4) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

EXECUTIVE ORDER NO. 11613

Ex. Ord. No. 11613, Aug. 2, 1971, 36 F.R. 14299, which provided for membership of the Environmental Protection Agency on the Pacific Northwest River Basins Commission, the Great Lakes Basin Commission, the Souris-Red-Rainy River Basins Commission, and the New England River Basins Commission, was omitted in view of the revocation of Ex. Ord. Nos. 11331, 11345, 11359, and 11371, which provided for the establishment, jurisdiction, functions, etc., of the Pacific Northwest River Basins Commission, the Great Lakes Basin Commission, the Souris-Red-Rainy River Basins Commission, and the New England River Basins Commission, respectively. See notes set out above.

EXECUTIVE ORDER NO. 11658

Ex. Ord. No. 11658, Mar. 22, 1972, 37 F.R. 6045, as amended by Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Missouri River Basin Commission, was revoked, effective Oct. 1, 1981, by section 5(a)(5) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

EXECUTIVE ORDER NO. 11659

Ex. Ord. No. 11659, Mar. 22, 1972, 37 F.R. 6047, as amended by Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883; Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, which provided for the establishment, jurisdiction, functions, etc., of the Upper Mississippi River Basin Commission, was revoked, effective Jan. 1, 1982, by section 5(b) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45592, set out below.

EXECUTIVE ORDER NO. 11737

Ex. Ord. No. 11737, Sept. 7, 1973, 38 F.R. 24883, which provided for the enlargement of the Upper Mississippi River Basin Commission, transferred all funds, property, etc., of the Souris-Red-Rainy River Basins Commission to the Upper Mississippi River Basin Commission, and superseded Ex. Ord. Nos. 11359 and 11635, was omitted in view of the revocation of Ex. Ord. No. 11659, which established the Upper Mississippi River Basin Commission and provided for its jurisdiction, functions, etc. See note set out above.

EXECUTIVE ORDER NO. 11882

Ex. Ord. No. 11882, Oct. 6, 1975, 40 F.R. 46293, relating to membership of the Energy Research and Development Administration on established river basin commissions, was omitted pursuant to Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

EX. ORD. NO. 12319. TERMINATION OF CERTAIN RIVER BASIN COMMISSIONS

Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, provided:

By the authority vested in me as President by the Constitution and laws of the United States, in order to ensure the orderly termination of the six river basin commissions established pursuant to the Water Resources Planning Act (42 U.S.C. 1962 et seq.), it is hereby ordered as follows:

SECTION 1. In accord with the decision of the Water Resources Council pursuant to Section 203(a) of the Water Resources Planning Act (42 U.S.C. 1962b–2(a)), the following river basin commissions shall terminate on the date indicated:

(a) Pacific Northwest River Basins Commission, terminated on September 30, 1981.

(b) Great Lakes Basin Commission, terminated on September 30, 1981.

(c) Ohio River Basin Commission, terminated on September 30, 1981.

(d) New England River Basins Commission, terminated on September 30, 1981.

(e) Missouri River Basin Commission, terminated on September 30, 1981.

(f) Upper Mississippi River Basin Commission, terminated on December 31, 1981.

SEC. 2. All Federal agencies shall cooperate with the commissions and the member States to achieve an orderly close out of commission activities and, if the member States so elect, to carry out an orderly transition of appropriate commission activities to the member States.

SEC. 3. To the extent permitted by law, the assets of the commissions which the Federal Government might otherwise be entitled to claim are to be transferred to the member States of the commissions, or such entities as the States acting through their representatives on the commissions may designate, to be used for such water and related land resources planning purposes as the States may decide among themselves. The terms and conditions for transfer of assets under this Section shall be subject to the approval of the Director of the Office of Management and Budget, or such Federal agency as he designates, before the transfer is effective.

SEC. 4. Federal agency members of river basin commissions are directed to continue coordination and cooperation in future State and inter-State basin planning arrangements.

SEC. 5. (a) Effective October 1, 1981, the following Executive Orders are revoked:

(1) Executive Order No. 11331, as amended, which established the Pacific Northwest River Basins Commission.

(2) Executive Order No. 11345, as amended, which established the Great Lakes Basin Commission.

(3) Executive Order No. 11371, as amended, which established the New England River Basins Commission.

(4) Executive Order No. 11578, as amended, which established the Ohio River Basin Commission.

(5) Executive Order No. 11658, as amended, which established the Missouri River Basin Commission.

(b) Effective January 1, 1982, Executive Order No. 11659, as amended, which established the Upper Mississippi River Basin Commission, is revoked.

RONALD REAGAN.

§1962b–1. Membership of commissions; appointment of chairman

Each river basin commission shall be composed of members appointed as follows:

(a) A chairman appointed by the President who shall also serve as chairman and coordinating officer of the Federal members of the commission and who shall represent the Federal Government

in Federal-State relations on the commission and who shall not, during the period of his service on the commission, hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government;

(b) One member from each Federal department or independent agency determined by the President to have a substantial interest in the work to be undertaken by the commission, such member to be appointed by the head of such department or independent agency and to serve as the representative of such department or independent agency;

(c) One member from each State which lies wholly or partially within the area, river basin, or group of river basins for which the commission is established, and the appointment of each such member shall be made in accordance with the laws of the State which he represents. In the absence of governing provisions of State law, such State members shall be appointed and serve at the pleasure of the Governor;

(d) One member appointed by any interstate agency created by an interstate compact to which the consent of Congress has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is created;

(e) When deemed appropriate by the President, one member, who shall be appointed by the President, from the United States section of any international commission created by a treaty to which the consent of the Senate has been given, and whose jurisdiction extends to the waters of the area, river basin, or group of river basins for which the river basin commission is established.

(Pub. L. 89–80, title II, §202, July 22, 1965, 79 Stat. 247.)

§1962b–2. Organization of commissions

(a) Commencement of functions; transfer of property, assets, and records upon termination of commission; availability of studies, data, and other materials to participants

Each river basin commission shall organize for the performance of its functions within ninety days after the President shall have declared the establishment of such commission, subject to the availability of funds for carrying on its work. A commission shall terminate upon decision of the Council or agreement of a majority of the States composing the commission. Upon such termination, all property, assets, and records of the commission shall thereafter be turned over to such agencies of the United States and the participating States as shall be appropriate in the circumstances: *Provided*, That studies, data, and other materials useful in water and related land resources planning to any of the participants shall be kept freely available to all such participants.

(b) Vice chairman; State election; State representation

State members of each commission shall elect a vice chairman, who shall serve also as chairman and coordinating officer of the State members of the commission and who shall represent the State governments in Federal-State relations on the commission.

(c) Vacancies; alternates for chairman and vice chairman

Vacancies in a commission shall not affect its powers but shall be filled in the same manner in which the original appointments were made: *Provided*, That the chairman and vice chairman may designate alternates to act for them during temporary absences.

(d) Consensus of members on issues; opportunities for individual views; record of position of chairman and vice chairman; final authority on procedural questions

In the work of the commission every reasonable endeavor shall be made to arrive at a consensus of all members on all issues; but failing this, full opportunity shall be afforded each member for the presentation and report of individual views: *Provided*, That at any time the commission fails to act by reason of absence of consensus, the position of the chairman, acting in behalf of the Federal members, and the vice chairman, acting upon instructions of the State members, shall be set forth in the record: *Provided further*, That the chairman, in consultation with the vice chairman, shall have the final authority, in the absence of an applicable by-law adopted by the commission or in the

absence of a consensus, to fix the times and places for meetings, to set deadlines for the submission of annual and other reports, to establish subcommittees, and to decide such other procedural questions as may be necessary for the commission to perform its functions.

(Pub. L. 89–80, title II, §203, July 22, 1965, 79 Stat. 248.)

§1962b–3. Duties of commissions

Each river basin commission shall—

(1) engage in such activities and make such studies and investigations as are necessary and desirable in carrying out the policy set forth in section 1962 of this title and in accomplishing the purposes set forth in section 1962b(b) of this title;

(2) submit to the Council and the Governor of each participating State a report on its work at least once each year. Such report shall be transmitted through the President to the Congress. After such transmission, copies of any such report shall be sent to the heads of such Federal, State, interstate, and international agencies as the President or the Governors of the participating States may direct;

(3) submit to the Council for transmission to the President and by him to the Congress, and the Governors and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for water and related land resources development in the area, river basin, or group of river basins for which such commission was established. Before the commission submits such a plan or major portion thereof or revision thereof to the Council, it shall transmit the proposed plan or revision to the head of each Federal department or agency, the Governor of each State, and each interstate agency, from which a member of the commission has been appointed, and to the head of the United States section of any international commission if the plan, portion or revision deals with a boundary water or a river crossing a boundary, or any tributary flowing into such boundary water or river, over which the international commission has jurisdiction or for which it has responsibility. Each such department and agency head, Governor, interstate agency, and United States section of an international commission shall have ninety days from the date of the receipt of the proposed plan, portion, or revision to report its views, comments, and recommendations to the commission. The commission may modify the plan, portion, or revision after considering the reports so submitted. The views, comments, and recommendations submitted by each Federal department or agency head, Governor, interstate agency, and United States section of an international commission shall be transmitted to the Council with the plan, portion, or revision; and

(4) submit to the Council at the time of submitting such plan, any recommendations it may have for continuing the functions of the commission and for implementing the plan, including means of keeping the plan up to date.

(Pub. L. 89–80, title II, §204, July 22, 1965, 79 Stat. 248.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in par. (2) of this section relating to transmittal of reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 5 on page 40 of House Document No. 103–7.

UPPER MISSISSIPPI RIVER SYSTEM COMPREHENSIVE MASTER MANAGEMENT PLAN

Pub. L. 95–502, title I, §101, Oct. 21, 1978, 92 Stat. 1693, as amended by Pub. L. 99–662, title XI, §1103(c)(2), Nov. 17, 1986, 100 Stat. 4226, which provided for the development, revision, and implementation of the Upper Mississippi River System comprehensive master management plan by the Upper Mississippi River Basin Commission, was omitted in view of the termination of the Upper Mississippi River Basin Commission on Dec. 31, 1981, pursuant to section 1(f) of Ex. Ord. No. 12319, Sept. 9, 1981, 46 F.R. 45591, set out as a note under section 1962b of this title.

§1962b–4. Administrative provisions

(a) Hearings, proceedings, evidence, reports; office space; use of mails; personnel, consultants, and professional service contracts; personnel from other agencies; retirement and employee benefit system for personnel without coverage; motor vehicles; necessary expenses; other powers

For the purpose of carrying out the provisions of this subchapter, each river basin commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as departments and agencies of the United States;

(4) employ and compensate such personnel as it deems advisable, including consultants, at rates not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5, and retain and compensate such professional or technical service firms as it deems advisable on a contract basis;

(5) arrange for the services of personnel from any State or the United States, or any subdivision or agency thereof, or any intergovernmental agency;

(6) make arrangements, including contracts, with any participating government, except the United States or the District of Columbia, for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for or continuing in another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(7) purchase, hire, operate, and maintain passenger motor vehicles; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this chapter.

(b) Oaths

The chairman of a river basin commission, or any member of such commission designated by the chairman thereof for the purpose, is authorized to administer oaths when it is determined by a majority of the commission that testimony shall be taken or evidence received under oath.

(c) Records; public inspection

To the extent permitted by law, all appropriate records and papers of each river basin commission shall be made available for public inspection during ordinary office hours.

(d) Information and personnel from other Federal agencies

Upon request of the chairman of any river basin commission, or any member or employee of such commission designated by the chairman thereof for the purpose, the head of any Federal department or agency is authorized (1) to furnish to such commission such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) Responsibility for personnel and funds

The chairman of each river basin commission shall, with the concurrence of the vice chairman, appoint the personnel employed by such commission, and the chairman shall, in accordance with the general policies of such commission with respect to the work to be accomplished by it and the timing

thereof, be responsible for (1) the supervision of personnel employed by such commission, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditure of funds available to such commission.

(Pub. L. 89–80, title II, §205, July 22, 1965, 79 Stat. 249; Pub. L. 94–112, §1(c), Oct. 16, 1975, 89 Stat. 575.)

EDITORIAL NOTES

AMENDMENTS

1975—Subsec. (a)(4). Pub. L. 94–112 substituted "not in excess of the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5" for "not to exceed $100 per diem".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§1962b–5. Compensation of members and chairmen

(a) Additional compensation prohibited to members appointed from Federal departments, agencies, and international commissions

Any member of a river basin commission appointed pursuant to section 1962b–1(b) and (e) of this title shall receive no additional compensation by virtue of his membership on the commission, but shall continue to receive, from appropriations made for the agency from which he is appointed, the salary of his regular position when engaged in the performance of the duties vested in the commission.

(b) Compensation of members from States and interstate agencies

Members of a commission, appointed pursuant to section 1962b–1(c) and (d) of this title, shall each receive such compensation as may be provided by the States or the interstate agency respectively, which they represent.

(c) Compensation of chairman

The per annum compensation of the chairman of each river basin commission shall be determined by the President, but when employed on a full-time annual basis shall not exceed the maximum scheduled rate for grade GS–18 or when engaged in the performance of the commission's duties on an intermittent basis such compensation shall be not more than $100 per day and shall not exceed $12,000 in any year.

(Pub. L. 89–80, title II, §206, July 22, 1965, 79 Stat. 250.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§1962b–6. Expenses of commissions

(a) Federal share; apportionment of remainder; annual budget; estimates of proposed Federal appropriations; advances against delayed State appropriations; credit to account in the Treasury

Each commission shall recommend what share of its expenses shall be borne by the Federal Government, but such share shall be subject to approval by the Council. The remainder of the commission's expenses shall be otherwise apportioned as the commission may determine. Each commission shall prepare a budget annually and transmit it to the Council and the States. Estimates of proposed appropriations from the Federal Government shall be included in the budget estimates submitted by the Council under chapter 11 of title 31, and may include an amount for advance to a commission against State appropriations for which delay is anticipated by reason of later legislative sessions. All sums appropriated to or otherwise received by a commission shall be credited to the commission's account in the Treasury of the United States.

(b) Acceptance, reception, utilization, and disposal of appropriations, donations, and grants

A commission may accept for any of its purposes and functions appropriations, donations, and grants of money, equipment, supplies, materials, and services from any State or the United States or any subdivision or agency thereof, or intergovernmental agency, and may receive, utilize, and dispose of the same.

(c) Accounts of receipts and disbursements; annual audit; inclusion in annual report

The commission shall keep accurate accounts of all receipts and disbursements. The accounts shall be audited at least annually in accordance with generally accepted auditing standards by independent certified or licensed public accountants, certified or licensed by a regulatory authority of a State, and the report of the audit shall be included in and become a part of the annual report of the commission.

(d) Inspection of accounts

The accounts of the commission shall be open at all reasonable times for inspection by representatives of the jurisdictions and agencies which make appropriations, donations, or grants to the commission.

(Pub. L. 89–80, title II, §207, July 22, 1965, 79 Stat. 250.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "chapter 11 of title 31" substituted for "the Budget and Accounting Act of 1921, as amended [31 U.S.C. 1 et seq.]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO STATES FOR COMPREHENSIVE PLANNING GRANT AUTHORIZATIONS

§1962c. Authorization of appropriations; coordination of related Federal planning assistance programs; utilization of Federal agencies administering programs contributing to water resources planning

(a) In recognition of the need for increased participation by the States in water and related land resources planning to be effective, there are hereby authorized to be appropriated to the Council, $3,000,000 for fiscal year 1979 for grants to States to assist them in developing and participating in the development of comprehensive water and related land resources plans.

(b) The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this subchapter, and the use of funds available therefor, as may be necessary in order to assure (1) coordination of the program authorized by this subchapter with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954 [1] and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this chapter.

(Pub. L. 89–80, title III, §301, July 22, 1965, 79 Stat. 251; Pub. L. 94–112, §1(d), Oct. 16, 1975, 89 Stat. 575; Pub. L. 95–404, §1(d), Sept. 30, 1978, 92 Stat. 864.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 701 of the Housing Act of 1954, referred to in subsec. (b), is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–404 substituted "$3,000,000 for fiscal year 1979" for "for fiscal years 1977 and 1978, $5,000,000 in each such year".

1975—Subsec. (a). Pub. L. 94–112 substituted "for fiscal years 1977 and 1978," for "for the next fiscal year beginning after July 22, 1965, and for the nine succeeding fiscal years thereafter,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

INCREASES IN SALARY, PAY, RETIREMENT, OR OTHER BENEFITS FOR FEDERAL EMPLOYEES

For authority for payment of increases in salary and other Federal employee benefits, see section 1(e) of Pub. L. 95–404, set out as a note under section 1962d of this title.

[1] *See References in Text note below.*

§1962c–1. Allotments to States: basis, population and land area determinations; payments to States: amount

(a) From the sums appropriated pursuant to section 1962c of this title for any fiscal year the Council shall from time to time make allotments to the States, in accordance with its regulations, on the basis of (1) the population, (2) the land area, (3) the need for comprehensive water and related land resources planning programs, and (4) the financial need of the respective States. For the purposes of this section the population of the States shall be determined on the basis of the latest estimates available from the Department of Commerce and the land area of the States shall be determined on the basis of the official records of the United States Geological Survey.

(b) From each State's allotment under this section for any fiscal year the Council shall pay to such State an amount which is not more than 50 per centum of the cost of carrying out its State program approved under section 1962c–2 of this title, including the cost of training personnel for carrying out such program and the cost of administering such program.

(Pub. L. 89–80, title III, §302, July 22, 1965, 79 Stat. 251.)

§1962c–2. State programs; approval by Council; submission; requirements; notice and hearing prior to disapproval

The Council shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

(1) provides for comprehensive planning with respect to intrastate or interstate water resources, or both, in such State to meet the needs for water and water-related activities taking into account prospective demands for all purposes served through or affected by water and related land resources development, with adequate provision for coordination with all Federal, State, and local agencies, and nongovernmental entities having responsibilities in affected fields;

(2) provides, where comprehensive statewide development planning is being carried on with or without assistance under section 701 of the Housing Act of 1954 [1] or under chapter 2003 of title 54, for full coordination between comprehensive water resources planning and other statewide planning programs and for assurances that such water resources planning will be in conformity with the general development policy in such State;

(3) designates a State agency (hereinafter referred to as the "State agency") to administer the program;

(4) provides that the State agency will make such reports in such form and containing such information as the Council from time to time reasonably requires to carry out its functions under this subchapter;

(5) sets forth the procedure to be followed in carrying out the State program and in administering such program; and

(6) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for keeping appropriate accountability of the funds and for the proper and efficient administration of the program.

The Council shall not disapprove any program without first giving reasonable notice and opportunity for hearing to the State agency administering such program.

(Pub. L. 89–80, title III, §303, July 22, 1965, 79 Stat. 252; Pub. L. 113–287, §5(k)(1), Dec. 19, 2014, 128 Stat. 3269.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 701 of the Housing Act of 1954, referred to in par. (2), is section 701 of act Aug. 2, 1954, ch. 649, 68 Stat. 640, which was classified to section 461 of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 97–35, title III, §313(b), Aug. 13, 1981, 95 Stat. 398.

AMENDMENTS

2014—Par. (2). Pub. L. 113–287 substituted "chapter 2003 of title 54" for "the Land and Water Conservation Fund Act of 1965".

[1] *See References in Text note below.*

§1962c–3. Noncompliance; curtailing of payments

Whenever the Council after reasonable notice and opportunity for hearing to a State agency finds that—

(a) the program submitted by such State and approved under section 1962c–2 of this title has been so changed that it no longer complies with a requirement of such section; or

(b) in the administration of the program there is a failure to comply substantially with such a requirement,

the Council shall notify such agency that no further payments will be made to the State under this subchapter until it is satisfied that there will no longer be any such failure. Until the Council is so

satisfied, it shall make no further payments to such State under this subchapter.

(Pub. L. 89–80, title III, §304, July 22, 1965, 79 Stat. 252.)

§1962c–4. Payments to States; computation of amount

The method of computing and paying amounts pursuant to this subchapter shall be as follows:

(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amount to be paid to each State under the provisions of this subchapter for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Council may find necessary.

(2) The Council shall pay to the State, from the allotment available therefor, the amount so estimated by it for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such State for any prior period under this subchapter was greater or less than the amount which should have been paid to such State for such prior period under this subchapter. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Council may determine.

(Pub. L. 89–80, title III, §305, July 22, 1965, 79 Stat. 253.)

§1962c–5. "State" defined

For the purpose of this subchapter the term "State" means a State, the District of Columbia, Puerto Rico, the Virgin Islands or Guam.

(Pub. L. 89–80, title III, §306, July 22, 1965, 79 Stat. 253; Pub. L. 94–285, §2, May 12, 1976, 90 Stat. 516.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–285 inserted reference to Guam.

§1962c–6. Records; audit and examination

(a) Each recipient of a grant under this chapter shall keep such records as the Chairman of the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Chairman of the Council and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this chapter.

(Pub. L. 89–80, title III, §307, July 22, 1965, 79 Stat. 253.)

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§1962d. Authorization of appropriations to the Water Resources Council

There are authorized to be appropriated to the Water Resources Council:

(a) Limitation for single river basin commission

The sum of $2,886,000 for fiscal year 1979 for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairmen, but not including funds authorized by subsection (c) below: *Provided*, That not more than $750,000 annually shall be available under this subsection for any single river basin commission;

(b) Limitation on the expenses of the Water Resources Council

the [1] sum of $2,668,000 for fiscal year 1979 for the expenses of the Water Resources Council in administering this chapter, not including funds authorized by subsection (c) below;

(c) Limitation on availability of funds for preparation of certain studies and for assessments and plans

The sum of $3,179,900 for fiscal year 1979 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this chapter: *Provided*, That $828,900 shall be available under this subsection for preparation of the Columbia River Estuary Special Study: *Provided further*, That $308,000 shall be available under this subsection for preparation of the New England Port and Harbor Study and $135,000 shall be available for completion of the Hudson River Basin Level B Study: *Provided further*, That $150,000 shall be available under this subsection for completion of Case Studies of the Application of Cost Sharing Policy Options for Flood Plain Management in the Connecticut River Basin: *Provided further*, That not more than $2,500,000 shall be available under this subsection for the preparation of assessments: *Provided further*, That the Council may transfer funds authorized by this subsection to river basin commissions and to Federal and State agencies upon such terms and conditions as it determines are necessary and desirable to carry out the above functions in an economical, efficient, and timely manner, and that such commissions and agencies are hereby authorized to receive and expend such funds pursuant to this subsection.

(Pub. L. 89–80, title IV, §401, July 22, 1965, 79 Stat. 253; Pub. L. 90–547, Oct. 2, 1968, 82 Stat. 935; Pub. L. 92–27, June 17, 1971, 85 Stat. 77; Pub. L. 92–396, Aug. 20, 1972, 86 Stat. 578; Pub. L. 93–55, July 1, 1973, 87 Stat. 140; Pub. L. 94–112, §1(e), Oct. 16, 1975, 89 Stat. 575; Pub. L. 94–285, §1, May 12, 1976, 90 Stat. 516; Pub. L. 95–41, §1, June 6, 1977, 91 Stat. 209; Pub. L. 95–404, §1(a)–(c), Sept. 30, 1978, 92 Stat. 864.)

EDITORIAL NOTES

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–404, §1(a), substituted "The sum of $2,886,000 for fiscal year 1979" for "not to exceed $6,000,000 for fiscal year 1978".

Subsec. (b). Pub. L. 95–404, §1(b), substituted "the sum of $2,668,000 for fiscal year 1979" for "not to exceed $2,000,000 for fiscal year 1978".

Subsec. (c). Pub. L. 95–404, §1(c), substituted "The sum of $3,179,900 for fiscal year 1979" for "not to exceed the sum of $3,905,000 for fiscal year 1978" and inserted provisions making available the sums of $828,900 for the Columbia River Estuary Special Study, $308,000 for the New England Port and Harbor Study, $135,000 for the Hudson River Basin Level B Study, and $150,000 for the Case Studies of the Application of Cost Sharing Policy Options for Flood Plan Management in the Connecticut River Basin.

1977—Subsecs. (a), (b). Pub. L. 95–41, §1(b), (c), substituted "for fiscal year 1978" for "annually".

Subsec. (c). Pub. L. 95–41, §1(a), substituted "not to exceed the sum of $3,905,000 for fiscal year 1978" for "not to exceed a total of $10,000,000 for fiscal years 1976 and 1977".

1976—Subsec. (b). Pub. L. 94–285 substituted "$2,000,000" for "$1,500,000".

1975—Subsec. (c). Pub. L. 94–112 substituted "not to exceed a total of $10,000,000 for fiscal years 1976 and 1977" for "not to exceed $3,500,000 annually for fiscal years 1974 and 1975".

1973—Subsec. (c). Pub. L. 93–55 substituted "annually for fiscal years 1974 and 1975" for "in fiscal year

1973 and such annual amounts as may be authorized by subsequent Acts".

1972—Pub. L. 92–396 authorized appropriations to the Water Resources Council, and in subsec. (a), substituted "chairmen" for "chairman", in subsec. (b) inserted "not including funds authorized by subsection (c) below", and added subsec. (c).

1971—Pub. L. 92–27 substituted appropriation authorization of $6,000,000 annually for Federal share of expenses of administration and operation of river basin commissions, including salaries and expenses of chairman, for former provisions for annual appropriation authorization of $500,000; $6,000,000; and $400,000 for subchapters I, II, and III of this chapter and authorize appropriation of $1.5 million annually for administration expenses of Water Resources Council.

1968—Pub. L. 90–547 increased authorization for appropriations to carry out provisions of subchapter I of this chapter from not to exceed $300,000 annually to not to exceed $500,000 annually.

STATUTORY NOTES AND RELATED SUBSIDIARIES

INCREASES IN SALARY, PAY, RETIREMENT, OR OTHER BENEFITS FOR FEDERAL EMPLOYEES

Pub. L. 95–404, §1(e), Sept. 30, 1978, 92 Stat. 864, provided that: "Appropriations authorized by this Act [amending sections 1962c and 1962d of this title] for salary, pay, retirement, or other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law."

[1] *So in original. Probably should be capitalized.*

§1962d–1. Rules and regulations

The Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out those provisions of this chapter which are administered by it.

(Pub. L. 89–80, title IV, §402, July 22, 1965, 79 Stat. 254.)

§1962d–2. Delegation of functions

The Council is authorized to delegate to any member or employee of the Council its administrative functions under section 1962a–4 of this title and the detailed administration of the grant program under subchapter III.

(Pub. L. 89–80, title IV, §403, July 22, 1965, 79 Stat. 254.)

§1962d–3. Utilization of personnel

The Council may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this chapter.

(Pub. L. 89–80, title IV, §404, July 22, 1965, 79 Stat. 254.)

§1962d–4. Northeastern United States water supply

(a) Plans for Federal construction, operation, and maintenance of reservoir system within certain river basins and conveyance and purification facilities through cooperation of Secretary of the Army and government agencies; financial participation of States

Congress hereby recognizes that assuring adequate supplies of water for the great metropolitan centers of the United States has become a problem of such magnitude that the welfare and prosperity of this country require the Federal Government to assist in the solution of water supply problems.

Therefore, the Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with Federal, State, and local agencies in preparing plans in accordance with the Water Resources Planning Act [42 U.S.C. 1962 et seq.] to meet the long-range water needs of the northeastern United States. This plan may provide for the construction, operation, and maintenance by the United States of (1) a system of major reservoirs to be located within those river basins of the northeastern United States which drain into the Chesapeake Bay, those that drain into the Atlantic Ocean north of the Chesapeake Bay, those that drain into Lake Ontario, and those that drain into the Saint Lawrence River, (2) major conveyance facilities by which water may be exchanged between these river basins to the extent found desirable in the national interest, and (3) major purification facilities. Such plans shall provide for appropriate financial participation by the States, political subdivisions thereof, and other local interests.

(b) Construction, operation, and maintenance of reservoirs and conveyance and purification facilities

The Secretary of the Army, acting through the Chief of Engineers, shall construct, operate, and maintain those reservoirs, conveyance facilities, and purification facilities, which are recommended in the plan prepared in accordance with subsection (a) of this section, and which are specifically authorized by law enacted after October 27, 1965.

(c) Reservoirs as components of river basin and water supply plans

Each reservoir included in the plan authorized by this section shall be considered as a component of a comprehensive plan for the optimum development of the river basin in which it is situated, as well as a component of the plan established in accordance with this section.

(Pub. L. 89–298, title I, §101, Oct. 27, 1965, 79 Stat. 1073.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, which is classified generally to this chapter (§1962 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1962 of this title and Tables.

CODIFICATION

Section was not enacted as a part of the Water Resources Planning Act which comprises this chapter.

§1962d–5. Water resources development projects involving navigation, flood control, and shore protection

(a) Construction, operation, and maintenance; limitation on estimated Federal first cost of construction; Congressional committee approval of projects; reports to Congress

The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain any water resource development project, including single and multiple purpose projects involving, but not limited to, navigation, flood control, and shore protection, if the estimated Federal first cost of constructing such project is less than $15,000,000. No appropriation shall be made to construct, operate, or maintain any such project if such project has not been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, respectively. For the purpose of securing consideration of such approval the Secretary shall transmit to Congress a report of such proposed project, including all relevant data and all costs.

(b) Local cooperation requirements based on certain estimated Federal first cost of construction

Any water resource development project authorized to be constructed by this section shall be

subject to the same requirements of local cooperation as it would be if the estimated Federal first cost of such project were $15,000,000 or more.

(Pub. L. 89–298, title II, §201, Oct. 27, 1965, 79 Stat. 1073; Pub. L. 94–587, §131, Oct. 22, 1976, 90 Stat. 2928; Pub. L. 103–437, §15(d), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Flood Control Act of 1965, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House" for "Committees on Public Works of the Senate and House".

1976—Subsec. (a). Pub. L. 94–587, §131(a), substituted "$15,000,000" for "$10,000,000".

Subsec. (b). Pub. L. 94–587, §131(b), substituted "$15,000,000" for "$10,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

LOCAL COOPERATION, STUDY; REPORT TO CONGRESS

Pub. L. 93–251, title I, §24, Mar. 7, 1974, 88 Stat. 20, provided that the Secretary of the Army make a study of the items of local cooperation involving hold and save harmless provisions which have been required for water resource development projects under his jurisdiction and report on such study to Congress not later than June 30, 1975.

LAND AND WATER USE, STUDY; REPORT TO CONGRESS

Pub. L. 93–251, title I, §25, Mar. 7, 1974, 88 Stat. 20, provided that the Secretary of the Army conduct a study on land use practices and recreational uses at water resource development projects under his jurisdiction and report on such study to Congress not later than June 30, 1975.

NATIONAL STREAMBANK EROSION PREVENTION AND CONTROL DEMONSTRATION PROGRAM

Pub. L. 93–251, title I, §32, Mar. 7, 1974, 88 Stat. 21, as amended by Pub. L. 94–587, §§155, 161, Oct. 22, 1976, 90 Stat. 2932, 2933, known as the "Streambank Erosion Control Evaluation and Demonstration Act of 1974", directed the Secretary of the Army, acting through the Chief of Engineers, to establish and conduct for a period of five fiscal years a national streambank erosion prevention and control demonstration program, to consist of an evaluation of the extent of streambank erosion on navigable rivers and their tributaries; development of new methods and techniques for bank protection, research on soil stability, and identification of the causes of erosion; a report to the Congress on the results of such studies and the recommendations of the Secretary of the Army on means for the prevention and correction of streambank erosion; and demonstration projects, including bank protection works. The final report to the Congress was to be made by Secretary of the Army no later than Dec. 31, 1981.

NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM

Pub. L. 93–251, title I, §54, Mar. 7, 1974, 88 Stat. 26, known as the "Shoreline Erosion Control Demonstration Act of 1974", directed the Secretary of the Army, acting through the Chief of Engineers, to establish and conduct for a period of five fiscal years a national shoreline erosion control development and demonstration program, to consist of planning, constructing, operating, evaluating, and demonstrating prototype shoreline erosion control devices, both engineered and vegetative, and to be carried out in cooperation with the Secretary of Agriculture, particularly with respect to vegetative means of preventing and

controlling shoreline erosion, and in cooperation with Federal, State, and local agencies, private organizations, and the Shoreline Erosion Advisory Panel established pursuant to section 54(d) of Pub. L. 93–251. The Panel was to expire ninety days after termination of the five-year program. The Secretary of the Army was to submit to Congress a final report, sixty days after the fifth fiscal year of funding, such report to include a comprehensive evaluation of the national shoreline erosion control development and demonstration program.

TECHNICAL AND ENGINEERING ASSISTANCE FOR NON-DEVELOPMENT OF EROSION PREVENTION METHODS

Pub. L. 93–251, title I, §55, Mar. 7, 1974, 88 Stat. 28, provided that: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide technical and engineering assistance to non-Federal public interests in developing structural and non-structural methods of preventing damages attributable to shore and streambank erosion."

VISITOR PROTECTION SERVICES, STUDY; REPORT TO CONGRESS

Pub. L. 93–251, title I, §75, Mar. 7, 1974, 88 Stat. 32, directed Secretary of the Army to conduct a study on need for and means of providing visitor protection services at water resource development projects under jurisdiction of Department of the Army and report on such study to Congress not later than Dec. 31, 1974.

§1962d–5a. Reimbursement to States

(a) Combination of reimbursement of installation costs and reduction in contributions; single project limitation

The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreements providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed $5,000,000 or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed $7,000,000 in any fiscal year.

(b) Agreement provisions; termination of agreement for failure to commence work

Agreements entered into pursuant to this section shall (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor; (2) specify the manner in which such work shall be carried out; (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee; (4) state the basis on which the amount of reimbursement shall be determined; (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken on Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

(c) Certification of performance

No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

(d) Beach erosion control projects

Reimbursement for work commenced by non-Federal public bodies no later than one year after August 13, 1968, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 426f of title 33. Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after August 13, 1968, may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) Prohibition of construction for Federal assumption of responsibilities of non-Federal bodies or for Federal liability for unnecessary or inapplicable project work of such bodies

This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) Allotment limitation for any fiscal year; specific project reimbursement authorizations

The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed $10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

(Pub. L. 90–483, title II, §215, Aug. 13, 1968, 82 Stat. 747; Pub. L. 99–662, title IX, §913, Nov. 17, 1986, 100 Stat. 4190; Pub. L. 100–676, §12, Nov. 17, 1988, 102 Stat. 4025; Pub. L. 104–303, title II, §224(a), Oct. 12, 1996, 110 Stat. 3697; Pub. L. 110–161, div. C, title I, §116, Dec. 26, 2007, 121 Stat. 1945.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Flood Control Act of 1968, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–161, which directed the substitution of "$7,000,000" for "$5,000,000" in last sentence, was executed by making the substitution for "$5,000,000" the second place it appeared, to reflect the probable intent of Congress.

1996—Subsec. (a). Pub. L. 104–303, in last sentence, substituted "$5,000,000" for "$3,000,000" before "or 1 percent" and "any fiscal year." for "any fiscal year.."

1988—Subsec. (a). Pub. L. 100–676 inserted before period at end "or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed $5,000,000 in any fiscal year."

1986—Subsec. (a). Pub. L. 99–662 substituted "$3,000,000" for "$1,000,000".

§1962d–5b. Written agreement requirement for water resources projects

(a) Cooperation of non-Federal interest

(1) In general

After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under any provision of law, shall not be commenced until each non-Federal interest has entered into a written partnership agreement with the Secretary (or, where appropriate, the district engineer for the

district in which the project will be carried out) under which each party agrees to carry out its responsibilities and requirements for implementation or construction of the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000.

(2) Liquidated damages

A partnership agreement described in paragraph (1) may include a provision for liquidated damages in the event of a failure of one or more parties to perform.

(3) Obligation of future appropriations

In any partnership agreement described in paragraph (1) and entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State.

(4) Credit for in-kind contributions

(A) In general

A partnership agreement described in paragraph (1) may provide with respect to a project that the Secretary shall credit toward the non-Federal share of the cost of the project, including a project implemented without specific authorization in law or a project under an environmental infrastructure assistance program, the value of in-kind contributions made by the non-Federal interest, including—

(i) the costs of planning (including data collection), design, management, mitigation, construction, and construction services that are provided by the non-Federal interest for implementation of the project;

(ii) the value of materials or services provided before execution of the partnership agreement, including efforts on constructed elements incorporated into the project; and

(iii) the value of materials and services provided after execution of the partnership agreement.

(B) Condition

The Secretary may credit an in-kind contribution under subparagraph (A) only if the Secretary determines that the material or service provided as an in-kind contribution is integral to the project.

(C) Work performed before partnership agreement

(i) Construction

(I) In general

In any case in which the non-Federal interest is to receive credit under subparagraph (A) for the cost of construction carried out by the non-Federal interest before execution of a partnership agreement and that construction has not been carried out as of November 8, 2007, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work and shall do so prior to the non-Federal interest initiating construction or issuing a written notice to proceed for the construction.

(II) Eligibility

Construction that is carried out after the execution of an agreement to carry out work described in subclause (I) and any design activities that are required for that construction, even if the design activity is carried out prior to the execution of the agreement to carry out work, shall be eligible for credit.

(ii) Planning

(I) In general

In any case in which the non-Federal interest is to receive credit under subparagraph (A) for the cost of planning carried out by the non-Federal interest before execution of a feasibility cost-sharing agreement, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work and shall do so prior to the non-Federal interest initiating that planning.

(II) Eligibility

Planning that is carried out by the non-Federal interest after the execution of an agreement to carry out work described in subclause (I) shall be eligible for credit.

(D) Limitations

Credit authorized under this paragraph for a project—

(i) shall not exceed the non-Federal share of the cost of the project;

(ii) shall not alter any other requirement that a non-Federal interest provide lands, easements, relocations, rights-of-way, or areas for disposal of dredged material for the project;

(iii) shall not alter any requirement that a non-Federal interest pay a portion of the costs of construction of the project under sections 2211(a)(2) and 2213(a)(1)(A) of title 33; and

(iv) shall not exceed the actual and reasonable costs of the materials, services, or other things provided by the non-Federal interest, as determined by the Secretary.

(E) Analysis of costs and benefits

In the evaluation of the costs and benefits of a project, the Secretary shall not consider construction carried out by a non-Federal interest under this subsection as part of the future without project condition.

(F) Transfer of credit between separable elements of a project

Credit for in-kind contributions provided by a non-Federal interest that are in excess of the non-Federal cost share for an authorized separable element of a project may be applied toward the non-Federal cost share for a different authorized separable element of the same project.

(G) Application of credit

(i) In general

To the extent that credit for in-kind contributions, as limited by subparagraph (D), and credit for required land, easements, rights-of-way, dredged material disposal areas, and relocations provided by the non-Federal interest exceed the non-Federal share of the cost of construction of a project other than a navigation project, the Secretary, subject to the availability of funds, shall enter into a reimbursement agreement with the non-Federal interest, which shall be in addition to a partnership agreement under subparagraph (A), to reimburse the difference to the non-Federal interest.

(ii) Priority

If appropriated funds are insufficient to cover the full cost of all requested reimbursement agreements under clause (i), the Secretary shall enter into reimbursement agreements in the order in which requests for such agreements are received.

(H) Applicability

(i) In general

This paragraph shall apply to water resources projects authorized after November 16, 1986, including projects initiated after November 16, 1986, without specific authorization in law, and to water resources projects authorized prior to November 17, 1986, if correction of design deficiencies is necessary.

(ii) Authorization as addition to other authorizations

The authority of the Secretary to provide credit for in-kind contributions pursuant to this paragraph shall be in addition to any other authorization to provide credit for in-kind contributions and shall not be construed as a limitation on such other authorization. The Secretary shall apply the provisions of this paragraph, in lieu of provisions under other crediting authority, only if so requested by the non-Federal interest.

(b) Definition of non-Federal interest

The term "non-Federal interest" means—

(1) a legally constituted public body (including an Indian tribe and a tribal organization (as those terms are defined in section 5304 of title 25)) and an inter-tribal consortium (as defined in section 3202 of title 25); or

(2) a nonprofit entity with the consent of the affected local government,

that has full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.

(c) Enforcement; jurisdiction

Every agreement entered into pursuant to this section shall be enforcible in the appropriate district court of the United States.

(d) Nonperformance of terms of agreement by non-Federal interest; notice; reasonable opportunity for performance; performance by Chief of Engineers

After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non-Federal interest of its failure to perform the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

(e) Delegation of authority

Not later than June 30, 2008, the Secretary shall issue policies and guidelines for partnership agreements that delegate to the district engineers, at a minimum—

(1) the authority to approve any policy in a partnership agreement that has appeared in an agreement previously approved by the Secretary;

(2) the authority to approve any policy in a partnership agreement the specific terms of which are dictated by law or by a final feasibility study, final environmental impact statement, or other final decision document for a water resources project;

(3) the authority to approve any partnership agreement that complies with the policies and guidelines issued by the Secretary; and

(4) the authority to sign any partnership agreement for any water resources project unless, within 30 days of the date of authorization of the project, the Secretary notifies the district engineer in which the project will be carried out that the Secretary wishes to retain the prerogative to sign the partnership agreement for that project.

(f) Report to Congress

Not later than 2 years after November 8, 2007, and every year thereafter, the Secretary shall submit to Congress a report detailing the following:

(1) The number of partnership agreements signed by district engineers and the number of partnership agreements signed by the Secretary.

(2) For any partnership agreement signed by the Secretary, an explanation of why delegation to the district engineer was not appropriate.

(g) Public availability

Not later than 120 days after November 8, 2007, the Chief of Engineers shall—

(1) ensure that each district engineer has made available to the public, including on the Internet, all partnership agreements entered into under this section within the preceding 10 years and all

partnership agreements for water resources projects currently being carried out in that district; and

(2) make each partnership agreement entered into after November 8, 2007, available to the public, including on the Internet, not later than 7 days after the date on which such agreement is entered into.

(h) Effective date

This section shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended [43 U.S.C. 390b].

(Pub. L. 91–611, title II, §221, Dec. 31, 1970, 84 Stat. 1831; Pub. L. 92–222, §4, Dec. 23, 1971, 85 Stat. 799; Pub. L. 99–662, title IX, §912(a), Nov. 17, 1986, 100 Stat. 4189; Pub. L. 104–106, div. A, title X, §1064(d), Feb. 10, 1996, 110 Stat. 445; Pub. L. 104–303, title II, §220, Oct. 12, 1996, 110 Stat. 3696; Pub. L. 106–541, title II, §201, Dec. 11, 2000, 114 Stat. 2587; Pub. L. 110–114, title II, §2003(a)–(c), Nov. 8, 2007, 121 Stat. 1067, 1069; Pub. L. 113–121, title I, §1018(a), June 10, 2014, 128 Stat. 1224; Pub. L. 114–322, title I, §1131, Dec. 16, 2016, 130 Stat. 1653; Pub. L. 115–270, title I, §1155(b), Oct. 23, 2018, 132 Stat. 3793; Pub. L. 118–272, div. A, title I, §1137, Jan. 4, 2025, 138 Stat. 3025.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Water Supply Act of 1958, as amended, referred to in subsec. (h), is Pub. L. 85–500, title III, §301, July 3, 1958, 72 Stat. 319, which is classified to section 390b of Title 43, Public Lands.

CODIFICATION

Section was enacted as part of the Flood Control Act of 1970, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2025—Subsec. (b)(1). Pub. L. 118–272 inserted "and an inter-tribal consortium (as defined in section 3202 of title 25)" after "section 5304 of title 25))".

2018—Subsec. (b)(1). Pub. L. 115–270 substituted "(including an Indian tribe and a tribal organization (as those terms are defined in section 5304 of title 25)); or" for "(including a federally recognized Indian tribe and, as defined in section 1602 of title 43, a Native village, Regional Corporation, and Village Corporation); or".

Subsec. (b)(1). Pub. L. 114–322 inserted "and, as defined in section 1602 of title 43, a Native village, Regional Corporation, and Village Corporation" after "Indian tribe".

2014—Subsec. (a)(4)(A). Pub. L. 113–121, §1018(a)(1), inserted "or a project under an environmental infrastructure assistance program" after "law" in introductory provisions.

Subsec. (a)(4)(C). Pub. L. 113–121, §1018(a)(2), added text of subpar. (C) and struck out text of former subpar. (C) which read as follows: "In any case in which the non-Federal interest is to receive credit under subparagraph (A)(ii) for the cost of work carried out by the non-Federal interest and such work has not been carried out as of November 8, 2007, the Secretary and the non-Federal interest shall enter into an agreement under which the non-Federal interest shall carry out such work, and only work carried out following the execution of the agreement shall be eligible for credit."

Subsec. (a)(4)(D)(iii). Pub. L. 113–121, §1018(a)(3), substituted "sections 2211(a)(2) and 2213(a)(1)(A) of title 33" for "sections 2211 and 2213 of title 33".

Subsec. (a)(4)(E) to (H). Pub. L. 113–121, §1018(a)(4), (5), added subpars. (E) to (G) and redesignated former subpar. (E) as (H).

Subsec. (a)(4)(H)(i). Pub. L. 113–121, §1018(a)(6)(A), inserted ", and to water resources projects authorized prior to November 17, 1986, if correction of design deficiencies is necessary" before period at end.

Subsec. (a)(4)(H)(ii). Pub. L. 113–121, §1018(a)(6)(B), added cl. (ii) and struck out former cl. (ii). Prior to amendment, text read as follows: "In any case in which a specific provision of law provides for a non-Federal interest to receive credit toward the non-Federal share of the cost of a study for, or construction or operation and maintenance of, a water resources project, the specific provision of law shall apply instead of this paragraph."

2007—Pub. L. 110–114, §2003(a)(1), inserted section catchline.

Subsec. (a). Pub. L. 110–114, §2003(a)(2), added subsec. (a) and struck out former subsec. (a), which read as follows: "After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under the provisions of section 1962d–5a of this title or under any other provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000. In any such agreement entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future appropriations for such performance and payment when obligating future appropriations would be inconsistent with constitutional or statutory limitations of the State or a political subdivision of the State."

Subsec. (b). Pub. L. 110–114, §2003(b), inserted heading and amended text generally. Prior to amendment, text read as follows: "A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform."

Subsecs. (e) to (h). Pub. L. 110–114, §2003(c), added subsecs. (e) to (g) and redesignated former subsec. (e) as (h).

2000—Subsec. (a). Pub. L. 106–541 in last sentence, struck out "State legislative" after "obligate future", substituted "constitutional" for "State constitutional", and inserted "of the State or a political subdivision of the State" before period at end.

1996—Subsec. (a). Pub. L. 104–303, in first sentence, inserted before period at end "; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000".

Subsecs. (e), (f). Pub. L. 104–106 redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: "The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon annually to the Congress."

1986—Subsec. (a). Pub. L. 99–662 inserted ", or an acceptable separable element thereof,", "or the appropriate element of the project, as the case may be", and "In any such agreement entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future State legislative appropriations for such performance and payment when obligating future appropriations would be inconsistent with State constitutional or statutory limitations."

1971—Subsec. (f). Pub. L. 92–222 made provisions of section inapplicable to the assurances for future demands required by the Water Supply Act of 1958, as amended.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–121, title I, §1018(c), June 10, 2014, 128 Stat. 1226, provided that: "The amendments made by subsections (a) and (b) [amending this section and provisions set out as a note under this section] take effect on November 8, 2007."

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–114, title II, §2003(e), Nov. 8, 2007, 121 Stat. 1070, as amended by Pub. L. 113–121, title I, §1018(b), June 10, 2014, 128 Stat. 1225, provided that: "The amendments made by subsections (a), (b), and (d) [amending this section and provisions set out as a note under this section] only apply to partnership agreements entered into after the date of enactment of this Act [Nov. 8, 2007]; except that, at the request of a non-Federal interest for a project, the district engineer for the district in which the project is located may amend a project partnership agreement entered into on or before such date and under which construction on the project, or construction of design deficiency corrections on the project, has not been initiated, or under

which construction of the project has not been completed and the work to be performed by the non-Federal interests has not been carried out and is creditable only toward any remaining non-Federal cost share, as of such date of enactment for the purpose of incorporating such amendments."

LOCAL GOVERNMENT WATER MANAGEMENT PLANS

Pub. L. 115–270, title I, §1164, Oct. 23, 2018, 132 Stat. 3797, provided that: "With the consent of the non-Federal interest for a feasibility study for a water resources development project, the Secretary [of the Army] may enter into a written agreement under section 221(a) of the Flood Control Act of 1970 [42 U.S.C. 1962d–5b(a)], with a unit of local government in the watershed that has adopted a local or regional water management plan, to allow the unit of local government to participate in the feasibility study to determine if there is an opportunity to include additional feasible elements in the project in order to help achieve the purposes identified in the local or regional water management plan."

WATER SUPPLY CONSERVATION

Pub. L. 114–322, title I, §1116, Dec. 16, 2016, 130 Stat. 1639, as amended by Pub. L. 117–263, div. H, title LXXXI, §8107, Dec. 23, 2022, 136 Stat. 3700, provided that:

"(a) IN GENERAL.—In a State in which a drought emergency has been declared or was in effect for any portion of any 2 consecutive or nonconsecutive years during the 10-year period preceding a request from a non-Federal interest for assistance under this section, the Secretary [of the Army] is authorized—

"(1) to conduct an evaluation for purposes of approving water supply conservation measures that are consistent with the authorized purposes of water resources development projects under the jurisdiction of the Secretary; and

"(2) to enter into written agreements pursuant to section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) with non-Federal interests to carry out the conservation measures approved by such evaluations.

"(b) ELIGIBILITY.—Water supply conservation measures evaluated under subsection (a) may include the following:

"(1) Stormwater capture.

"(2) Releases for ground water replenishment or aquifer storage and recovery.

"(3) Releases to augment water supply at another Federal or non-Federal storage facility.

"(4) Other conservation measures that enhance usage of a Corps of Engineers project for water supply, including measures utilizing a natural feature or nature-based feature (as those terms are defined in section 1184(a) [33 U.S.C. 2289a(a)]) to reduce drought risk.

"(c) COSTS.—A non-Federal interest shall pay only the separable costs associated with the evaluation, implementation, operation, and maintenance of an approved water supply conservation measure, which payments may be accepted and expended by the Corps of Engineers to cover such costs.

"(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or alter the obligations of a non-Federal interest under existing or future agreements for—

"(1) water supply storage pursuant to section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b); or

"(2) surplus water use pursuant to section 6 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 708).

"(e) LIMITATIONS.—Nothing in this section—

"(1) affects, modifies, or changes the authorized purposes of a Corps of Engineers project;

"(2) affects existing Corps of Engineers authorities, including its authorities with respect to navigation, flood damage reduction, and environmental protection and restoration;

"(3) affects the Corps of Engineers ability to provide for temporary deviations;

"(4) affects the application of a cost-sharing requirement under section 101, 102, or 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211, 2212, and 2213);

"(5) supersedes or modifies any written agreement between the Federal Government and a non-Federal interest that is in effect on the date of enactment of this Act [Dec. 16, 2016];

"(6) supersedes or modifies any amendment to an existing multistate water control plan, including those water control plans along the Missouri River and those water control plans in the Apalachicola-Chattahoochee-Flint and Alabama-Coosa-Tallapoosa basins;

"(7) affects any water right in existence on the date of enactment of this Act; or

"(8) preempts or affects any State water law ot interstate compact governing water."

GUIDELINES

Pub. L. 113–121, title I, §1018(d), June 10, 2014, 128 Stat. 1226, provided that:

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [June 10, 2014], the Secretary [of the Army] shall update any guidance or regulations for carrying out section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) (as amended by subsection (a)) that are in existence on the date of enactment of this Act or issue new guidelines, as determined to be appropriate by the Secretary.

"(2) INCLUSIONS.—Any guidance, regulations, or guidelines updated or issued under paragraph (1) shall include, at a minimum—

"(A) the milestone for executing an in-kind memorandum of understanding for construction by a non-Federal interest;

"(B) criteria and procedures for evaluating a request to execute an in-kind memorandum of understanding for construction by a non-Federal interest that is earlier than the milestone under subparagraph (A) for that execution; and

"(C) criteria and procedures for determining whether work carried out by a non-Federal interest is integral to a project.

"(3) PUBLIC AND STAKEHOLDER PARTICIPATION.—Before issuing any new or revised guidance, regulations, or guidelines or any subsequent updates to those documents, the Secretary shall—

"(A) consult with affected non-Federal interests;

"(B) publish the proposed guidelines developed under this subsection in the Federal Register; and

"(C) provide the public with an opportunity to comment on the proposed guidelines."

OTHER CREDIT

Pub. L. 113–121, title I, §1018(e), June 10, 2014, 128 Stat. 1226, provided that: "Nothing in section 221(a)(4) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)(4)) (as amended by subsection (a)) affects any eligibility for credit under section 104 of the Water Resources Development [Act] of 1986 (33 U.S.C. 2214) that was approved by the Secretary [of the Army] prior to the date of enactment of this Act [June 10, 2014]."

PARTNERSHIP AND COOPERATION AGREEMENTS; REFERENCES

Pub. L. 110–114, title II, §2003(f), Nov. 8, 2007, 121 Stat. 1070, provided that:

"(1) IN GENERAL.—A goal of agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) shall be to further partnership and cooperation, and the agreements shall be referred to as 'partnership agreements'.

"(2) REFERENCES TO COOPERATION AGREEMENTS.—Any reference in a law, regulation, document, or other paper of the United States to a 'cooperation agreement' or 'project cooperation agreement' shall be deemed to be a reference to a 'partnership agreement' or a 'project partnership agreement', respectively.

"(3) REFERENCES TO PARTNERSHIP AGREEMENTS.—Any reference to a 'partnership agreement' or 'project partnership agreement' in this Act [see Short Title of 2007 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters] (other than this section) shall be deemed to be a reference to a 'cooperation agreement' or a 'project cooperation agreement', respectively."

COMPLIANCE WITH COOPERATION REQUIREMENTS FOR NON-FEDERAL INTERESTS IN WATER RESOURCES PROJECTS

Pub. L. 99–662, title IX, §912(b), Nov. 17, 1986, 100 Stat. 4190, as amended by Pub. L. 110–114, title II, §2003(d), Nov. 8, 2007, 121 Stat. 1070, provided that:

"(1) The Secretary may require compliance with any requirements pertaining to cooperation by non-Federal interests in carrying out any water resources project authorized before, on, or after the date of enactment of this Act [Nov. 17, 1986].

"(2) Whenever on the basis of any information available to the Secretary, the Secretary finds that any non-Federal interest is not providing cooperation required under subsection (a) [amending this section], the Secretary may issue an order requiring such non-Federal interest to provide such cooperation.

"(3) Non-Federal interests shall be liable for interest on any payments required pursuant to section 221 of the Flood Control Act of 1970 [this section] that may fall delinquent. The interest rate to be charged on any such delinquent payment shall be at a rate, to be determined by the Secretary of the Treasury, equal to 150 percent of the average bond equivalent rate of the thirteen-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional three-month period if the period of delinquency exceeds three months.

"(4) The Secretary may request the Attorney General to bring a civil action for appropriate relief, including permanent or temporary injunction, for payment of damages or, for any violation of an order issued under this section, to recover any cost incurred by the Secretary in undertaking performance of any item of cooperation

under section 221(d) of the Flood Control Act of 1970 [subsec. (d) of this section], or to collect interest for which a non-Federal interest is liable under paragraph (3). Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides, or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, to require payment of any damages, and to require payment of any costs incurred by the Secretary in undertaking performance of any such item.

"(5) The Secretary is authorized to determine that no funds appropriated for operation and maintenance, including operation and maintenance of the project for flood control, Mississippi River and Tributaries, are to be used for the particular benefit of projects within the jurisdiction of any non-Federal interest when such non-Federal interest is in arrears for more than twenty-four months in the payment of charges due under an agreement entered into with the United States pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91–611) [this section]."

§1962d–5c. Non-Federal public bodies, installment construction payments

(a) Annual installments during period of construction in absence of other provision for extended repayment

In connection with any water resource development project, heretofore, herein, or hereafter authorized to be undertaken by the Secretary of the Army, the construction of which has not been initiated as of March 7, 1974, where authorization requires that non-Federal public bodies make an agreed-upon cash contribution as part of their reimbursement to the Federal Government for construction costs, or a specific portion of the construction costs, and where there exists no other provision of law which would permit extended repayment for the construction costs or such specific portion of the construction costs involved, such non-Federal public bodies may make such repayment in annual installments during the period of construction.

(b) Cost sharing; modification

Upon the request of affected non-Federal public bodies, the Secretary of the Army is authorized to modify existing cost sharing agreements in order to effectuate the provisions of subsection (a) of this section.

(Pub. L. 93–251, title I, §40, Mar. 7, 1974, 88 Stat. 23.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

§1962d–5d. Authorization of Secretary of the Army to contract with States and political subdivisions for increased law enforcement services during peak visitation periods; authorization of appropriations

(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(b) There is authorized to be appropriated $10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986, to carry out this section.

(Pub. L. 94–587, §120, Oct. 22, 1976, 90 Stat. 2924; Pub. L. 99–662, title IX, §920, Nov. 17, 1986, 100 Stat. 4193.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–662 amended subsec. (b) generally, substituting "$10,000,000 per fiscal year for each fiscal year beginning after September 30, 1986" for "$6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979".

§1962d–5e. Wetland areas

(a) Authorization of Secretary of the Army to plan and establish wetland areas; criteria for establishment

The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

(1) environmental, economic, and social benefits of the wetland area justifies the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and

(2) the increased cost of such wetland area will not exceed $400,000; and

(3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) Reports to Congress

Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after October 22, 1976, such report shall include, where appropriate, consideration of the establishment of wetland areas.

(c) Cost

In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

(Pub. L. 94–587, §150, Oct. 22, 1976, 90 Stat. 2931.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

§1962d–5f. Beach nourishment

(a) In general

The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additional period extend beyond the fiftieth year which begins after the date of initiation of construction of such project.

(b) Review

(1) In general

Notwithstanding subsection (a), the Secretary shall, at the request of the non-Federal interest, carry out a study to determine the feasibility of extending the period of nourishment described in subsection (a) for a period not to exceed 50 additional years beyond the maximum period described in subsection (a).

(2) Timing

The additional years provided under paragraph (1) shall begin on the date of initiation of construction of congressionally authorized nourishment.

(c) Plan for reducing risk to people and property

(1) In general

As part of the review described in subsection (b), the non-Federal interest shall submit to the Secretary a plan for reducing risk to people and property during the life of the project.

(2) Inclusion of plan in recommendation to Congress

The Secretary shall include the plan described in subsection (a) in the recommendations to Congress described in subsection (d).

(d) Report to Congress

Upon completion of the review described in subsection (b), the Secretary shall—

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives any recommendations of the Secretary related to the review; and

(2) include in the subsequent annual report to Congress required under section 2282d of title 33, any recommendations that require specific congressional authorization.

(e) Special rule

Notwithstanding any other provision of this section, for any existing authorized water resources development project for which the maximum period for nourishment described in subsection (a) will expire within the 16-year period beginning on June 10, 2014, that project shall remain eligible for nourishment for an additional 12 years after the expiration of such period.

(Pub. L. 94–587, §156, Oct. 22, 1976, 90 Stat. 2933; Pub. L. 99–662, title IX, §934, Nov. 17, 1986, 100 Stat. 4197; Pub. L. 113–121, title I, §1037(a), June 10, 2014, 128 Stat. 1235; Pub. L. 114–322, title I, §1122(j), Dec. 16, 2016, 130 Stat. 1647; Pub. L. 115–270, title I, §1158, Oct. 23, 2018, 132 Stat. 3794; Pub. L. 117–263, div. H, title LXXXI, §8129(a), Dec. 23, 2022, 136 Stat. 3717.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2022—Subsec. (b)(1). Pub. L. 117–263, §8129(a)(1)(A), substituted "50" for "15".

Subsec. (b)(2). Pub. L. 117–263, §8129(a)(1)(B), struck out "15" before "additional".

Subsec. (e). Pub. L. 117–263, §8129(a)(2), substituted "16-year period" for "10-year period" and "12 years" for "6 years".

2018—Subsec. (b). Pub. L. 115–270, §1158(1), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (e). Pub. L. 115–270, §1158(2), substituted "10-year period" for "5 year-period".

2016—Subsec. (e). Pub. L. 114–322 substituted "6 years" for "3 years".

2014—Pub. L. 113–121 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (e).

1986—Pub. L. 99–662 substituted "fiftieth" for "fifteenth".

§1962d–5g. Hydroelectric power resources

(a) Study; plan

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct a study of the most efficient methods of utilizing the hydroelectric power resources at water resource development projects under the jurisdiction of the Secretary of the Army and to prepare a plan based upon the findings of such study. Such study shall include, but not be limited to, an analysis of—

(1) the physical potential for hydroelectric development, giving consideration to the economic, social, environmental and institutional factors which will affect the realization of physical potential;

(2) the magnitude and regional distribution of needs for hydroelectric power;

(3) the integration of hydroelectric power generation with generation from other types of generating facilities;

(4) measures necessary to assure that generation from hydroelectric projects will efficiently contribute to meeting the national electric energy demands;

(5) the timing of hydroelectric development to properly coincide with changes in the demand for electric energy;

(6) conventional hydroelectric potential, both high head and low head projects utilizing run-of-rivers and possible advances in mechanical technology, and pumped storage hydroelectric potential at sites which evidence such potential;

(7) the feasibility of adding or reallocating storage and modifying operation rules to increase power production at corps projects with existing hydroelectric installations;

(8) measures deemed necessary or desirable to insure that the potential contribution of hydroelectric resources to the overall electric energy supply are realized to the maximum extent possible; and

(9) any other pertinent factors necessary to evaluate the development and operation of hydroelectric projects of the Corps of Engineers.

(b) Transmittal of plan to Congressional committees

Within three years after the date of the first appropriation of funds for the purpose of carrying out this section, the Secretary of the Army, acting through the Chief of Engineers, shall transmit the plan prepared pursuant to subsection (a) with supporting studies and documentation, together with the recommendations of the Secretary and the Chief of Engineers on such plan, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) Authorization of appropriation

There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $7,000,000.

(d) Feasibility studies of specific hydroelectric power installations; authorization of appropriations

The Secretary of the Army, acting through the Chief of Engineers, is authorized with respect to previously authorized projects to undertake feasibility studies of specific hydroelectric power installations that are identified in the course of the study authorized by this section, as having high potential for contribution toward meeting regional power needs. There is authorized to be appropriated to carry out this subsection not to exceed $5,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

(Pub. L. 94–587, §167, Oct. 22, 1976, 90 Stat. 2935; Pub. L. 103–437, §15(e)(1), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted "Committee on Environment and Public Works of the Senate" for "Committee on Public Works of the Senate".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY

Pub. L. 100–676, §42, Nov. 17, 1988, 102 Stat. 4040, directed Secretary to conduct a study of need to modernize and upgrade federally owned and operated hydroelectric power system, and to submit a report, along with recommendations, to Congress not later than 2 years after Nov. 17, 1988.

WATER QUALITY EFFECTS OF HYDROELECTRIC FACILITIES

Pub. L. 100–676, §43, Nov. 17, 1988, 102 Stat. 4040, directed Secretary, in cooperation with Administrator of Environmental Protection Agency, to undertake a study of water quality effects of hydroelectric facilities owned and operated by Corps of Engineers, which was to be transmitted to Congress within 2 years of Nov. 17, 1988, and was to consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to such study results.

§1962d–6. Feasibility studies; acceleration; advancement of costs by non-Federal sources

The Secretary may accelerate feasibility studies authorized by law when and to the extent that the costs of such studies shall have been advanced by non-Federal sources.

(Pub. L. 89–561, §5, Sept. 7, 1966, 80 Stat. 714.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

§1962d–7. Delmarva Peninsula hydrologic study; duties of Secretary of the Interior

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to make a comprehensive study and investigation of the water resources of the Delmarva Peninsula with a view to determining the availability of fresh water supplies needed to meet the anticipated future water requirements of the Delmarva Peninsula area, and with a view to determining the most effective means from the standpoint of hydrologic feasibility of protecting and developing fresh water sources so as to insure, insofar as practicable, the availability of adequate water supplies in the future. In carrying out such study and investigation with respect to the Delmarva Peninsula, the Secretary shall—

(1) appraise the water use, requirements, and trends, and determine the availability of water in

the streams and underground sources for the entire peninsula;

(2) determine the depths, thicknesses, and permeabilities, the perennial yield, and the recharge characteristics of major aquifers, and the quality characteristics to be expected from each such major aquifer;

(3) determine with respect to ground water resources the continuity and extent of important water-bearing formations;

(4) determine the yield from stream systems under natural flow conditions and under varying degrees of storage and the amounts and quality of waters available from such systems during drought, flood, and intermediate conditions;

(5) determine whether sea water has moved inland into heavily pumped coastal aquifers;

(6) give special consideration to conditions which may invite the invasion of sea water into fresh-water supplies;

(7) compile and make available to appropriate State and local officials any results of this study and investigation that would be appropriate for their use in long-range planning, development, and management of water supplies;

(8) cooperate with State and local agencies for the purpose of using any information and data available to carry out the purposes of this study; and

(9) consider such other matters as the Secretary may deem appropriate to the study and investigation herein authorized.

(Pub. L. 89–618, §1, Oct. 4, 1966, 80 Stat. 870.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

WASHINGTON METROPOLITAN AREA WATER NEEDS AND ESTUARIAL WATER SUPPLIES; STUDIES

Pub. L. 93–251, title I, §85, Mar. 7, 1974, 88 Stat. 36, provided in part for a study of Washington Metropolitan Area Future Water Needs, coordinated with Northeastern United States Water Supply study, and for a study of Estuarial Water Supplies, including a Potomac Estuary Water Treatment Pilot Project, for review of scientific basis for study conclusions by National Academy of Sciences-National Academy of Engineering, and made further authorizations for Sixes Bridge Dam and Lake Project, Maryland dependent on such studies and review.

§1962d–8. Reports on Delmarva Peninsula hydrologic study

During the course of the study and investigation authorized by sections 1962d–7 to 1962d–11 of this title, the Secretary may submit to the President for transmission to the Congress such interim reports as the Secretary may consider desirable. The Secretary shall submit a final report to the President for transmission to the Congress not more than six years after October 4, 1966.

(Pub. L. 89–618, §2, Oct. 4, 1966, 80 Stat. 870.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

§1962d–9. Information from Federal agencies for Delmarva Peninsula study

The Secretary is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purpose of sections 1962d–7 to 1962d–11 of this title, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics, to the Secretary upon his or his designee's request.

(Pub. L. 89–618, §3, Oct. 4, 1966, 80 Stat. 870.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

§1962d–10. Cooperation with agencies on Delmarva Peninsula study

In carrying out the study and investigation authorized by sections 1962d–7 to 1962d–11 of this title, the Secretary is authorized to cooperate with other Federal, State, and local agencies now engaged in comprehensive planning for water resource use and development in the Delmarva Peninsula area by making available to those agencies his findings and to cooperate with those agencies in the Northeastern United States Water Supply Study as authorized by section 1962d–4 of this title.

(Pub. L. 89–618, §4, Oct. 4, 1966, 80 Stat. 871.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

§1962d–11. Authorization of appropriation for Delmarva Peninsula study

There is hereby authorized to be appropriated the sum of $500,000 to carry out the provisions of sections 1962d–7 to 1962d–11 of this title: *Provided*, That nothing in such sections shall prevent the expenditure of other funds appropriated to the United States Geological Survey for studies and activities performed under its general authority.

(Pub. L. 89–618, §5, Oct. 4, 1966, 80 Stat. 871; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"United States Geological Survey" substituted in text for "Geological Survey" pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of Title 43, Public Lands.

§1962d–11a. Potomac River water diversion structure

(a) Consent of Congress for construction; written agreement providing schedule for allocation among parties for withdrawal of waters

(1) Subject to paragraph (2) of this subsection, the consent of Congress is granted under section 401 of title 33 to the Washington Suburban Sanitary Commission to construct a water diversion structure, with an elevation not to exceed one hundred and fifty-nine feet above sea level, from the north shore of the Potomac River at the Washington Suburban Sanitary Commission water filtration plant to the north shore of Watkins Island.

(2) The structure authorized by paragraph (1) of this subsection, may not be constructed until the Secretary of the Army, acting through the Chief of Engineers, and the State of Maryland, the Commonwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories enter into a written agreement providing an enforceable schedule for allocation among the parties to such agreement for the withdrawal of the waters of that portion of the Potomac River located between Little Falls Dam and the farthest upstream limit of the pool of water behind the Chesapeake and Ohio Canal Company rubble dam at Seneca, Maryland, during periods of low flow of such portion of such river.

(b) Authorization of Secretary of the Army to enter written agreement; amendments or revisions

The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into the agreement referred to in subsection (a)(2) of this section and any amendment to or revision of such agreement.

(c) Riparian rights or other authority of Maryland, Virginia, political subdivisions; authority of District of Columbia

Except as may be provided in the agreement referred to in subsection (a)(2) of this section, nothing in this section shall alter any riparian rights or other authority of the State of Maryland, or any political subdivision thereof, the Commonwealth of Virginia, or any political subdivision thereof, or the District of Columbia, or authority of the Corps of Engineers existing on October 22, 1976, relative to the appropriation of water from, or the use of, the Potomac River.

(Pub. L. 94–587, §181, Oct. 22, 1976, 90 Stat. 2939; Pub. L. 96–292, §2, June 28, 1980, 94 Stat. 609.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1980—Subsec. (a)(2). Pub. L. 96–292 struck out cl. "(A)" designation and cl. (B) which prohibited construction of the Potomac River water diversion structure should such structure be in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, issued in connection with a study of water resources development.

§1962d–11b. Dalecarlia Reservoir; delivery of water to metropolitan Maryland; expenses; payments; purchase of water from State or local authorities in Maryland or Virginia

(a) The Secretary, on the recommendation of the Chief of Engineers, is authorized to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at other points on the system, to any competent State or local authority in the Washington, District of Columbia, metropolitan area in Maryland. All of the expense of installing the connection or

connections and appurtenances between the water supply systems and any subsequent changes therein shall be paid by the requesting entity, which shall also pay such charges for the use of the water as the Secretary may, from time to time in advance of delivery, determine to be reasonable. Payments shall be made at such time, and pursuant to such regulations, as the Secretary prescribes. The Secretary may revoke any permit for the use of water at any time.

(b) The Secretary is authorized to purchase water from any State or local authority in Maryland or Virginia that has, at the time of purchase, completed a connection with the District of Columbia water system. The Secretary is authorized to pay such charges for the use of the water as the Secretary has agreed upon in advance of delivery.

(Pub. L. 99–662, title XI, §1111, Nov. 17, 1986, 100 Stat. 4231.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1986, and not as part of the Water Resources Planning Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Secretary means the Secretary of the Army, see section 2201 of Title 33, Navigation and Navigable Waters.

§§1962d–12 to 1962d–14. Repealed. Pub. L. 104–58, title I, §104(g)(3), Nov. 28, 1995, 109 Stat. 560

Section 1962d–12, act Aug. 9, 1955, ch. 682, §1, 69 Stat. 618, authorized Secretary of the Interior to make investigations of projects for conservation, development, and utilization of Alaskan water resources and to report findings, with recommendations, to President and Congress.

Section 1962d–13, act Aug. 9, 1955, ch. 682, §2, 69 Stat. 618, directed Secretary of the Interior, prior to transmission of report on Alaskan water resource projects to Congress, to transmit copies thereof for information and comment to Governor of Alaska and to heads of interested Federal departments and agencies, and to include copies of views of such officials along with transmission of Secretary's report to Congress.

Section 1962d–14, act Aug. 9, 1955, ch. 682, §3, 69 Stat. 618, authorized to be appropriated not more than $250,000 in any one fiscal year for Alaskan water resources investigation.

§1962d–14a. Alaska hydroelectric power development

(a) Congressional findings and declaration

(1) The Congress finds that the expeditious development of hydroelectric power generating facilities in Alaska that are environmentally sound to assist the Nation in meeting existing and future energy demands is in the national interest.

(2) The Congress therefore declares that the expertise of the Chief of Engineers can and should be utilized for the benefit of local public bodies in the development of projects which yield 90 per centum or more of the benefits of the project are attributable to hydroelectric power generation when the project is fully operational.

(b) Establishment of fund; composition

To meet the goals of this section, there is hereby established in the Treasury of the United States an Alaska Hydroelectric Power Development Fund (hereafter referred to as the "fund") to be and remain available for use by the Secretary of the Army (hereinafter referred to as the "Secretary") to make expenditures authorized by this section. The fund shall consist of (1) all receipts and collections by the Secretary of repayments in accordance with subsection (e) of this section and

payments by non-Federal public authorities to the Secretary to finance the cost of construction of projects in accordance with subsection (f) of this section, and which the Secretary is hereby directed to deposit in the fund as they are received, and (2) any appropriations made by the Congress to the fund.

(c) Authorization of appropriation

There is authorized to be appropriated to the Secretary for deposit in the fund established by subsection (b) of this section the sum of $25,000,000.

(d) Investments; deposits

(1) If the Secretary determines that moneys in the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.

(2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the Secretary of the Treasury may mutually agree.

(e) Expenditures for phase I design memorandum stage of advanced engineering and design; withholding of favorable report to Congress prior to repayment; expenditures from non-Federal funds

The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project in Alaska that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund as an advance against construction costs.

(f) Authorization to construct projects; expenditures

In connection with water resources development projects which meet the criteria established by subsection (a)(2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g)(1) of this section occurring on or subsequent to October 22, 1976, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

(g) Agreement with non-Federal public authorities and submittal to Congressional committees, payment of total non-Federal obligations; conditions of United States assumption of excess over costs fixed in agreement, payment subject to appropriations acts

(1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House of Representatives for review and reporting to the Congress for its consideration and approval that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the

project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

(h) Conveyance of title, rights, and interests of United States; Federal requirements, reservations, and provisions

The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g)(1) of this section. Such conveyance shall, pursuant to the agreement required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

(i) Short title

This section shall be cited as the "Alaska Hydroelectric Power Development Act".

(Pub. L. 94–587, §203, Oct. 22, 1976, 90 Stat. 2946; Pub. L. 103–437, §15(e)(2), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

1994—Subsec. (g)(1). Pub. L. 103–437 substituted "Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House" for "Committees on Public Works and Appropriations of the Senate and House".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§1962d–15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States

The requirement in any water resources development project under the jurisdiction of the Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

(Pub. L. 93–251, title I, §9, Mar. 7, 1974, 88 Stat. 16.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

§1962d–16. Comprehensive plans for development, utilization, and conservation of water and related resources

(a) Federal State cooperation

(1) Comprehensive plans

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, non-Federal interest working with a State or group of States, local government, or regional coalition of governmental entities in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, local government, or entity, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(2) Technical assistance

(A) In general

At the request of a governmental agency or non-Federal interest, the Secretary may provide technical assistance to such agency or non-Federal interest in managing water resources.

(B) Types of assistance

Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses and title research for abandoned structures.

(3) Institution of higher education

Notwithstanding section 4141 of title 10, in carrying out this subsection, the Secretary may work with an institution of higher education, as determined appropriate by the Secretary.

(4) Prioritization

To the maximum extent practicable, the Secretary shall prioritize the provision of assistance under this subsection to address both inland and coastal life safety risks.

(b) Fees

(1) Establishment and collection

For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to subsection (a), the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States and other non-Federal public bodies to

whom assistance is provided under subsection (a).

(2) Contributed funds

The Secretary may accept and expend funds in excess of the fees established under paragraph (1) that are provided by a State or other non-Federal interest for assistance under this section.

(3) In-kind services

The non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan.

(4) Deposit and use

Fees collected under this subsection shall be deposited into the account in the Treasury of the United States entitled, "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)" and shall be available until expended to carry out this section.

(c) Authorization of appropriations

(1) Federal and State cooperation

There is authorized to be appropriated not to exceed $30,000,000 annually to carry out subsection (a)(1), except that not more than $5,000,000 in Federal funds shall be expended in any one year in any one State. The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).

(2) Technical assistance

There is authorized to be appropriated $30,000,000 annually to carry out subsection (a)(2), of which not more than $2,000,000 annually may be used by the Secretary to enter into cooperative agreements with nonprofit organizations to provide assistance to rural and small communities.

(d) Annual submission of proposed activities

Concurrent with the President's submission to Congress of the President's request for appropriations for the Civil Works Program for a fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the individual activities proposed for funding under subsection (a)(1) for that fiscal year.

(e) "State" defined

For the purposes of this section, the term "State" means the several States of the United States, Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(f) Special rule

(1) Tribes and territories

The cost-share for assistance under this section provided to Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall be as provided under section 2310 of title 33.

(2) Economically disadvantaged communities

Notwithstanding subsection (b)(1) and the limitation in section 2310 of title 33, as applicable pursuant to paragraph (1) of this subsection, the Secretary is authorized to waive the collection of fees for any local government to which assistance is provided under subsection (a) that the Secretary determines is an economically disadvantaged community, as defined by the Secretary under section 160 of the Water Resources Development Act of 2020 (33 U.S.C. 2201 note) (including economically disadvantaged communities located in urban and rural areas).

(Pub. L. 93–251, title I, §22, Mar. 7, 1974, 88 Stat. 20; Pub. L. 94–587, §168, Oct. 22, 1976, 90 Stat. 2936; Pub. L. 96–597, title VI, §605, Dec. 24, 1980, 94 Stat. 3482; Pub. L. 99–662, title IX, §921,

Nov. 17, 1986, 100 Stat. 4194; Pub. L. 101–640, title III, §319, Nov. 28, 1990, 104 Stat. 4642; Pub. L. 102–580, title II, §208, Oct. 31, 1992, 106 Stat. 4829; Pub. L. 104–303, title II, §221, Oct. 12, 1996, 110 Stat. 3697; Pub. L. 110–114, title II, §2013, Nov. 8, 2007, 121 Stat. 1075; Pub. L. 113–121, title III, §3015, June 10, 2014, 128 Stat. 1288; Pub. L. 114–322, title I, §§1128, 1129, Dec. 16, 2016, 130 Stat. 1649; Pub. L. 115–270, title I, §1159, Oct. 23, 2018, 132 Stat. 3795; Pub. L. 117–263, div. H, title LXXXI, §8119(a), Dec. 23, 2022, 136 Stat. 3711; Pub. L. 118–272, div. A, title I, §1127, Jan. 4, 2025, 138 Stat. 3018.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 160 of the Water Resources Development Act of 2020, referred to in subsec. (f)(2), is section 160 of Pub. L. 116–260, div. AA, title I, Dec. 27, 2020, 134 Stat. 2665, which is set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2025—Subsec. (a)(2)(B). Pub. L. 118–272 inserted "and title research for abandoned structures" before period at end.

2022—Subsec. (a)(1). Pub. L. 117–263, §8119(a)(1)(A), inserted "local government," after "State or group of States," and after "such State, interest,".

Subsec. (a)(3). Pub. L. 117–263, §8119(a)(1)(B), substituted "section 4141 of title 10" for "section 236 of title 10".

Subsec. (a)(4). Pub. L. 117–263, §8119(a)(1)(C), added par. (4).

Subsec. (c)(2). Pub. L. 117–263, §8119(a)(2), substituted "$30,000,000" for "$15,000,000".

Subsec. (f). Pub. L. 117–263, §8119(a)(3), designated existing provisions as par. (1), inserted heading, and added par. (2).

2018—Subsec. (a)(1). Pub. L. 115–270, §1159(1), amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, or non-Federal interest working with a State or group of States in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State or group of States, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans."

Subsec. (a)(3). Pub. L. 115–270, §1159(2), added par. (3).

2016—Subsec. (a)(1). Pub. L. 114–322, §1128(1), substituted ", group of States, or non-Federal interest" for "or other non-Federal interest" and inserted "or group of States" after "working with a State" and after "boundaries of such State".

Subsec. (c)(1). Pub. L. 114–322, §1128(2), inserted at end "The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1)."

Subsec. (f). Pub. L. 114–322, §1129, added subsec. (f).

2014—Subsec. (a)(1). Pub. L. 113–121, §3015(1)(A), inserted "or other non-Federal interest working with a State" after "cooperate with any State" and ", including plans to comprehensively address water resources challenges," after "of such State".

Subsec. (a)(2)(A). Pub. L. 113–121, §3015(1)(B), struck out ", at Federal expense," after "provide".

Subsec. (b)(1). Pub. L. 113–121, §3015(2)(A), substituted "subsection (a)" for "subsection (a)(1)" in two places.

Subsec. (b)(2) to (4). Pub. L. 113–121, §3015(2)(B), (C), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (c)(1). Pub. L. 113–121, §3015(3)(A), substituted "$30,000,000" for "$10,000,000" and "$5,000,000 in Federal funds" for "$2,000,000".

Subsec. (c)(2). Pub. L. 113–121, §3015(3)(B), substituted "$15,000,000" for "$5,000,000".

2007—Subsec. (a). Pub. L. 110–114, §2013(1), (2), designated existing provisions as par. (1), inserted

headings for subsec. (a) and par. (1), and added par. (2).

Subsec. (b)(1). Pub. L. 110–114, §2013(3), substituted "subsection (a)(1)" for "this section" in two places.

Subsec. (b)(2). Pub. L. 110–114, §2013(4), substituted "The" for "Up to ½ of the".

Subsec. (c). Pub. L. 110–114, §2013(5)–(7), designated existing provisions as par. (1), inserted headings for subsec. (c) and par. (1), substituted "subsection (a)(1)," for "the provisions of this section" and "$2,000,000" for "$500,000" in par. (1), and added par. (2).

Subsecs. (d), (e). Pub. L. 110–114, §2013(8), (9), added subsec. (d) and redesignated former subsec. (d) as (e).

1996—Subsec. (a). Pub. L. 104–303, §221(1), inserted ", watersheds, or ecosystems" after "basins".

Subsec. (b)(2) to (4). Pub. L. 104–303, §221(2), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out heading and text of former par. (2). Text read as follows: "The Secretary shall phase in the cost sharing program under this subsection by recovering—

"(A) approximately 10 percent of the total cost of providing assistance in fiscal year 1991;

"(B) approximately 30 percent of the total cost in fiscal year 1992; and

"(C) approximately 50 percent of the total cost in fiscal year 1993 and each succeeding fiscal year."

Subsec. (c). Pub. L. 104–303, §221(3), substituted "$10,000,000" for "$6,000,000" and "$500,000" for "$300,000".

1992—Subsec. (b)(3), (4). Pub. L. 102–580, §208(1), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 102–580, §208(2), inserted "Indian tribes," after "States of the United States,".

1990—Subsecs. (b) to (d). Pub. L. 101–640 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1986—Subsec. (b). Pub. L. 99–662 substituted "$6,000,000" for "$4,000,000" and "$300,000" for "$200,000".

1980—Subsec. (c). Pub. L. 96–597 added subsec. (c).

1976—Subsec. (b). Pub. L. 94–587 increased limitation on annual appropriation authorization to $4,000,000 from $2,000,000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–597, title VI, §605, Dec. 24, 1980, 94 Stat. 3482, provided that the amendment made by that section is effective Oct. 1, 1981.

PLANNING ASSISTANCE TO STATES

Pub. L. 116–260, div. AA, title I, §156, Dec. 27, 2020, 134 Stat. 2661, provided that: "In carrying out section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16), the Secretary [of the Army] shall provide equal priority for all mission areas of the Corps of Engineers, including water supply and water conservation."

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1962d–17. Regional or river basin plans and Federal water and related land resources projects; preparation, formulation, and evaluation

(a) Interest rate formula for discounting future benefits and cost computations; repeal of conflicting provisions and administrative actions

The interest rate formula to be used in plan formulation and evaluation for discounting future benefits and computing costs by Federal officers, employees, departments, agencies, and instrumentalities in the preparation of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects shall be the formula set forth in the "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of

Plans for Use and Development of Water and Related Land Resources" approved by the President on May 15, 1962, and published as Senate Document 97 of the Eighty-seventh Congress on May 29, 1962, as amended by the regulation issued by the Water Resources Council and published in the Federal Register on December 24, 1968 (33 F.R. 19170; 18 C.F.R. 704.39), until otherwise provided by a statute enacted after March 7, 1974. Every provision of law and every administrative action in conflict with this section is hereby repealed to the extent of such conflict.

(b) Interest rate for prior authorized projects assured of non-Federal share of project costs; continuation of rate

In the case of any project authorized before January 3, 1969, if the appropriate non-Federal interests have, prior to December 31, 1969, given satisfactory assurances to pay the required non-Federal share of project costs, the discount rate to be used in the computation of benefits and costs for such project shall be the rate in effect immediately prior to December 24, 1968, and that rate shall continue to be used for such project until construction has been completed, unless otherwise provided by a statute enacted after March 7, 1974.

(c) Water and related resources projects; Presidential study; scope of study; report to Congress

The President shall make a full and complete investigation and study of principles and standards for planning and evaluating water and related resources projects. Such investigation and study shall include, but not be limited to, consideration of enhancing regional economic development, the quality of the total environment including its protection and improvement, the well-being of the people of the United States, and the national economic development, as objectives to be included in federally-financed water and related resources projects and in the evaluation of costs and benefits attributable to such projects, as intended in section 1962–2 of this title, the interest rate formula to be used in evaluating and discounting future benefits for such projects, and appropriate Federal and non-Federal cost sharing for such projects. He shall report the results of such investigation and study, together with his recommendations, to Congress not later than one year after funds are first appropriated to carry out this subsection.

(Pub. L. 93–251, title I, §80, Mar. 7, 1974, 88 Stat. 34.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RATES USED TO ASSESS RETURN ON FEDERAL GOVERNMENT'S INVESTMENT IN PROJECTS OF ARMY CORPS OF ENGINEERS AND BUREAU OF RECLAMATION

Pub. L. 95–28, title II, §204, May 13, 1977, 91 Stat. 121, provided that: "It is hereby reiterated that the interest rates or rates of discount to be used to assess the return on the Federal Government's investment in projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation, shall be those interest rates or rates of discount established by Public Law 93–251, the Water Resources Development Act of 1974 [see Short Title of 1974 Amendment note set out under section 1962 of this title] or by any prior law authorizing projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation."

§1962d–18. Study of depletion of natural resources of regions of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska utilizing Ogallala aquifer; plans; reports to Congress; authorization of appropriation

In order to assure an adequate supply of food to the Nation and to promote the economic vitality of the High Plains Region, the Secretary of Commerce (hereinafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and appropriate Federal, State, and local agencies, and the private sector, is authorized and directed to study the depletion of the natural resources of those regions of the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska presently utilizing the declining water resources of the Ogallala acquifer,[1] and to develop plans to increase water supplies in the area and report thereon to Congress, together with any recommendations for further congressional action. In formulating these plans, the Secretary is directed to consider all past and ongoing studies, plans, and work on depleted water resources in the region, and to examine the feasibility of various alternatives to provide adequate water supplies in the area including, but not limited to, the transfer of water from adjacent areas, such portion to be conducted by the Chief of Engineers to assure the continued economic growth and vitality of the region. The Secretary shall report on the costs of reasonably available options, the benefits of various options, and the costs of inaction. If water transfer is found to be a part of a reasonable solution, the Secretary, as part of his study, shall include a recommended plan for allocating and distributing water in an equitable fashion, taking into account existing water rights and the needs for future growth of all affected areas. An interim report, with recommendations, shall be transmitted to the Congress no later than October 1, 1978, and a final report, with recommendations, shall be transmitted to Congress not later than July 1, 1980. A sum of $6,000,000 is authorized to be appropriated for the purposes of carrying out this section.

(Pub. L. 94–587, §193, Oct. 22, 1976, 90 Stat. 2943.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

[1] So in original. Probably should be "aquifer,".

§1962d–19. Cooperation of Secretary of the Interior with State and local regulatory and law enforcement officials in enforcement of laws or ordinances in connection with Federal resource protection, etc., within Federal water resource development project; funding

The Secretary of the Interior, in connection with Federal resource protection and the Federal administration of the use and occupancy of lands and waters within a water resource development project under his jurisdiction, is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or political subdivision. Such cooperation may include the reimbursement of a State or its political subdivision for expenditures incurred in connection with such resource protection and administration. For purposes of complying with section 651 of title 2, the authorization provided under this section is subject to the availability of appropriations.

(Pub. L. 98–552, §3, Oct. 30, 1984, 98 Stat. 2823.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Water Resources Planning Act which comprises this chapter.

§1962d–20. Prohibition on Great Lakes diversions

(a) Congressional findings and declarations

The Congress finds and declares that—

(1) the Great Lakes are a most important natural resource to the eight Great Lakes States and two Canadian provinces, providing water supply for domestic and industrial use, clean energy through hydropower production, an efficient transportation mode for moving products into and out of the Great Lakes region, and recreational uses for millions of United States and Canadian citizens;

(2) the Great Lakes need to be carefully managed and protected to meet current and future needs within the Great Lakes basin and Canadian provinces;

(3) any new diversions of Great Lakes water for use outside of the Great Lakes basin will have significant economic and environmental impacts, adversely affecting the use of this resource by the Great Lakes States and Canadian provinces; and

(4) four of the Great Lakes are international waters and are defined as boundary waters in the Boundary Waters Treaty of 1909 between the United States and Canada, and as such any new diversion of Great Lakes water in the United States would affect the relations of the Government of the United States with the Government of Canada.

(b) Congressional declaration of purpose and policy

It is therefore declared to be the purpose and policy of the Congress in this section—

(1) to take immediate action to protect the limited quantity of water available from the Great Lakes system for use by the Great Lakes States and in accordance with the Boundary Waters Treaty of 1909;

(2) to encourage the Great Lakes States, in consultation with the Provinces of Ontario and Quebec, to develop and implement a mechanism that provides a common conservation standard embodying the principles of water conservation and resource improvement for making decisions concerning the withdrawal and use of water from the Great Lakes Basin;

(3) to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside the Great Lakes basin unless such diversion is approved by the Governor of each of the Great Lakes States; and

(4) to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside the Great Lakes basin.

(c) "Great Lakes State" defined

As used in this section, the term "Great Lakes State" means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(d) Approval by Governors for diversion of water

No water shall be diverted or exported from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin unless such diversion or export is approved by the Governor of each of the Great Lake [1] States.

(e) Approval of Governors for diversion studies

No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside the Great Lakes basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Corps of Engineers or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909.

(f) Previously authorized diversions

This section shall not apply to any diversion of water from any of the Great Lakes which is

authorized on November 17, 1986.

(Pub. L. 99–662, title XI, §1109, Nov. 17, 1986, 100 Stat. 4230; Pub. L. 106–541, title V, §504(a), (b), Dec. 11, 2000, 114 Stat. 2644.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1986, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2000—Subsec. (b)(2) to (4). Pub. L. 106–541, §504(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 106–541, §504(b), inserted "or exported" after "diverted" and "or export" after "diversion".

STATUTORY NOTES AND RELATED SUBSIDIARIES

GREAT LAKES CONSUMPTIVE USE STUDY

Pub. L. 100–4, title V, §521, Feb. 4, 1987, 101 Stat. 88, provided that in recognition of the serious impacts on the Great Lakes environment that could occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, was authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that could be implemented to reduce the quantity of water consumed, and further provided an appropriation of $750,000 for fiscal years beginning after Sept. 30, 1986, to carry out such study.

Similar provisions were contained in Pub. L. 99–662, title XI, §1147, Nov. 17, 1986, 100 Stat. 4253.

MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS

Pub. L. 99–662, title XI, §1142, Nov. 17, 1986, 100 Stat. 4253, as amended by Pub. L. 106–53, title V, §508, Aug. 17, 1999, 113 Stat. 339; Pub. L. 106–541, title V, §518, Dec. 11, 2000, 114 Stat. 2653, provided that:

"(a) Beginning October 1, 1987, the Secretary, in cooperation with the State of Illinois, shall carry out measurements and make necessary computations required by the decree of the United States Supreme Court (388 U.S. 426) relating to the diversion of water from Lake Michigan and shall coordinate the results with downstate interests. The measurements and computations shall consist of all flow measurements, gauge records, hydraulic and hydrologic computations, including periodic field investigations and measuring device calibrations, necessary to compute the amount of water diverted from Lake Michigan by the State of Illinois and its municipalities, political subdivisions, agencies, and instrumentalities, not including water diverted or used by Federal installations.

"(b) There are authorized to be appropriated $1,250,000 for each of fiscal years 1999 through 2003 and $800,000 for each fiscal year beginning after September 30, 2003, to carry out this section, including those funds necessary to maintain the measurements and computations, as well as necessary capital construction costs associated with the installation of new flow measurement devices or structures declared necessary and appropriate by the Secretary."

[1] So in original. Probably should be "Lakes".

§1962d–21. John Glenn Great Lakes basin program

(a) Strategic plans

(1) Study

The Secretary shall conduct a comprehensive study of the Great Lakes region to ensure the future use, management, and protection of water resources and related resources of the Great Lakes basin.

(2) Report

(A) In general

As expeditiously as possible, but not later than 3 years after August 17, 1999, and every 2 years thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report outlining a strategic plan for Corps of Engineers programs and proposed Corps of Engineers projects in the Great Lakes basin.

(B) Contents

The plan shall include—

(i) details of projects in the Great Lakes region relating to—

(I) navigation improvements, maintenance, and operations for commercial and recreational vessels;

(II) environmental restoration activities;

(III) water level maintenance activities;

(IV) technical and planning assistance to States and remedial action planning committees;

(V) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(VI) flood damage reduction and shoreline erosion prevention; and

(VII) all other relevant activities of the Corps of Engineers; and

(ii) an analysis of factors limiting use of programs and authorities of the Corps of Engineers in existence on August 17, 1999, in the Great Lakes basin, including the need for new or modified authorities.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this section $1,000,000 for the period of fiscal years 2000 through 2003.

(b) Great Lakes biohydrological information

(1) Inventory

(A) In general

Not later than 90 days after August 17, 1999, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

(B) Relevant information

For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and the impacts of weather conditions on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

(2) Report

(A) In general

Not later than 18 months after August 17, 1999, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the federal government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally sound decisions regarding diversions and consumptive uses of Great Lakes water.

(B) Recommendations

The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

(C) Considerations

In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and the heads of other agencies as appropriate, shall consider and report on the status of the issues described and recommendations made in—

(i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and

(ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

(c) Great Lakes recreational boating

Not later than 18 months after August 17, 1999, the Secretary, using information and studies in existence on August 17, 1999, to the extent practicable, and in cooperation with the Great Lakes States, shall submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Corps of Engineers.

(d) Cooperation

In undertaking activities under this section, the Secretary shall—

(1) encourage public participation; and

(2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, and tribal governments.

(e) Water use activities and policies

The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

(f) Cost sharing

The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e).

(g) In-kind contributions for study

The non-Federal interest may provide up to 100 percent of the non-Federal share required under subsection (f) in the form of in-kind services and materials.

(Pub. L. 106–53, title IV, §455, Aug. 17, 1999, 113 Stat. 330; Pub. L. 110–114, title IV, §4001, Nov. 8, 2007, 121 Stat. 1173.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1999, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (g). Pub. L. 110–114 added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106–53, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

§1962d–22. Great Lakes fishery and ecosystem restoration

(a) Findings

Congress finds that—

(1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;

(2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and

(3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

(b) Definitions

In this section, the following definitions apply:

(1) Great Lake

(A) In general

The term "Great Lake" means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(B) Inclusions

The term "Great Lake" includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

(2) Great Lakes Commission

The term "Great Lakes Commission" means the Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

(3) Great Lakes Fishery Commission

The term "Great Lakes Fishery Commission" has the meaning given the term "Commission" in section 931 of title 16.

(4) Great Lakes State

The term "Great Lakes State" means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(c) Great Lakes fishery and ecosystem restoration

(1) Support plan

(A) In general

Not later than 1 year after December 11, 2000, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

(B) Use of existing documents

To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on December 11, 2000, such as lakewide management plans and remedial action plans.

(C) Cooperation

The Secretary shall develop the plan in cooperation with—

(i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and

(ii) other affected interests.

(2) Reconnaissance studies

Before planning, designing, or constructing a project under paragraph (3), the Secretary shall carry out a reconnaissance study—

(A) to identify methods of restoring the fishery, ecosystem, and beneficial uses of the Great Lakes; and

(B) to determine whether planning of a project under paragraph (3) should proceed.

(3) Projects

The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

(4) Evaluation program

(A) In general

The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (3) in meeting fishery and ecosystem restoration goals.

(B) Studies

Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

(5) Recreation features

A project carried out pursuant to this subsection may include compatible recreation features as determined by the Secretary, except that the Federal costs of such features may not exceed 10 percent of the Federal ecosystem restoration costs of the project.

(d) Cooperative agreements

In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

(e) Relationship to other Great Lakes activities

No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

(f) Cost sharing

(1) Development of plan

The Federal share of the cost of development of the plan under subsection (c)(1) shall be 65 percent.

(2) Project planning, design, construction, and evaluation

Except for reconnaissance studies, the Federal share of the cost of planning, design, construction, and evaluation of a project under paragraph (3) or (4) of subsection (c) shall be 65 percent.

(3) Non-Federal share

(A) Credit for land, easements, and rights-of-way

The Secretary shall credit the non-Federal interest for the value of any land, easement, right-of-way, dredged material disposal area, or relocation provided for carrying out a project under subsection (c)(3).

(B) Form

The non-Federal interest may provide up to 100 percent of the non-Federal share required under paragraphs (1) and (2) in the form of services, materials, supplies, or other in-kind contributions.

(4) Operation and maintenance

The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(5) Non-Federal interests

In accordance with section 1962d–5b of this title, for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

(Pub. L. 106–541, title V, §506, Dec. 11, 2000, 114 Stat. 2645; Pub. L. 110–114, title V, §5011, Nov. 8, 2007, 121 Stat. 1194; Pub. L. 114–322, title I, §§1123, 1140, Dec. 16, 2016, 130 Stat. 1647, 1658.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Great Lakes Basin Compact, referred to in subsec. (b)(2), is not classified to the Code.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2000, and not as part of the Water Resources Planning Act which comprises this chapter.

AMENDMENTS

2016—Subsec. (c)(5). Pub. L. 114–322, §1140, added par. (5).

Subsec. (g). Pub. L. 114–322, §1123, struck out subsec. (g) which authorized appropriations for subsec. (c)(1) to (3).

2007—Subsec. (c)(2) to (4). Pub. L. 110–114, §5011(a), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted "paragraph (3)" for "paragraph (2)" in subpar. (A) of par. (4).

Subsec. (f)(2). Pub. L. 110–114, §5011(b)(1), substituted "Except for reconnaissance studies, the Federal share" for "The Federal share" and "(3) or (4)" for "(2) or (3)".

Subsec. (f)(3). Pub. L. 110–114, §5011(b)(2), substituted "subsection (c)(3)" for "subsection (c)(2)" in subpar. (A) and "100 percent" for "50 percent" in subpar. (B).

Subsec. (f)(5). Pub. L. 110–114, §5011(b)(3), substituted "In accordance with" for "Notwithstanding".

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106–541, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

CHAPTER 20—ELECTIVE FRANCHISE

SUBCHAPTER I—GENERALLY

Sec.

1971, 1972. Transferred.

SUBCHAPTER I–A—ENFORCEMENT OF VOTING RIGHTS

1973 to 1973c. Transferred.
1973d, 1973e. Repealed.
1973f. Transferred.
1973g. Repealed.
1973h to 1973*l*. Transferred.
1973m. Omitted.
1973n to 1973q. Transferred.

SUBCHAPTER I–B—SUPPLEMENTAL PROVISIONS

1973aa to 1973aa–6. Transferred.

SUBCHAPTER I–C—EIGHTEEN-YEAR-OLD VOTING AGE

1973bb, 1973bb–1. Transferred.
1973bb–2 to 1973bb–4. Repealed.

SUBCHAPTER I–D—FEDERAL ABSENTEE VOTING ASSISTANCE

PART I—RECOMMENDATION TO STATES

1973cc to 1973cc–3. Repealed.

PART II—RESPONSIBILITIES OF FEDERAL GOVERNMENT

1973cc–11 to 1973cc–15. Repealed.

PART III—GENERAL PROVISIONS

1973cc–21 to 1973cc–26. Repealed.

SUBCHAPTER I–E—VOTING RIGHTS OF OVERSEAS CITIZENS

1973dd to 1973dd–6. Repealed.

SUBCHAPTER I–F—VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED

1973ee to 1973ee–6. Transferred.

SUBCHAPTER I–G—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

1973ff to 1973ff–7. Transferred.

SUBCHAPTER I–H—NATIONAL VOTER REGISTRATION

1973gg to 1973gg–10. Transferred.

SUBCHAPTER II—FEDERAL ELECTION RECORDS

1974 to 1974e. Transferred.

SUBCHAPTER I—GENERALLY

§1971. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1971 was editorially reclassified as section 10101 of Title 52, Voting and Elections.

§1972. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1972 was editorially reclassified as section 10102 of Title 52, Voting and Elections.

SUBCHAPTER I–A—ENFORCEMENT OF VOTING RIGHTS

§1973. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973 was editorially reclassified as section 10301 of Title 52, Voting and Elections.

§1973a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973a was editorially reclassified as section 10302 of Title 52, Voting and Elections.

§1973b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973b was editorially reclassified as section 10303 of Title 52, Voting and Elections.

§1973c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973c was editorially reclassified as section 10304 of Title 52, Voting and Elections.

§§1973d, 1973e. Repealed. Pub. L. 109–246, §3(c), July 27, 2006, 120 Stat. 580

Section 1973d, Pub. L. 89–110, title I, §6, Aug. 6, 1965, 79 Stat. 439; renumbered title I, Pub. L. 91–285, §2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94–73, title II, §§205, 206, Aug. 6, 1975, 89 Stat. 402; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 103–94, §5, Oct. 6, 1993, 107 Stat. 1005, related to appointment of Federal voting examiners.

Section 1973e, Pub. L. 89–110, title I, §7, Aug. 6, 1965, 79 Stat. 440; renumbered title I, Pub. L. 91–285, §2, June 22, 1970, 84 Stat. 314; amended 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, related to examination of applicants for registration.

§1973f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973f was editorially reclassified as section 10305 of Title 52, Voting and Elections.

§1973g. Repealed. Pub. L. 109–246, §3(c), July 27, 2006, 120 Stat. 580

Section, Pub. L. 89–110, title I, §9, Aug. 6, 1965, 79 Stat. 441; renumbered title I, Pub. L. 91–285, §2, June 22, 1970, 84 Stat. 314; amended 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, related to challenges to eligibilty listings.

§1973h. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973h was editorially reclassified as section 10306 of Title 52, Voting and Elections.

§1973i. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973i was editorially reclassified as section 10307 of Title 52, Voting and Elections.

§1973j. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973j was editorially reclassified as section 10308 of Title 52, Voting and Elections.

§1973k. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973k was editorially reclassified as section 10309 of Title 52, Voting and Elections.

§1973*l*. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973l was editorially reclassified as section 10310 of Title 52, Voting and Elections.

§1973m. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 89–110, title I, §16, Aug. 6, 1965, 79 Stat. 445; renumbered title I, Pub. L. 91–285, §2, June 22, 1970, 84 Stat. 314, authorized Attorney General and Secretary of Defense, jointly, to make a study to determine whether laws or practices of any State or States impose preconditions to voting resulting in discrimination against Armed Forces personnel seeking to vote and to make a report to Congress not later than June 30, 1966, with the results of such study and recommendations for legislation.

§1973n. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973n was editorially reclassified as section 10311 of Title 52, Voting and Elections.

§1973*o*. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973o was editorially reclassified as section 10312 of Title 52, Voting and Elections.

§1973p. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973p was editorially reclassified as section 10313 of Title 52, Voting and Elections.

§1973q. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973q was editorially reclassified as section 10314 of Title 52, Voting and Elections.

SUBCHAPTER I–B—SUPPLEMENTAL PROVISIONS

§1973aa. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa was editorially reclassified as section 10501 of Title 52, Voting and Elections.

§1973aa–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–1 was editorially reclassified as section 10502 of Title 52, Voting and Elections.

§1973aa–1a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–1a was editorially reclassified as section 10503 of Title 52, Voting and Elections.

§1973aa–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–2 was editorially reclassified as section 10504 of Title 52, Voting and Elections.

§1973aa–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–3 was editorially reclassified as section 10505 of Title 52, Voting and Elections.

§1973aa–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–4 was editorially reclassified as section 10506 of Title 52, Voting and Elections.

§1973aa–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–5 was editorially reclassified as section 10507 of Title 52, Voting and Elections.

§1973aa–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973aa–6 was editorially reclassified as section 10508 of Title 52, Voting and Elections.

SUBCHAPTER I–C—EIGHTEEN-YEAR-OLD VOTING AGE

§1973bb. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973bb was editorially reclassified as section 10701 of Title 52, Voting and Elections.

§1973bb–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973bb–1 was editorially reclassified as section 10702 of Title 52, Voting and Elections.

§§1973bb–2 to 1973bb–4. Repealed. Pub. L. 94–73, title IV, §407, Aug. 6, 1975, 89 Stat. 405

Section 1973bb–2, Pub. L. 89–110, title III, §303, as added Pub. L. 91–285, §6, June 22, 1970, 84 Stat. 318, authorized the Attorney General to institute actions to enforce this subchapter, and provided for jurisdiction of district courts, appeals, and penalties for denial of rights secured by this subchapter. See section 10701 of Title 52, Voting and Elections.

Section 1973bb–3, Pub. L. 89–110, title III, §304, as added Pub. L. 91–285, §6, June 22, 1970, 84 Stat. 319, defined "State". See section 10702 of Title 52, Voting and Elections.

Section 1973bb–4, Pub. L. 89–10, title III, §305, as added Pub. L. 91–285, §6, June 22, 1970, 84 Stat. 319, provided for effective date of this subchapter.

SUBCHAPTER I–D—FEDERAL ABSENTEE VOTING ASSISTANCE

PART I—RECOMMENDATION TO STATES

§§1973cc to 1973cc–3. Repealed. Pub. L. 99–410, title II, §203, Aug. 28, 1986, 100 Stat. 930

Section 1973cc, acts Aug. 9, 1955, ch. 656, title I, §101, 69 Stat. 584; June 18, 1968, Pub. L. 90–343, §1, 82 Stat. 180; Nov. 4, 1978, Pub. L. 95–593, §7, 92 Stat. 2537, related to State enactment of absentee voting legislation and to covered persons. See section 20302 of Title 52, Voting and Elections.

Section 1973cc–1, acts Aug. 9, 1955, ch. 656, title I, §102, 69 Stat. 584; June 18, 1968, Pub. L. 90–344, §1(1), 82 Stat. 181; Aug. 6, 1981, Pub. L. 97–31, §12(19), 95 Stat. 154, related to balloting procedures.

Section 1973cc–2, act Aug. 9, 1955, ch. 656, title I, §103, 69 Stat. 585, related to availability of statistical data to assist Presidential designee in compiling comprehensive information of operations under this subchapter.

Section 1973cc–3, act Aug. 9, 1955, ch. 656, title I, §104, as added June 18, 1968, Pub. L. 90–344, §1(2), 82 Stat. 181, related to legal residence for voting purposes of personnel residing on military installations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 20301 of Title 52, Voting and Elections.

PART II—RESPONSIBILITIES OF FEDERAL GOVERNMENT

§§1973cc–11 to 1973cc–15. Repealed. Pub. L. 99–410, title II, §203, Aug. 28, 1986, 100 Stat. 930

Section 1973cc–11, acts Aug. 9, 1955, ch. 656, title II, §201, 69 Stat. 585; Dec. 21, 1982, Pub. L. 97–375, title II, §203(b), 96 Stat. 1823, provided for designation of Presidential designee to coordinate and facilitate Federal responsibilities and to report to the President and Congress. See section 20301(a) and (b) of Title 52, Voting and Elections.

Section 1973cc–12, acts Aug. 9, 1955, ch. 656, title II, §202, 69 Stat. 586; Nov. 4, 1978, Pub. L. 95–593, §8, 92 Stat. 2537, related to acquisition and distribution by Presidential designee of current absentee voting information from each State.

Section 1973c–13, acts Aug. 9, 1955, ch. 656, title II, §203, 69 Stat. 586; June 18, 1968, Pub. L. 90–344, §1(3), 82 Stat. 181; Nov. 4, 1978, Pub. L. 95–593, §9, 92 Stat. 2538, related to cooperation of Government officials, drafts of State legislation, and printing and transmitting of post cards. See section 20301(c) of Title 52, Voting and Elections.

Section 1973cc–14, acts Aug. 9, 1955, ch. 656, title II, §204, 69 Stat. 586; June 18, 1968, Pub. L. 90–343, §2, 82 Stat. 181; June 18, 1968, Pub. L. 90–344, §1(4)–(6), 82 Stat. 182; Nov. 4, 1978, Pub. L. 95–593, §10, 92 Stat. 2538, related to form and content of post card application. See section 20301(b)(2) of Title 52, Voting and Elections.

Section 1973cc–15, act Aug. 9, 1955, ch. 656, title II, §205, 69 Stat. 588, related to use of prior post card form for election of Members of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of this title.

PART III—GENERAL PROVISIONS

§§1973cc–21 to 1973cc–26. Repealed. Pub. L. 99–410, title II, §203, Aug. 28, 1986, 100 Stat. 930

Section 1973cc–21, act Aug. 9, 1955, ch. 656, title III, §301, 69 Stat. 588, provided definitions of terms used in this subchapter. See section 20310 of Title 52, Voting and Elections.

Section 1973cc–22, act Aug. 9, 1955, ch. 656, title III, §302, 69 Stat. 588, provided free postage for official post cards, ballots, voting instructions, and envelopes. See section 3406 of Title 39, Postal Service.

Section 1973cc–23, act Aug. 9, 1955, ch. 656, title III, §303, 69 Stat. 588, related to prevention of fraud and coercion.

Section 1973cc–24, act Aug. 9, 1955, ch. 656, title III, §304, 69 Stat. 589, provided that acts done in good faith do not constitute a violation of any provision of law relating to elective franchise.

Section 1973cc–25, act Aug. 9, 1955, ch. 656, title III, §305, 69 Stat. 589, provided that no undue influence be used by any officer but that nothing in this subchapter be deemed to prohibit free discussion regarding political issues or candidates for public office. See section 609 of Title 18, Crimes and Criminal Procedure.

Section 1973cc–26, act Aug. 9, 1955, ch. 656, title III, §308, 69 Stat. 589, authorized appropriations as necessary to carry out this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 20301 of Title 52, Voting and Elections.

SUBCHAPTER I–E—VOTING RIGHTS OF OVERSEAS CITIZENS

§§1973dd to 1973dd–6. Repealed. Pub. L. 99–410, title II, §203, Aug. 28, 1986, 100 Stat. 930

Section 1973dd, Pub. L. 94–203, §2, Jan. 2, 1976, 89 Stat. 1142; Pub. L. 95–593, §1, Nov. 4, 1978, 92 Stat. 2535, provided definitions of terms used in this subchapter. See section 20310 of Title 52, Voting and Elections.

Section 13973dd–1, Pub. L. 94–203, §3, Jan. 2, 1976, 89 Stat. 1142; Pub. L. 95–593, §2, Nov. 4, 1978, 92 Stat. 2535, related to qualifications for registration and vote by absentee ballot.

Section 1973dd–2, Pub. L. 94–203, §4, Jan. 2, 1976, 89 Stat. 1143; Pub. L. 95–593, §3, Nov. 4, 1978, 92 Stat. 2535, related to State provisions concerning absentee registration or qualification and absentee ballots and to recommendations to States in carrying out the provisions of this section. See section 20302 of Title 52, Voting and Elections.

Section 1973dd–2a, Pub. L. 94–203, §5, as added Pub. L. 95–593, §4(2), Nov. 4, 1978, 92 Stat. 2535, related to acquisition and dissemination by Presidential designee of current absentee voting information from each State.

Section 1973dd–2b, Pub. L. 94–203, §6, as added Pub. L. 95–593, §4(2), Nov. 4, 1978, 92 Stat. 2536, related to printing and transmitting of voting material. See section 3406 of Title 39, Postal Service, and section 20301(c)(2) of Title 52, Voting and Elections.

Section 1973dd–3, Pub. L. 94–203, §7, formerly §5, Jan. 2, 1976, 89 Stat. 1143; renumbered §7, Pub. L. 95–593, §4(1), Nov. 4, 1978, 92 Stat. 2535, provided for enforcement by the Attorney General, jurisdiction of courts, and penalties for depriving or attempting to deprive persons of secured rights and giving or conspiring to give false information or paying or accepting money either for registration to vote or voting. See section 608 of Title 18, Crimes and Criminal Procedure, and section 20307 of Title 52, Voting and Elections.

Section 1973dd–4, Pub. L. 94–203, §8, formerly §6, Jan. 2, 1976, 89 Stat. 1143; renumbered §8, Pub. L. 95–593, §4(1), Nov. 4, 1978, 92 Stat. 2535, provided that if any provision of this subchapter is held invalid, the validity of the remainder of this subchapter not be affected.

Section 1973dd–5, Pub. L. 94–203, §9, formerly §7, Jan. 2, 1976, 89 Stat. 1144; renumbered §9 and amended Pub. L. 95–593, §§4(1), 5, Nov. 4, 1978, 92 Stat. 2535, 2537, related to applicability of this subchapter to State registration requirements and voting practices and provided that exercise of any right to register or vote in Federal elections by any citizen outside the United States not affect the determination of residence or domicile for tax purposes. See section 20309 of Title 52, Voting and Elections.

Section 1973dd–6, Pub. L. 94–203, §11, as added Pub. L. 95–593, §6, Nov. 4, 1978, 92 Stat. 2537, authorized appropriations as necessary to carry out this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 20301 of Title 52, Voting and Elections.

SUBCHAPTER I–F—VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED

§1973ee. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee was editorially reclassified as section 20101 of Title 52, Voting and Elections.

§1973ee–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee–1 was editorially reclassified as section 20102 of Title 52, Voting and Elections.

§1973ee–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee–2 was editorially reclassified as section 20103 of Title 52, Voting and Elections.

§1973ee–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee–3 was editorially reclassified as section 20104 of Title 52, Voting and Elections.

§1973ee–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee–4 was editorially reclassified as section 20105 of Title 52, Voting and Elections.

§1973ee–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee–5 was editorially reclassified as section 20106 of Title 52, Voting and Elections.

§1973ee–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ee–6 was editorially reclassified as section 20107 of Title 52, Voting and Elections.

SUBCHAPTER I–G—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

§1973ff. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff was editorially reclassified as section 20301 of Title 52, Voting and Elections.

§1973ff–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–1 was editorially reclassified as section 20302 of Title 52, Voting and Elections.

§1973ff–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–2 was editorially reclassified as section 20303 of Title 52, Voting and Elections.

§1973ff–2a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–2a was editorially reclassified as section 20304 of Title 52, Voting and Elections.

§1973ff–2b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–2b was editorially reclassified as section 20305 of Title 52, Voting and Elections.

§1973ff–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–3 was editorially reclassified as section 20306 of Title 52, Voting and Elections.

§1973ff–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–4 was editorially reclassified as section 20307 of Title 52, Voting and Elections.

§1973ff–4a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–4a was editorially reclassified as section 20308 of Title 52, Voting and Elections.

§1973ff–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–5 was editorially reclassified as section 20309 of Title 52, Voting and Elections.

§1973ff–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–6 was editorially reclassified as section 20310 of Title 52, Voting and Elections.

§1973ff–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973ff–7 was editorially reclassified as section 20311 of Title 52, Voting and Elections.

SUBCHAPTER I–H—NATIONAL VOTER REGISTRATION

§1973gg. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg was editorially reclassified as section 20501 of Title 52, Voting and Elections.

§1973gg–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–1 was editorially reclassified as section 20502 of Title 52, Voting and Elections.

§1973gg–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–2 was editorially reclassified as section 20503 of Title 52, Voting and Elections.

§1973gg–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–3 was editorially reclassified as section 20504 of Title 52, Voting and Elections.

§1973gg–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–4 was editorially reclassified as section 20505 of Title 52, Voting and Elections.

§1973gg–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–5 was editorially reclassified as section 20506 of Title 52, Voting and Elections.

§1973gg–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–6 was editorially reclassified as section 20507 of Title 52, Voting and Elections.

§1973gg–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–7 was editorially reclassified as section 20508 of Title 52, Voting and Elections.

§1973gg–8. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–8 was editorially reclassified as section 20509 of Title 52, Voting and Elections.

§1973gg–9. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–9 was editorially reclassified as section 20510 of Title 52, Voting and Elections.

§1973gg–10. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1973gg–10 was editorially reclassified as section 20511 of Title 52, Voting and Elections.

SUBCHAPTER II—FEDERAL ELECTION RECORDS

§1974. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1974 was editorially reclassified as section 20701 of Title 52, Voting and Elections.

§1974a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1974a was editorially reclassified as section 20702 of Title 52, Voting and Elections.

§1974b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1974b was editorially reclassified as section 20703 of Title 52, Voting and Elections.

§1974c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1974c was editorially reclassified as section 20704 of Title 52, Voting and Elections.

§1974d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1974d was editorially reclassified as section 20705 of Title 52, Voting and Elections.

§1974e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 1974e was editorially reclassified as section 20706 of Title 52, Voting and Elections.

CHAPTER 20A—CIVIL RIGHTS COMMISSION

Sec.

1975. Establishment of Commission.
1975a. Duties of Commission.
1975b. Administrative provisions.
1975c. Authorization of appropriations.
1975d. Termination.
1975e, 1975f. Omitted.

EDITORIAL NOTES

CODIFICATION

A prior chapter 20A, which provided for the establishment of a Commission on Civil Rights in the executive branch, was comprised of part I (§§101–106) of Pub. L. 85–315, Sept. 9, 1957, 71 Stat. 634, and was omitted from the Code in view of the termination of the Commission 60 days after the submission of the Commission's final report which was due not later than Sept. 30, 1983.

§1975. Establishment of Commission

(a) Generally

There is established the United States Commission on Civil Rights (hereinafter in this chapter

referred to as the "Commission").

(b) Membership

The Commission shall be composed of 8 members. Not more than 4 of the members shall at any one time be of the same political party. The initial membership of the Commission shall be the members of the United States Commission on Civil Rights on September 30, 1994. Thereafter vacancies in the membership of the Commission shall continue to be appointed as follows:

(1) 4 members of the Commission shall be appointed by the President.

(2) 2 members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

(3) 2 members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

(c) Terms

The term of office of each member of the Commission shall be 6 years. The term of each member of the Commission in the initial membership of the Commission shall expire on the date such term would have expired as of September 30, 1994.

(d) Chairperson

(1) Except as provided in paragraphs (2) and (3), the individuals serving as Chairperson and Vice Chairperson of the United States Commission on Civil Rights on September 30, 1994 shall initially fill those roles on the Commission.

(2) Thereafter the President may, with the concurrence of a majority of the Commission's members, designate a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

(3) The President shall, with the concurrence of a majority of the Commission's members, fill a vacancy by designating a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

(4) The Vice Chairperson shall act in place of the Chairperson in the absence of the Chairperson.

(e) Removal of members

The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

(f) Quorum

5 members of the Commission constitute a quorum of the Commission.

(Pub. L. 98–183, §2, Nov. 30, 1983, 97 Stat. 1301; Pub. L. 102–167, §5, Nov. 26, 1991, 105 Stat. 1101; Pub. L. 103–419, §2, Oct. 25, 1994, 108 Stat. 4338.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1975, Pub. L. 85–315, pt. I, §101, Sept. 9, 1957, 71 Stat. 634, related to establishment, membership, etc., of Commission on Civil Rights. See Codification note set out preceding this section.

AMENDMENTS

1994—Pub. L. 103–419 amended section generally, substituting provisions relating to establishment of United States Commission on Civil Rights for provisions relating to Commission on Civil Rights.

1991—Subsec. (c). Pub. L. 102–167 substituted "Chairperson" for "Chairman" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–419, §1, Oct. 25, 1994, 108 Stat. 4338, provided that: "This Act [amending this section and sections 1975a to 1975d of this title, omitting former sections 1975e and 1975f of this title, and amending provisions set out as a note below] may be cited as the 'Civil Rights Commission Amendments Act of 1994'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–400, §1, Oct. 7, 1992, 106 Stat. 1955, provided that: "This Act [amending section 1975e of this title] may be cited as the 'United States Commission on Civil Rights Authorization Act of 1992'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–167, §1, Nov. 26, 1991, 105 Stat. 1101, provided that: "This Act [amending this section and sections 1975a and 1975c to 1975f of this title] may be cited as the 'United States Commission on Civil Rights Reauthorization Act of 1991'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–180, §1, Nov. 28, 1989, 103 Stat. 1325, provided that: "This Act [amending sections 1975e and 1975f of this title] may be cited as the 'Civil Rights Commission Reauthorization Act of 1989'."

SHORT TITLE

Pub. L. 98–183, §1, Nov. 30, 1983, 97 Stat. 1301, as amended by Pub. L. 103–419, §2, Oct. 25, 1994, 108 Stat. 4338, provided that: "This Act [enacting this chapter] may be cited as the 'Civil Rights Commission Act of 1983'."

COMMISSION ON THE SOCIAL STATUS OF BLACK MEN AND BOYS

Pub. L. 116–156, Aug. 14, 2020, 134 Stat. 700, as amended by Pub. L. 116–260, div. O, title II, §201, Dec. 27, 2020, 134 Stat. 2148, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Commission on the Social Status of Black Men and Boys Act'.

"SEC. 2. COMMISSION ESTABLISHMENT AND MEMBERSHIP.

"(a) ESTABLISHMENT.—The Commission on the Social Status of Black Men and Boys (hereinafter in this Act referred to as 'the Commission') is established within the United States Commission on Civil Rights Office of the Staff Director.

"(b) MEMBERSHIP.—The Commission shall consist of 19 members appointed as follows:

"(1) The Senate majority leader shall appoint one member who is not employed by the Federal Government and is an expert on issues affecting Black men and boys in America.

"(2) The Senate minority leader shall appoint one member who is not employed by the Federal Government and is an expert on issues affecting Black men and boys in America.

"(3) The Speaker of the House of Representatives shall appoint one member who is not employed by the Federal Government and is an expert on issues affecting Black men and boys in America.

"(4) The House of Representatives minority leader shall appoint one member who is not employed by the Federal Government and is an expert on issues affecting Black men and boys in America.

"(5) The Chair of the Congressional Black Caucus shall be a member of the Commission, as well as 5 additional Members of the Congressional Black Caucus who shall be individuals that either sit on the following committees of relevant jurisdiction or are experts on issues affecting Black men and boys in the United States, including—

"(A) education;

"(B) justice and Civil Rights;

"(C) healthcare;

"(D) labor and employment; and

"(E) housing.

"(6) The Staff Director of the United States Commission on Civil Rights shall appoint one member from within the staff of the United States Commission on Civil Rights who is an expert in issues relating to Black men and boys.

"(7) The Chair of the United States Equal Employment Opportunity Commission shall appoint one member from within the staff of the United States Equal Employment Opportunity Commission who is an expert in equal employment issues impacting Black men.

"(8) The Secretary of Education shall appoint one member from within the Department of Education who is an expert in urban education.

"(9) The Attorney General shall appoint one member from within the Department of Justice who is an

expert in racial disparities within the criminal justice system.

"(10) The Secretary of Health and Human Services shall appoint one member from within the Department of Health and Human Services who is an expert in health issues facing Black men.

"(11) The Secretary of Housing and Urban Development shall appoint one member from within the Department of Housing and Urban Development who is an expert in housing and development in urban communities.

"(12) The Secretary of Labor shall appoint one member from within the Department of Labor who is an expert in labor issues impacting Black men.

"(13) The President of the United States shall appoint 2 members who are not employed by the Federal Government and are experts on issues affecting Black men and boys in America.

"(c) MEMBERSHIP BY POLITICAL PARTY.—If after the Commission is appointed there is a partisan imbalance of Commission members, the congressional leaders of the political party with fewer members on the Commission shall jointly name additional members to create partisan parity on the Commission.

"SEC. 3. OTHER MATTERS RELATING TO APPOINTMENT; REMOVAL.

"(a) TIMING OF INITIAL APPOINTMENTS.—Each initial appointment to the Commission shall be made no later than 90 days after the Commission is established. If any appointing authorities fail to appoint a member to the Commission, their appointment shall be made by the Staff Director of the Commission on Civil Rights.

"(b) TERMS.—Except as otherwise provided in this section, the term of a member of the Commission shall be 4 years. For the purpose of providing staggered terms, the first term of those members initially appointed under paragraphs (1) through (5) of section 2 shall be appointed to 2-year terms with all other terms lasting 4 years. Members are eligible for consecutive reappointment.

"(c) REMOVAL.—A member of the Commission may be removed from the Commission at any time by the appointing authority should the member fail to meet Commission responsibilities. Once the seat becomes vacant, the appointing authority is responsible for filling the vacancy in the Commission before the next meeting.

"(d) VACANCIES.—The appointing authority of a member of the Commission shall either reappoint that member at the end of that member's term or appoint another person meeting the qualifications for that appointment. In the event of a vacancy arising during a term, the appointing authority shall, before the next meeting of the Commission, appoint a replacement to finish that term.

"SEC. 4. LEADERSHIP ELECTION.

"At the first meeting of the Commission each year, the members shall elect a Chair and a Secretary. A vacancy in the Chair or Secretary shall be filled by vote of the remaining members. The Chair and Secretary are eligible for consecutive reappointment.

"SEC. 5. COMMISSION DUTIES AND POWERS.

"(a) STUDY.—

"(1) IN GENERAL.—The Commission shall conduct a systematic study of the conditions affecting Black men and boys, including homicide rates, arrest and incarceration rates, poverty, violence, fatherhood, mentorship, drug abuse, death rates, disparate income and wealth levels, school performance in all grade levels including postsecondary education and college, and health issues.

"(2) TRENDS.—The Commission shall document trends regarding the topics described in paragraph (1) and report on the community impacts of relevant government programs within the scope of such topics.

"(b) PROPOSAL OF MEASURES.—The Commission shall propose measures to alleviate and remedy the underlying causes of the conditions described in subsection (a), which may include recommendations of changes to the law, recommendations for how to implement related policies, and recommendations for how to create, develop, or improve upon government programs.

"(c) SUGGESTIONS AND COMMENTS.—The Commission shall accept suggestions or comments pertinent to the applicable issues from members of Congress, governmental agencies, public and private organizations, and private citizens.

"(d) STAFF AND ADMINISTRATIVE SUPPORT.—The Office of the Staff Director of the United States Commission on Civil Rights shall provide staff and administrative support to the Commission. All entities of the United States Government shall provide information that is otherwise a public record at the request of the Commission.

"SEC. 6. COMMISSION MEETING REQUIREMENTS.

"(a) FIRST MEETING.—The first meeting of the Commission shall take place no later than 30 days after the initial members are all appointed. Meetings shall be focused on significant issues impacting Black men

and boys, for the purpose of initiating research ideas and delegating research tasks to Commission members to initiate the first annual report described in section 7.

"(b) QUARTERLY MEETINGS.—The Commission shall meet quarterly. In addition to all quarterly meetings, the Commission shall meet at other times at the call of the Chair or as determined by a majority of Commission members.

"(c) QUORUM; RULE FOR VOTING ON FINAL ACTIONS.—A majority of the members of the Commission constitute a quorum, and an affirmative vote of a majority of the members present is required for final action.

"(d) EXPECTATIONS FOR ATTENDANCE BY MEMBERS.—Members are expected to attend all Commission meetings. In the case of an absence, members are expected to report to the Chair prior to the meeting and allowance may be made for an absent member to participate remotely. Members will still be responsible for fulfilling prior commitments, regardless of attendance status. If a member is absent twice in a given year, he or she will be reviewed by the Chair and appointing authority and further action will be considered, including removal and replacement on the Commission.

"(e) MINUTES.—Minutes shall be taken at each meeting by the Secretary, or in that individual's absence, the Chair shall select another Commission member to take minutes during that absence. The Commission shall make its minutes publicly available and accessible not later than one week after each meeting.

"SEC. 7. ANNUAL REPORT GUIDELINES.

"The Commission shall make an annual report, beginning the year of the first Commission meeting. The report shall address the current conditions affecting Black men and boys and make recommendations to address these issues. The report shall be submitted to the President, the Congress, members of the President's Cabinet, and the chairs of the appropriate committees of jurisdiction. The Commission shall make the report publicly available online on a centralized Federal website.

"SEC. 8. COMMISSION COMPENSATION.

"Members of the Commission shall serve on the Commission without compensation."

§1975a. Duties of Commission

(a) Generally

The Commission—

(1) shall investigate allegations in writing under oath or affirmation relating to deprivations—

(A) because of color, race, religion, sex, age, disability, or national origin; or

(B) as a result of any pattern or practice of fraud;

of the right of citizens of the United States to vote and have votes counted; and

(2) shall—

(A) study and collect information relating to;

(B) make appraisals of the laws and policies of the Federal Government with respect to;

(C) serve as a national clearinghouse for information relating to; and

(D) prepare public service announcements and advertising campaigns to discourage;

discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.

(b) Limitations on investigatory duties

Nothing in this chapter or any other Act shall be construed as authorizing the Commission, its advisory committees, or any person under its supervision or control, to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, or any religious organization.

(c) Reports

(1) Annual report

The Commission shall submit to the President and Congress at least one report annually that

monitors Federal civil rights enforcement efforts in the United States.

(2) Other reports generally

The Commission shall submit such other reports to the President and the Congress as the Commission, the Congress, or the President shall deem appropriate.

(d) Advisory committees

The Commission may constitute such advisory committees as it deems advisable. The Commission shall establish at least one such committee in each State and the District of Columbia composed of citizens of that State or District.

(e) Hearings and ancillary matters

(1) Power to hold hearings

The Commission, or on the authorization of the Commission, any subcommittee of two or more members of the Commission, at least one of whom shall be of each major political party, may, for the purpose of carrying out this chapter, hold such hearings and act at such times and places as the Commission or such authorized subcommittee deems advisable. Each member of the Commission shall have the power to administer oaths and affirmations in connection with the proceedings of the Commission. The holding of a hearing by the Commission or the appointment of a subcommittee to hold a hearing pursuant to this paragraph must be approved by a majority of the Commission, or by a majority of the members present at a meeting when a quorum is present.

(2) Power to issue subpoenas

The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter. Such a subpoena may not require the presence of a witness more than 100 miles outside the place wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process. In case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(3) Witness fees

A witness attending any proceeding of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(4) Depositions and interrogatories

The Commission may use depositions and written interrogatories to obtain information and testimony about matters that are the subject of a Commission hearing or report.

(f) Limitation relating to abortion

Nothing in this chapter or any other Act shall be construed as authorizing the Commission, its advisory committees, or any other person under its supervision or control to study and collect, make appraisals of, or serve as a clearinghouse for any information about laws and policies of the Federal Government or any other governmental authority in the United States, with respect to abortion.

(Pub. L. 98–183, §3, Nov. 30, 1983, 97 Stat. 1302; Pub. L. 102–167, §5, Nov. 26, 1991, 105 Stat. 1101; Pub. L. 103–419, §2, Oct. 25, 1994, 108 Stat. 4339.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1975a, Pub. L. 85–315, pt. I, §102, Sept. 9, 1957, 71 Stat. 634; Pub. L. 88–352, title V, §501, July 2, 1964, 78 Stat. 249; Pub. L. 91–521, §4, Nov. 25, 1970, 84 Stat. 1357; Pub. L. 92–496, §1, Oct. 14, 1972, 86 Stat. 813, established rules of procedure for Commission. See Codification note set out preceding section 1975 of this title.

AMENDMENTS

1994—Pub. L. 103–419 amended section generally, substituting provisions relating to duties of

Commission for provisions relating to rules of procedure of Commission hearings.

1991—Subsecs. (a), (d), (f). Pub. L. 102–167 substituted "Chairperson" for "Chairman" wherever appearing.

§1975b. Administrative provisions

(a) Staff

(1) Director

There shall be a full-time staff director for the Commission who shall—

(A) serve as the administrative head of the Commission; and

(B) be appointed by the President with the concurrence of a majority of the Commission.

(2) Other personnel

Within the limitation of its appropriations, the Commission may—

(A) appoint such other personnel as it deems advisable, under the civil service and classification laws; and

(B) procure services, as authorized in section 3109 of title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of title 5.

(b) Compensation of members

(1) Generally

Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Executive Schedule under section 5315 of title 5, prorated on a daily basis for time spent in the work of the Commission.

(2) Persons otherwise in Government service

Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from such member's usual place of residence, under subchapter I of chapter 57 of title 5.

(c) Voluntary or uncompensated personnel

The Commission shall not accept or use the services of voluntary or uncompensated persons. This limitation shall apply with respect to services of members of the Commission as it does with respect to services by other persons.

(d) Rules

(1) Generally

The Commission may make such rules as are necessary to carry out the purposes of this chapter.

(2) Continuation of old rules

Except as inconsistent with this chapter, and until modified by the Commission, the rules of the Commission on Civil Rights in effect on September 30, 1994 shall be the initial rules of the Commission.

(e) Cooperation

All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(Pub. L. 98–183, §4, Nov. 30, 1983, 97 Stat. 1304; Pub. L. 103–419, §2, Oct. 25, 1994, 108 Stat. 4340.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1975b, Pub. L. 85–315, pt. I, §103, Sept. 9, 1957, 71 Stat. 635; Pub. L. 88–352, title V, §§502, 503, July 2, 1964, 78 Stat. 250, 251; Pub. L. 91–521, §1, Nov. 25, 1970, 84 Stat. 1356; Pub. L. 92–496, §2, Oct. 14, 1972, 86 Stat. 813; Pub. L. 95–444, §2, Oct. 10, 1978, 92 Stat. 1067, related to compensation of members of Commission. See Codification note set out preceding section 1975 of this title.

AMENDMENTS

1994—Pub. L. 103–419 amended section generally, substituting administrative provisions for provisions relating to compensation of members of Commission.

§1975c. Authorization of appropriations

There are authorized to be appropriated,[1] to carry out this chapter $9,500,000 for fiscal year 1995. None of the sums authorized to be appropriated for fiscal year 1995 may be used to create additional regional offices.

(Pub. L. 98–183, §5, Nov. 30, 1983, 97 Stat. 1304; Pub. L. 102–167, §2, Nov. 26, 1991, 105 Stat. 1101; Pub. L. 103–419, §2, Oct. 25, 1994, 108 Stat. 4341.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1975c, Pub. L. 85–315, pt. I, §104, Sept. 9, 1957, 71 Stat. 635; Pub. L. 86–383, title IV, §401, Sept. 28, 1959, 73 Stat. 724; Pub. L. 87–264, title IV, §401, Sept. 21, 1961, 75 Stat. 559; Pub. L. 88–152, §2, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88–352, title V, §504, July 2, 1964, 78 Stat. 251; Pub. L. 90–198, §1, Dec. 14, 1967, 81 Stat. 582; Pub. L. 92–496, §§3, 4, Oct. 14, 1972, 86 Stat. 813, 814; Pub. L. 95–444, §3, Oct. 10, 1978, 92 Stat. 1067; Pub. L. 96–81, §2, Oct. 6, 1979, 93 Stat. 642, related to duties of Commission. See Codification note set out preceding section 1975 of this title.

AMENDMENTS

1994—Pub. L. 103–419 amended section generally, substituting provisions authorizing appropriations for fiscal year 1995 for provisions relating to duties of Commission.

1991—Subsec. (f). Pub. L. 102–167, which directed the insertion of "The Commission shall, in addition to any other reports under this section, submit at least one annual report that monitors Federal civil rights enforcement efforts in the United States to Congress and to the President." at the end of this section, was executed by making the insertion at the end of subsec. (f).

[1] *So in original. The comma probably should not appear.*

§1975d. Termination

This chapter shall terminate on September 30, 1996.

(Pub. L. 98–183, §6, Nov. 30, 1983, 97 Stat. 1305; Pub. L. 102–167, §5, Nov. 26, 1991, 105 Stat. 1101; Pub. L. 103–419, §2, Oct. 25, 1994, 108 Stat. 4342.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1975d, Pub. L. 85–315, pt. I, §105, Sept. 9, 1957, 71 Stat. 636; Pub. L. 86–449, title IV, §401, May 6, 1960, 74 Stat. 89; Pub. L. 88–352, title V, §§505–507, July 2, 1964, 78 Stat. 251, 252; Pub. L.

91–521, §2, Nov. 25, 1970, 84 Stat. 1356; Pub. L. 92–496, §5, Oct. 14, 1972, 86 Stat. 814; Pub. L. 95–444, §§4–6, Oct. 10, 1978, 92 Stat. 1067, 1068, related to powers of Commission. See Codification note set out preceding section 1975 of this title.

AMENDMENTS

1994—Pub. L. 103–419 amended section generally, substituting provisions terminating this chapter Sept. 30, 1996, for provisions relating to powers of Commission.

1991—Subsec. (f). Pub. L. 102–167 substituted "Chairperson" for "Chairman" in two places.

§§1975e, 1975f. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 1975e and 1975f were omitted in the general amendment of this chapter by Pub. L. 103–419.

Section 1975e, Pub. L. 98–183, §7, Nov. 30, 1983, 97 Stat. 1307; Pub. L. 101–180, §2(1), Nov. 28, 1989, 103 Stat. 1325; Pub. L. 102–167, §3, Nov. 26, 1991, 105 Stat. 1101; Pub. L. 102–400, §2, Oct. 7, 1992, 106 Stat. 1955, authorized appropriations to carry out this chapter. See section 1975c of this title.

A prior section 1975e, Pub. L. 85–315, pt. I, §106, Sept. 9, 1957, 71 Stat. 636; Pub. L. 90–198, §2, Dec. 14, 1967, 81 Stat. 582; Pub. L. 91–521, §3, Nov. 25, 1970, 84 Stat. 1356; Pub. L. 92–64, Aug. 4, 1971, 85 Stat. 166; Pub. L. 92–496, §6, Oct. 14, 1972, 86 Stat. 814; Pub. L. 94–292, §2, May 27, 1976, 90 Stat. 524; Pub. L. 95–132, §2, Oct. 13, 1977, 91 Stat. 1157; Pub. L. 95–444, §7, Oct. 10, 1978, 92 Stat. 1068; Pub. L. 96–81, §3, Oct. 6, 1979, 93 Stat. 642; Pub. L. 96–447, §2, Oct. 13, 1980, 94 Stat. 1894, related to authorization of appropriations for this chapter. See Codification note set out preceding section 1975 of this title.

Section 1975f, Pub. L. 98–183, §8, Nov. 30, 1983, 97 Stat. 1307; Pub. L. 101–180, §2(2), Nov. 28, 1989, 103 Stat. 1325; Pub. L. 102–167, §4, Nov. 26, 1991, 105 Stat. 1101, provided termination date for this chapter. See section 1975d of this title.

CHAPTER 21—CIVIL RIGHTS

SUBCHAPTER I—GENERALLY

Sec.

1981. Equal rights under the law.
1981a. Damages in cases of intentional discrimination in employment.
1982. Property rights of citizens.
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SUBCHAPTER I–A—INSTITUTIONALIZED PERSONS

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SUBCHAPTER II—PUBLIC ACCOMMODATIONS

2000a. Prohibition against discrimination or segregation in places of public accommodation.
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2000a–3. Civil actions for injunctive relief.
2000a–4. Community Relations Service; investigations and hearings; executive session; release of testimony; duty to bring about voluntary settlements.
2000a–5. Civil actions by the Attorney General.
2000a–6. Jurisdiction; exhaustion of other remedies; exclusiveness of remedies; assertion of rights based on other Federal or State laws and pursuit of remedies for enforcement of such rights.

SUBCHAPTER III—PUBLIC FACILITIES

2000b. Civil actions by the Attorney General.
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2000c–3. Training institutes; stipends; travel allowances.
2000c–4. Grants for inservice training in dealing with and for employment of specialists to advise in problems incident to desegregation; factors for consideration in making grants and fixing amounts, terms, and conditions.
2000c–5. Payments; adjustments; advances or reimbursement; installments.
2000c–6. Civil actions by the Attorney General.
2000c–7. Liability of United States for costs.
2000c–8. Personal suits for relief against discrimination in public education.
2000c–9. Classification and assignment.

SUBCHAPTER V—FEDERALLY ASSISTED PROGRAMS

2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin.
2000d–1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional

committees; effective date of administrative action.
2000d–2. Judicial review; administrative procedure provisions.
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2000d–4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty.
2000d–4a. "Program or activity" and "program" defined.
2000d–5. Prohibited deferral of action on applications by local educational agencies seeking Federal funds for alleged noncompliance with Civil Rights Act.
2000d–6. Policy of United States as to application of nondiscrimination provisions in schools of local educational agencies.
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2000e–9. Conduct of hearings and investigations pursuant to section 161 of title 29.
2000e–10. Posting of notices; penalties.
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2000e–12. Regulations; conformity of regulations with administrative procedure provisions; reliance on interpretations and instructions of Commission.
2000e–13. Application to personnel of Commission of sections 111 and 1114 of title 18; punishment for violation of section 1114 of title 18.
2000e–14. Equal Employment Opportunity Coordinating Council; establishment; composition; duties; report to President and Congress.
2000e–15. Presidential conferences; acquaintance of leadership with provisions for employment rights and obligations; plans for fair administration; membership.
2000e–16. Employment by Federal Government.
2000e–16a. Short title; purpose; definition.
2000e–16b. Discriminatory practices prohibited.
2000e–16c. Coverage of previously exempt State employees.
2000e–17. Procedure for denial, withholding, termination, or suspension of Government contract subsequent to acceptance by Government of affirmative action plan of employer; time of acceptance of plan.

SUBCHAPTER VII—REGISTRATION AND VOTING STATISTICS

2000f. Survey for compilation of registration and voting statistics; geographical areas; scope; application of census provisions; voluntary disclosure; advising of right not to furnish information.

SUBCHAPTER VIII—COMMUNITY RELATIONS SERVICE

2000g. Establishment of Service; Director of Service: appointment, term; personnel.
2000g–1. Functions of Service.
2000g–2. Cooperation with other agencies; conciliation assistance in confidence and without publicity; information as confidential; restriction on performance of investigative or prosecuting functions; violations and penalties.
2000g–3. Reports to Congress.

SUBCHAPTER IX—MISCELLANEOUS PROVISIONS

2000h. Criminal contempt proceedings: trial by jury, criminal practice, penalties, exceptions, intent; civil contempt proceedings.
2000h–1. Double jeopardy; specific crimes and criminal contempts.
2000h–2. Intervention by Attorney General; denial of equal protection on account of race, color, religion, sex or national origin.
2000h–3. Construction of provisions not to affect authority of Attorney General, etc., to institute or intervene in actions or proceedings.
2000h–4. Construction of provisions not to exclude operation of State laws and not to invalidate consistent State laws.
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2000h–6. Separability.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 14173. ENDING ILLEGAL DISCRIMINATION AND RESTORING MERIT-BASED OPPORTUNITY

Ex. Ord. No. 14173, Jan. 21, 2025, 90 F.R. 8633, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. Longstanding Federal civil-rights laws protect individual Americans from discrimination based on race, color, religion, sex, or national origin. These civil-rights protections serve as a bedrock supporting equality of opportunity for all Americans. As President, I have a solemn duty to ensure that these laws are enforced for the benefit of all Americans.

Yet today, roughly 60 years after the passage of the Civil Rights Act of 1964 [Pub. L. 88–352, see Tables for classification], critical and influential institutions of American society, including the Federal Government, major corporations, financial institutions, the medical industry, large commercial airlines, law enforcement agencies, and institutions of higher education have adopted and actively use dangerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called "diversity, equity, and inclusion" (DEI) or "diversity, equity, inclusion, and accessibility" (DEIA) that can violate the civil-rights laws of this Nation.

Illegal DEI and DEIA policies not only violate the text and spirit of our longstanding Federal civil-rights laws, they also undermine our national unity, as they deny, discredit, and undermine the traditional American values of hard work, excellence, and individual achievement in favor of an unlawful, corrosive, and pernicious identity-based spoils system. Hardworking Americans who deserve a shot at the American Dream should not be stigmatized, demeaned, or shut out of opportunities because of their race or sex.

These illegal DEI and DEIA policies also threaten the safety of American men, women, and children across the Nation by diminishing the importance of individual merit, aptitude, hard work, and determination when selecting people for jobs and services in key sectors of American society, including all levels of government, and the medical, aviation, and law-enforcement communities. Yet in case after tragic case, the American people have witnessed first-hand the disastrous consequences of illegal, pernicious discrimination that has prioritized how people were born instead of what they were capable of doing.

The Federal Government is charged with enforcing our civil-rights laws. The purpose of this order is to ensure that it does so by ending illegal preferences and discrimination.

SEC. 2. *Policy*. It is the policy of the United States to protect the civil rights of all Americans and to promote individual initiative, excellence, and hard work. I therefore order all executive departments and agencies (agencies) to terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements. I further order all agencies to enforce our longstanding civil-rights laws and to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.

SEC. 3. *Terminating Illegal Discrimination in the Federal Government*. (a) The following executive actions are hereby revoked:

(i) Executive Order 12898 of February 11, 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) [42 U.S.C. 4321 note];

(ii) Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce) [42 U.S.C. 2000e note];

(iii) Executive Order 13672 of July 21, 2014 (Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity) [42 U.S.C. 2000e note]; and

(iv) The Presidential Memorandum of October 5, 2016 (Promoting Diversity and Inclusion in the National

Security Workforce) [42 U.S.C. 2000e note].

(b) The Federal contracting process shall be streamlined to enhance speed and efficiency, reduce costs, and require Federal contractors and subcontractors to comply with our civil-rights laws. Accordingly:

(i) Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity) [42 U.S.C. 2000e note], is hereby revoked. For 90 days from the date of this order [Jan. 21, 2025], Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025.

(ii) The Office of Federal Contract Compliance Programs within the Department of Labor shall immediately cease:

(A) Promoting "diversity";

(B) Holding Federal contractors and subcontractors responsible for taking "affirmative action"; and

(C) Allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

(iii) In accordance with Executive Order 13279 of December 12, 2002 (Equal Protection of the Laws for Faith-Based and Community Organizations) [5 U.S.C. 601 note], the employment, procurement, and contracting practices of Federal contractors and subcontractors shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate the Nation's civil rights laws.

(iv) The head of each agency shall include in every contract or grant award:

(A) A term requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and

(B) A term requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.

(c) The Director of the Office of Management and Budget (OMB), with the assistance of the Attorney General as requested, shall:

(i) Review and revise, as appropriate, all Government-wide processes, directives, and guidance;

(ii) Excise references to DEI and DEIA principles, under whatever name they may appear, from Federal acquisition, contracting, grants, and financial assistance procedures to streamline those procedures, improve speed and efficiency, lower costs, and comply with civil-rights laws; and

(iii) Terminate all "diversity," "equity," "equitable decision-making," "equitable deployment of financial and technical assistance," "advancing equity," and like mandates, requirements, programs, or activities, as appropriate.

SEC. 4. *Encouraging the Private Sector to End Illegal DEI Discrimination and Preferences*. (a) The heads of all agencies, with the assistance of the Attorney General, shall take all appropriate action with respect to the operations of their agencies to advance in the private sector the policy of individual initiative, excellence, and hard work identified in section 2 of this order.

(b) To further inform and advise me so that my Administration may formulate appropriate and effective civil-rights policy, the Attorney General, within 120 days of this order, in consultation with the heads of relevant agencies and in coordination with the Director of OMB, shall submit a report to the Assistant to the President for Domestic Policy containing recommendations for enforcing Federal civil-rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI. The report shall contain a proposed strategic enforcement plan identifying:

(i) Key sectors of concern within each agency's jurisdiction;

(ii) The most egregious and discriminatory DEI practitioners in each sector of concern;

(iii) A plan of specific steps or measures to deter DEI programs or principles (whether specifically denominated "DEI" or otherwise) that constitute illegal discrimination or preferences. As a part of this plan, each agency shall identify up to nine potential civil compliance investigations of publicly traded corporations, large non-profit corporations or associations, foundations with assets of 500 million dollars or more, State and local bar and medical associations, and institutions of higher education with endowments over 1 billion dollars;

(iv) Other strategies to encourage the private sector to end illegal DEI discrimination and preferences and comply with all Federal civil-rights laws;

(v) Litigation that would be potentially appropriate for Federal lawsuits, intervention, or statements of interest; and

(vi) Potential regulatory action and sub-regulatory guidance.

SEC. 5. *Other Actions*. Within 120 days of this order, the Attorney General and the Secretary of Education shall jointly issue guidance to all State and local educational agencies that receive Federal funds, as well as all institutions of higher education that receive Federal grants or participate in the Federal student loan assistance program under Title IV of the Higher Education Act [of 1965], 20 U.S.C. 1070 et seq., regarding the measures

and practices required to comply with Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. 181 (2023).

SEC. 6. *Severability*. If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

SEC. 7. *Scope*. (a) This order does not apply to lawful Federal or private-sector employment and contracting preferences for veterans of the U.S. armed forces or persons protected by the Randolph-Sheppard Act, 20 U.S.C. 107 et seq.

(b) This order does not prevent State or local governments, Federal contractors, or Federally-funded State and local educational agencies or institutions of higher education from engaging in First Amendment-protected speech.

(c) This order does not prohibit persons teaching at a Federally funded institution of higher education as part of a larger course of academic instruction from advocating for, endorsing, or promoting the unlawful employment or contracting practices prohibited by this order.

SEC. 8. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

SUBCHAPTER I—GENERALLY

§1981. Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

(R.S. §1977; Pub. L. 102–166, title I, §101, Nov. 21, 1991, 105 Stat. 1071.)

EDITORIAL NOTES

CODIFICATION

R.S. §1977 derived from act May 31, 1870, ch. 114, §16, 16 Stat. 144.

Section was formerly classified to section 41 of Title 8, Aliens and Nationality.

AMENDMENTS

1991—Pub. L. 102–166 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–166, title IV, §402, Nov. 21, 1991, 105 Stat. 1099, provided that:

"(a) IN GENERAL.—Except as otherwise specifically provided, this Act [see Short Title of 1991 Amendment note below] and the amendments made by this Act shall take effect upon enactment [Nov. 21, 1991].

"(b) CERTAIN DISPARATE IMPACT CASES.—Notwithstanding any other provision of this Act, nothing in this Act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975, and for which an initial decision was rendered after October 30, 1983."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–166, §1, Nov. 21, 1991, 105 Stat. 1071, provided that: "This Act [enacting section 1981a of this title and sections 60l and 1201 to 1224 of Title 2, The Congress, amending this section and sections 1988, 2000e, 2000e–1, 2000e–2, 2000e–4, 2000e–5, 2000e–16, 12111, 12112, and 12209 of this title, and section 626 of Title 29, Labor, and enacting provisions set out as notes under this section and sections 2000e and 2000e–4 of this title, and section 1a–5 of Title 16, Conservation] may be cited as the 'Civil Rights Act of 1991'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–559, which amended section 1988 of this title, is known as "The Civil Rights Attorney's Fees Awards Act of 1976", see note set out under section 1988 of this title.

SEVERABILITY

Pub. L. 102–166, title IV, §401, Nov. 21, 1991, 105 Stat. 1099, provided that: "If any provision of this Act [see Short Title of 1991 Amendment note above], or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected."

CONGRESSIONAL FINDINGS

Pub. L. 102–166, §2, Nov. 21, 1991, 105 Stat. 1071, provided that: "The Congress finds that—

"(1) additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace;

"(2) the decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989) has weakened the scope and effectiveness of Federal civil rights protections; and

"(3) legislation is necessary to provide additional protections against unlawful discrimination in employment."

PURPOSES OF 1991 AMENDMENT

Pub. L. 102–166, §3, Nov. 21, 1991, 105 Stat. 1071, provided that: "The purposes of this Act [see Short Title of 1991 Amendment note above] are—

"(1) to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace;

"(2) to codify the concepts of 'business necessity' and 'job related' enunciated by the Supreme Court in Griggs v. Duke Power Co., 401 U.S. 424 (1971), and in the other Supreme Court decisions prior to Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989);

"(3) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and

"(4) to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination."

LEGISLATIVE HISTORY FOR 1991 AMENDMENT

Pub. L. 102–166, title I, §105(b), Nov. 21, 1991, 105 Stat. 1075, provided that: "No statements other than the interpretive memorandum appearing at Vol. 137 Congressional Record S 15276 (daily ed. Oct. 25, 1991) [Cong. Rec., vol. 137, pt. 19, p. 28680, Oct. 25, 1991] shall be considered legislative history of, or relied upon in any way as legislative history in construing or applying, any provision of this Act [see Short Title of 1991

Amendment note above] that relates to Wards Cove—Business necessity/cumulation/alternative business practice."

CONSTRUCTION OF 1991 AMENDMENT

Pub. L. 102–166, title I, §116, Nov. 21, 1991, 105 Stat. 1079, provided that: "Nothing in the amendments made by this title [enacting section 1981a of this title and amending this section, sections 1988, 2000e, 2000e–1, 2000e–2, 2000e–4, 2000e–5, 2000e–16, 12111, and 12112 of this title, and section 626 of Title 29, Labor] shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements, that are in accordance with the law."

ALTERNATIVE MEANS OF DISPUTE RESOLUTION

Pub. L. 102–166, title I, §118, Nov. 21, 1991, 105 Stat. 1081, provided that: "Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts or provisions of Federal law amended by this title [enacting section 1981a of this title and amending this section, sections 1988, 2000e, 2000e–1, 2000e–2, 2000e–4, 2000e–5, 2000e–16, 12111, and 12112 of this title, and section 626 of Title 29, Labor]."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 13050

Ex. Ord. No. 13050, June 13, 1997, 62 F.R. 32987, which established the President's Advisory Board on Race, was revoked by Ex. Ord. No. 13138, §3(e), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

§1981a. Damages in cases of intentional discrimination in employment

(a) Right of recovery

(1) Civil rights

In an action brought by a complaining party under section 706 or 717 of the Civil Rights Act of 1964 [42 U.S.C. 2000e–5, 2000e–16] against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) prohibited under section 703, 704, or 717 of the Act [42 U.S.C. 2000e–2, 2000e–3, 2000e–16], and provided that the complaining party cannot recover under section 1981 of this title, the complaining party may recover compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

(2) Disability

In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 or 717 of the Civil Rights Act of 1964 [42 U.S.C. 2000e–5, 2000e–16] (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)), and section 794a(a)(1) of title 29, respectively) against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) under section 791 of title 29 and the regulations implementing section 791 of title 29, or who violated the requirements of section 791 of title 29 or the regulations implementing section 791 of title 29 concerning the provision of a reasonable accommodation, or section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112), or committed a violation of section 102(b)(5) of the Act, against an individual, the complaining party may recover compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

(3) Reasonable accommodation and good faith effort

In cases where a discriminatory practice involves the provision of a reasonable accommodation pursuant to section 102(b)(5) of the Americans with Disabilities Act of 1990 [42 U.S.C.

12112(b)(5)] or regulations implementing section 791 of title 29, damages may not be awarded under this section where the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

(b) Compensatory and punitive damages

(1) Determination of punitive damages

A complaining party may recover punitive damages under this section against a respondent (other than a government, government agency or political subdivision) if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(2) Exclusions from compensatory damages

Compensatory damages awarded under this section shall not include backpay, interest on backpay, or any other type of relief authorized under section 706(g) of the Civil Rights Act of 1964 [42 U.S.C. 2000e–5(g)].

(3) Limitations

The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed, for each complaining party—

(A) in the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

(B) in the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000; and

(C) in the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $200,000; and

(D) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000.

(4) Construction

Nothing in this section shall be construed to limit the scope of, or the relief available under, section 1981 of this title.

(c) Jury trial

If a complaining party seeks compensatory or punitive damages under this section—

(1) any party may demand a trial by jury; and

(2) the court shall not inform the jury of the limitations described in subsection (b)(3).

(d) Definitions

As used in this section:

(1) Complaining party

The term "complaining party" means—

(A) in the case of a person seeking to bring an action under subsection (a)(1), the Equal Employment Opportunity Commission, the Attorney General, or a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) in the case of a person seeking to bring an action under subsection (a)(2), the Equal Employment Opportunity Commission, the Attorney General, a person who may bring an

action or proceeding under section 794a(a)(1) of title 29, or a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.].

(2) Discriminatory practice

The term "discriminatory practice" means the discrimination described in paragraph (1), or the discrimination or the violation described in paragraph (2), of subsection (a).

(R.S. §1977A, as added Pub. L. 102–166, title I, §102, Nov. 21, 1991, 105 Stat. 1072.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (d)(1)(A), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (d)(1)(B), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

§1982. Property rights of citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

(R.S. §1978.)

EDITORIAL NOTES

CODIFICATION

R.S. §1978 derived from act Apr. 9, 1866, ch. 31, §1, 14 Stat. 27.

Section was formerly classified to section 42 of Title 8, Aliens and Nationality.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11063. EQUAL OPPORTUNITY IN HOUSING

Ex. Ord. No. 11063, Nov. 20, 1962, 27 F.R. 11527, as amended by Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6–604, Jan. 17, 1994, 59 F.R. 2939, provided:

WHEREAS the granting of Federal assistance for the provision, rehabilitation, or operation of housing and related facilities from which Americans are excluded because of their race, color, creed, or national origin is unfair, unjust, and inconsistent with the public policy of the United States as manifested in its Constitution and laws; and

WHEREAS the Congress in the Housing Act of 1949 [see Short Title note set out under section 1441 of this title] has declared that the general welfare and security of the Nation and the health and living standards of its people require the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family; and

WHEREAS discriminatory policies and practices based upon race, color, creed, or national origin now operate to deny many Americans the benefits of housing financed through Federal assistance and as a

consequence prevent such assistance from providing them with an alternative to substandard, unsafe, unsanitary, and overcrowded housing; and

WHEREAS such discriminatory policies and practices result in segregated patterns of housing and necessarily produce other forms of discrimination and segregation which deprive many Americans of equal opportunity in the exercise of their unalienable rights to life, liberty, and the pursuit of happiness; and

WHEREAS the executive branch of the Government, in faithfully executing the laws of the United States which authorize Federal financial assistance, directly or indirectly, for the provision, rehabilitation, and operation of housing and related facilities, is charged with an obligation and duty to assure that those laws are fairly administered and that benefits thereunder are made available to all Americans without regard to their race, color, creed, or national origin:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, it is ordered as follows:

PART I—PREVENTION OF DISCRIMINATION

SECTION 101. I hereby direct all departments and agencies in the executive branch of the Federal Government, insofar as their functions relate to the provision, rehabilitation, or operation of housing and related facilities, to take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, disability, familial status or national origin—

(a) in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are—

(i) owned or operated by the Federal Government, or

(ii) provided in whole or in part with the aid of loans, advances, grants, or contributions hereafter agreed to be made by the Federal Government, or

(iii) provided in whole or in part by loans hereafter insured, guaranteed, or otherwise secured by the credit of the Federal Government, or

(iv) provided by the development or the redevelopment of real property purchased, leased, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under a loan of grant contract hereafter entered into; and

(b) in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans hereafter insured or guaranteed by the Federal Government.

SEC. 102. I hereby direct the Department of Housing and Urban Development and all other executive departments and agencies to use their good offices and to take other appropriate action permitted by law, including the institution of appropriate litigation, if required, to promote the abandonment of discriminatory practices with respect to residential property and related facilities heretofore provided with Federal financial assistance of the types referred to in Section 101(a)(ii), (iii), and (iv).

PART II—IMPLEMENTATION BY DEPARTMENTS AND AGENCIES

SEC. 201. Each executive department and agency subject to this order is directed to submit to the President's Committee on Equal Opportunity in Housing established pursuant to Part IV of this order (hereinafter sometimes referred to as the Committee), within thirty days from the date of this order, a report outlining all current programs administered by it which are affected by this order.

SEC. 202. Each such department and agency shall be primarily responsible for obtaining compliance with the purposes of this order as the order applies to programs administered by it; and is directed to cooperate with the Committee, to furnish it, in accordance with law, such information and assistance as it may request in the performance of its functions, and to report to it at such intervals as the Committee may require.

SEC. 203. Each such department and agency shall, within thirty days from the date of this order, issue such rules and regulations, adopt such procedures and policies, and make such exemptions and exceptions as may be consistent with law and necessary or appropriate to effectuate the purposes of this order. Each such department and agency shall consult with the Committee in order to achieve such consistency and uniformity as may be feasible.

PART III—ENFORCEMENT

SEC. 301. The Committee, any subcommittee thereof, and any officer or employee designated by any executive department or agency subject to this order may hold such hearings, public or private, as the Committee, department, or agency may deem advisable for compliance, enforcement, or educational purposes.

SEC. 302. If any executive department or agency subject to this order concludes that any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) or any State or local

public agency has violated any rule, regulation, or procedure issued or adopted pursuant to this order, or any nondiscrimination provision included in any agreement or contract pursuant to any such rule, regulation, or procedure, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation, and persuasion unless similar efforts made by another Federal department or agency have been unsuccessful. In conformity with rules, regulations, procedures, or policies issued or adopted by it pursuant to Section 203 hereof, a department or agency may take such action as may be appropriate under its governing laws, including, but not limited to, the following:

It may—

(a) cancel or terminate in whole or in part any agreement or contract with such person, firm, or State or local public agency providing for a loan, grant, contribution, or other Federal aid, or for the payment of a commission or fee;

(b) refrain from extending any further aid under any program administered by it and affected by this order until it is satisfied that the affected person, firm, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order, and any nondiscrimination provisions included in any agreement or contract;

(c) refuse to approve a lending institution or any other lender as a beneficiary under any program administered by it which is affected by this order or revoke such approval if previously given.

SEC. 303. In appropriate cases executive departments and agencies shall refer to the Attorney General violations of any rules, regulations, or procedures issued or adopted pursuant to this order, or violations of any nondiscrimination provisions included in any agreement or contract, for such civil or criminal action as he may deem appropriate. The Attorney General is authorized to furnish legal advice concerning this order to the Committee and to any department or agency requesting such advice.

SEC. 304. Any executive department or agency affected by this order may also invoke the sanctions provided in Section 302 where any person or firm, including a lender, has violated the rules, regulations, or procedures issued or adopted pursuant to this order, or the nondiscrimination provisions included in any agreement or contract, with respect to any program affected by this order administered by any other executive department or agency.

PART IV—ESTABLISHMENT OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

[Revoked. Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6–604, Jan. 17, 1994, 59 F.R. 2939.]

PART V—POWERS AND DUTIES OF THE PRESIDENT'S COMMITTEE ON EQUAL OPPORTUNITY IN HOUSING

SEC. 501. [Revoked. Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6–604, Jan. 17, 1994, 59 F.R. 2939.]

SEC. 502. (a) The Committee shall take such steps as it deems necessary and appropriate to promote the coordination of the activities of departments and agencies under this order. In so doing, the Committee shall consider the overall objectives of Federal legislation relating to housing and the right of every individual to participate without discrimination because of race, color, religion (creed), sex, disability, familial status or national origin in the ultimate benefits of the Federal programs subject to this order.

(b) The Committee may confer with representatives of any department or agency, State or local public agency, civic, industry, or labor group, or any other group directly or indirectly affected by this order; examine the relevant rules, regulations, procedures, policies, and practices of any department or agency subject to this order and make such recommendations as may be necessary or desirable to achieve the purposes of this order.

(c) The Committee shall encourage educational programs by civic, educational, religious, industry, labor, and other nongovernmental groups to eliminate the basic causes of discrimination in housing and related facilities provided with Federal assistance.

SEC. 503. [Revoked. Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253; Ex. Ord. No. 12892, §6–604, Jan. 17, 1994, 59 F.R. 2939.]

PART VI—MISCELLANEOUS

SEC. 601. As used in this order, the term "departments and agencies" includes any wholly-owned or mixed-ownership Government corporation, and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

SEC. 602. This order shall become effective immediately.

[Functions of President's Committee on Equal Opportunity in Housing under Ex. Ord. No. 11063 delegated

to Secretary of Housing and Urban Development by Ex. Ord. No. 12892, §6–604(a), Jan. 17, 1994, 59 F.R. 2939, set out as a note under section 3608 of this title.]

§1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(R.S. §1979; Pub. L. 96–170, §1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104–317, title III, §309(c), Oct. 19, 1996, 110 Stat. 3853.)

EDITORIAL NOTES

CODIFICATION

R.S. §1979 derived from act Apr. 20, 1871, ch. 22, §1, 17 Stat. 13.
Section was formerly classified to section 43 of Title 8, Aliens and Nationality.

AMENDMENTS

1996—Pub. L. 104–317 inserted before period at end of first sentence ", except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".

1979—Pub. L. 96–170 inserted "or the District of Columbia" after "Territory", and provisions relating to Acts of Congress applicable solely to the District of Columbia.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–170 applicable with respect to any deprivation of rights, privileges, or immunities secured by the Constitution and laws occurring after Dec. 29, 1979, see section 3 of Pub. L. 96–170, set out as a note under section 1343 of Title 28, Judiciary and Judicial Procedure.

§1984. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Mar. 1, 1875, ch. 114, §5, 18 Stat. 337, which was formerly classified to section 46 of Title 8, Aliens and Nationality, related to Supreme Court review of cases arising under act Mar. 1, 1875. Sections 1 and 2 of act Mar. 1, 1875 were declared unconstitutional in *U.S. v. Singleton*, 109 U.S. 3, and sections 3 and 4 of such act were repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862.

§1985. Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or

threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

(R.S. §1980.)

EDITORIAL NOTES

CODIFICATION

R.S. §1980 derived from acts July 31, 1861, ch. 33, 12 Stat. 284; Apr. 20, 1871, ch. 22, §2, 17 Stat. 13. Section was formerly classified to section 47 of Title 8, Aliens and Nationality.

§1986. Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party

be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

(R.S. §1981.)

EDITORIAL NOTES

CODIFICATION

R.S. §1981 derived from act Apr. 20, 1871, ch. 22, §6, 17 Stat. 15.
Section was formerly classified to section 48 of Title 8, Aliens and Nationality.

§1987. Prosecution of violation of certain laws

The United States attorneys, marshals, and deputy marshals, the United States magistrate judges appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of section 1990 of this title or of sections 5506 to 5516 and 5518 to 5532 of the Revised Statutes, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.

(R.S. §1982; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 25, 1948, ch. 646, §1, 62 Stat. 909; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 5506 to 5510, 5516 to 5519 and 5524 to 5535 of the Revised Statutes, referred to in text, were repealed by act Mar. 4, 1909, ch. 321, §341, 35 Stat. 1153; section 5506, 5511 to 5515, and 5520 to 5523, also referred to in text, were repealed by act Feb. 8, 1894, ch. 25, §1, 28 Stat. 37. The provisions of sections 5508, 5510, 5516, 5518 and 5524 to 5532 of the Revised Statutes were reenacted by act Mar. 4, 1909, and classified to sections 51, 52, 54 to 59, 246, 428 and 443 to 445 of former Title 18, Criminal Code and Criminal Procedure. Those sections were repealed and reenacted as sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure, in the general revision of Title 18 by act June 25, 1948, ch. 645, 62 Stat. 683.

CODIFICATION

R.S. §1982 derived from acts Apr. 9, 1866, ch. 31, §4, 14 Stat. 28; May 31, 1870, Ch. 114, §9, 16 Stat. 142.
Section was formerly classified to section 49 of Title 8, Aliens and Nationality.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

"United States magistrate judges" substituted in text for "magistrates" pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28. Previously, "magistrates" substituted for "commissioners" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

Reference to the district courts substituted for reference to the circuit courts on authority of act Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167.

§1988. Proceedings in vindication of civil rights

(a) Applicability of statutory and common law

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

(b) Attorney's fees

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92–318 [20 U.S.C. 1681 et seq.], the Religious Freedom Restoration Act of 1993 [42 U.S.C. 2000bb et seq.], the Religious Land Use and Institutionalized Persons Act of 2000 [42 U.S.C. 2000cc et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or section 12361 of title 34, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction.

(c) Expert fees

In awarding an attorney's fee under subsection (b) in any action or proceeding to enforce a provision of section 1981 or 1981a of this title, the court, in its discretion, may include expert fees as part of the attorney's fee.

(R.S. §722; Pub. L. 94–559, §2, Oct. 19, 1976, 90 Stat. 2641; Pub. L. 96–481, title II, §205(c), Oct. 21, 1980, 94 Stat. 2330; Pub. L. 102–166, title I, §§103, 113(a), Nov. 21, 1991, 105 Stat. 1074, 1079; Pub. L. 103–141, §4(a), Nov. 16, 1993, 107 Stat. 1489; Pub. L. 103–322, title IV, §40303, Sept. 13, 1994, 108 Stat. 1942; Pub. L. 104–317, title III, §309(b), Oct. 19, 1996, 110 Stat. 3853; Pub. L. 106–274, §4(d), Sept. 22, 2000, 114 Stat. 804.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 13 of the Revised Statutes, referred to in subsec. (a), was in the original "this Title" meaning title 13 of the Revised Statutes, consisting of R.S. §§530 to 1093. For complete classification of R.S. §§530 to 1093 to the Code, see Tables.

Title 24 of the Revised Statutes, referred to in subsec. (a), was in the original "Title 'CIVIL RIGHTS,' " meaning title 24 of the Revised Statutes, consisting of R.S. §§1977 to 1991, which are classified to sections 1981 to 1983, 1985 to 1987, and 1989 to 1994 of this title. For complete classification of R.S. §§1977 to 1991 to the Code, see Tables.

Title 70 of the Revised Statutes, referred to in subsec. (a), was in the original "Title 'CRIMES,' " meaning title 70 of the Revised Statutes, consisting of R.S. §§5323 to 5550. For complete classification of R.S. §§5323 to 5550, see Tables.

Title IX of Public Law 92–318, referred to in subsec. (b), is title IX of Pub. L. 92–318, June 23, 1972, 86 Stat. 373, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, which is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Religious Freedom Restoration Act of 1993, referred to in subsec. (b), is Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to chapter 21B (§2000bb et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title

and Tables.

The Religious Land Use and Institutionalized Persons Act of 2000, referred to in subsec. (b), is Pub. L. 106–274, Sept. 22, 2000, 114 Stat. 803, which is classified principally to chapter 21C (§2000cc et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000cc of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION

R.S. §722 derived from acts Apr. 9, 1866, ch. 31, §3, 14 Stat. 27; May 31, 1870, ch. 114, §18, 16 Stat. 144.

Section was formerly classified to section 729 of Title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, §1, 62 Stat. 869.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–274 inserted "the Religious Land Use and Institutionalized Persons Act of 2000," after "Religious Freedom Restoration Act of 1993," and deleted comma after "section 13981 of this title,".

1996—Subsec. (b). Pub. L. 104–317 inserted before period at end ", except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction".

1994—Subsec. (b). Pub. L. 103–322, which directed the amendment of the last sentence of this section by striking "or" after "92–318," and by inserting ", or section 13981 of this title," after "1964", was executed to subsec. (b) of this section by striking "or" after "Act of 1993," and by inserting ", or section 13981 of this title," after "1964", to reflect the probable intent of Congress and amendments by Pub. L. 102–166 and Pub. L. 103–141. See 1993 and 1991 Amendment notes below.

1993—Subsec. (b). Pub. L. 103–141 inserted "the Religious Freedom Restoration Act of 1993," before "or title VI".

1991—Subsec. (a). Pub. L. 102–166, §113(a)(1), designated first sentence of existing provisions as subsec. (a).

Subsec. (b). Pub. L. 102–166, §§103, 113(a)(1), designated second sentence of existing provisions as subsec. (b) and inserted "1981a," after "1981,".

Subsec. (c). Pub. L. 102–166, §113(a)(2), added subsec. (c).

1980—Pub. L. 96–481 struck out "or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code,".

1976—Pub. L. 94–559 authorized the court, in its discretion, to allow a reasonable attorney's fee as part of the prevailing party's costs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–481 effective Oct. 1, 1981, and applicable to adversary adjudication as defined in section 504(b)(1)(C) of Title 5, Government Organization and Employees, and to civil actions and adversary adjudications described in section 2412 of Title 28, Judiciary and Judicial Procedure, which are pending on, or commenced on or after Oct. 1, 1981, see section 208 of Pub. L. 96–481, set out as an Effective Date note under section 2412 of Title 28.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–559, §1, Oct. 19, 1976, 90 Stat. 2641, provided: "That this Act [amending this section] may be cited as 'The Civil Rights Attorney's Fees Awards Act of 1976'."

§1989. United States magistrate judges; appointment of persons to execute warrants

The district courts of the United States and the district courts of the Territories, from time to time, shall increase the number of United States magistrate judges, so as to afford a speedy and convenient means for the arrest and examination of persons charged with the crimes referred to in section 1987 of this title; and such magistrate judges are authorized and required to exercise all the powers and duties conferred on them herein with regard to such offenses in like manner as they are authorized by law to exercise with regard to other offenses against the laws of the United States. Said magistrate judges are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the magistrate judges may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued.

(R.S. §§1983, 1984; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

EDITORIAL NOTES

CODIFICATION

R.S. §§1983 and 1984 derived from acts Apr. 9, 1866, ch. 31, §§4, 5, 14 Stat. 28; May 31, 1870, ch. 114, §§9, 10, 16 Stat. 142.

Section was formerly classified to section 50 of Title 8, Aliens and Nationality.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"United States magistrate judges" and "magistrate judges" substituted in text for "magistrates" wherever appearing pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrates" substituted for "commissioners" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

"District courts" substituted for "circuit courts" on authority of act Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167.

§1990. Marshal to obey precepts; refusing to receive or execute process

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions of section 1989 of this title. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of this section, or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of $1,000, for the benefit of the party aggrieved thereby.

(R.S. §§1985, 5517.)

EDITORIAL NOTES

CODIFICATION

R.S. §1985 derived from acts Apr. 9, 1866, ch. 31, §5, 14 Stat. 28; May 31, 1870, ch. 114, §10, 16 Stat. 142.

R.S. §5517 derived from act May 31, 1870, ch. 114, §10, 16 Stat. 142.

Section was formerly classified to section 51 of Title 8, Aliens and Nationality.

§1991. Fees; persons appointed to execute process

Every person appointed to execute process under section 1989 of this title shall be entitled to a fee of $5 for each party he may arrest and take before any United States magistrate judge, with such other fees as may be deemed reasonable by the magistrate judge for any additional services necessarily performed by him, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of the magistrate judge; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

(R.S. §1987; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

EDITORIAL NOTES

CODIFICATION

R.S. §1987 derived from acts Apr. 9, 1866, ch. 31, §7, 14 Stat. 29; May 31, 1870, ch. 114, §12, 16 Stat. 143.

Section was formerly classified to section 53 of Title 8, Aliens and Nationality.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"United States magistrate judge" and "magistrate judge" substituted in text for "magistrate" wherever appearing pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" substituted for "commissioner" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

§1992. Speedy trial

Whenever the President has reason to believe that offenses have been, or are likely to be committed against the provisions of section 1990 of this title or of section 5506 to 5516 and 5518 to 5532 of the Revised Statutes, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and United States attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons so charged, and it shall be the duty of every judge or other officer, when any such requisition is received by him to attend at the place and for the time therein designated.

(R.S. §1988; June 25, 1948, ch. 646, §1, 62 Stat. 909.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 5506 to 5510, 5516 to 5519 and 5524 to 5535 of the Revised Statutes, referred to in text, were repealed by act Mar. 4, 1909, ch. 321, §341, 35 Stat. 1153; section 5506, 5511 to 5515, and 5520 to 5523, also referred to in text, were repealed by act Feb. 8, 1894, ch. 25, §1, 28 Stat. 37. The provisions of sections 5508, 5510, 5516, 5518 and 5524 to 5532 of the Revised Statutes were reenacted by act Mar. 4, 1909, and classified to sections 51, 52, 54 to 59, 246, 428 and 443 to 445 of former Title 18, Criminal Code and Criminal Procedure. Those sections were repealed and reenacted as sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure, in the general revision of Title 18 by act June 25, 1948, ch. 645, 62 Stat. 683.

CODIFICATION

R.S. §1988 derived from act Apr. 9, 1866, ch. 31, §8, 14 Stat. 29.
Section was formerly classified to section 54 of Title 8, Aliens and Nationality.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Act June 25, 1948, effective Sept. 1, 1948, substituted "United States attorney" for "district attorney". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

§1993. Repealed. Pub. L. 85–315, pt. III, §122, Sept. 9, 1957, 71 Stat. 637

Section, R.S. §1989, authorized President to employ land or naval forces to aid in execution of judicial process issued under sections 1981 to 1983 or 1985 to 1992 of this title, or to prevent violation and enforce due execution of sections 1981 to 1983 and 1985 to 1994 of this title. See section 252 of Title 10, Armed Forces.

§1994. Peonage abolished

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in any Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of any Territory or State, which have heretofore established, maintained, or enforced, or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void.

(R.S. §1990.)

EDITORIAL NOTES

CODIFICATION

R.S. §1990 derived from act Mar. 2, 1867, ch. 187, §1, 14 Stat. 546.
Section was formerly classified to section 56 of Title 8, Aliens and Nationality.

§1995. Criminal contempt proceedings; penalties; trial by jury

In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however,* That in case the accused is a natural person the fine to be paid shall not exceed the sum of $1,000, nor shall imprisonment exceed the term of six months: *Provided further,* That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of $300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefore, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court.

Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent

obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

(Pub. L. 85–315, pt. V, §151, Sept. 9, 1957, 71 Stat. 638.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 85–315, Sept. 9, 1957, 71 Stat. 634, known as the Civil Rights Act of 1957. For complete classification of this Act to the Code, see Tables.

§1996. Protection and preservation of traditional religions of Native Americans

On and after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

(Pub. L. 95–341, §1, Aug. 11, 1978, 92 Stat. 469.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–344, §1, Oct. 6, 1994, 108 Stat. 3125, provided that: "This Act [enacting section 1996a of this title] may be cited as the 'American Indian Religious Freedom Act Amendments of 1994'."

SHORT TITLE

Pub. L. 95–341, as amended, which enacted this section, section 1996a of this title, and a provision set out as a note under this section, is popularly known as the American Indian Religious Freedom Act.

FEDERAL IMPLEMENTATION OF PROTECTIVE AND PRESERVATION FUNCTIONS RELATING TO NATIVE AMERICAN RELIGIOUS CULTURAL RIGHTS AND PRACTICES; PRESIDENTIAL REPORT TO CONGRESS

Pub. L. 95–341, §2, Aug. 11, 1978, 92 Stat. 470, provided that the President direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders to determine changes necessary to preserve Native American religious cultural rights and practices and report to the Congress 12 months after Aug. 11, 1978.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13007. INDIAN SACRED SITES

Ex. Ord. No. 13007, May 24, 1996, 61 F.R. 26771, provided:

By the authority vested in me as President by the Constitution and the laws of the United States, in furtherance of Federal treaties, and in order to protect and preserve Indian religious practices, it is hereby ordered:

SECTION 1. *Accommodation of Sacred Sites*. (a) In managing Federal lands, each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.

(b) For purposes of this order:

(i) "Federal lands" means any land or interests in land owned by the United States, including leasehold

interests held by the United States, except Indian trust lands;

(ii) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law No. 103–454, 108 Stat. 4791 [see 25 U.S.C. 5130, 5131], and "Indian" refers to a member of such an Indian tribe; and

(iii) "Sacred site" means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.

SEC. 2. *Procedures*. (a) Each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, as appropriate, promptly implement procedures for the purposes of carrying out the provisions of section 1 of this order, including, where practicable and appropriate, procedures to ensure reasonable notice is provided of proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites. In all actions pursuant to this section, agencies shall comply with the Executive memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" [25 U.S.C. 5301 note].

(b) Within 1 year of the effective date of this order, the head of each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall report to the President, through the Assistant to the President for Domestic Policy, on the implementation of this order. Such reports shall address, among other things, (i) any changes necessary to accommodate access to and ceremonial use of Indian sacred sites; (ii) any changes necessary to avoid adversely affecting the physical integrity of Indian sacred sites; and (iii) procedures implemented or proposed to facilitate consultation with appropriate Indian tribes and religious leaders and the expeditious resolution of disputes relating to agency action on Federal lands that may adversely affect access to, ceremonial use of, or the physical integrity of sacred sites.

SEC. 3. Nothing in this order shall be construed to require a taking of vested property interests. Nor shall this order be construed to impair enforceable rights to use of Federal lands that have been granted to third parties through final agency action. For purposes of this order, "agency action" has the same meaning as in the Administrative Procedure Act (5 U.S.C. 551(13)).

SEC. 4. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any party against the United States, its agencies, officers, or any person.

WILLIAM J. CLINTON.

§1996a. Traditional Indian religious use of peyote

(a) Congressional findings and declarations

The Congress finds and declares that—

(1) for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures;

(2) since 1965, this ceremonial use of peyote by Indians has been protected by Federal regulation;

(3) while at least 28 States have enacted laws which are similar to, or are in conformance with, the Federal regulation which protects the ceremonial use of peyote by Indian religious practitioners, 22 States have not done so, and this lack of uniformity has created hardship for Indian people who participate in such religious ceremonies;

(4) the Supreme Court of the United States, in the case of Employment Division v. Smith, 494 U.S. 872 (1990), held that the First Amendment does not protect Indian practitioners who use peyote in Indian religious ceremonies, and also raised uncertainty whether this religious practice would be protected under the compelling State interest standard; and

(5) the lack of adequate and clear legal protection for the religious use of peyote by Indians may serve to stigmatize and marginalize Indian tribes and cultures, and increase the risk that they will be exposed to discriminatory treatment.

(b) Use, possession, or transportation of peyote

(1) Notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States or any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs.

(2) This section does not prohibit such reasonable regulation and registration by the Drug Enforcement Administration of those persons who cultivate, harvest, or distribute peyote as may be consistent with the purposes of this section and section 1996 of this title.

(3) This section does not prohibit application of the provisions of section 481.111(a) of Vernon's Texas Health and Safety Code Annotated, in effect on October 6, 1994, insofar as those provisions pertain to the cultivation, harvest, and distribution of peyote.

(4) Nothing in this section shall prohibit any Federal department or agency, in carrying out its statutory responsibilities and functions, from promulgating regulations establishing reasonable limitations on the use or ingestion of peyote prior to or during the performance of duties by sworn law enforcement officers or personnel directly involved in public transportation or any other safety-sensitive positions where the performance of such duties may be adversely affected by such use or ingestion. Such regulations shall be adopted only after consultation with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice. Any regulation promulgated pursuant to this section shall be subject to the balancing test set forth in section 3 of the Religious Freedom Restoration Act (Public Law 103–141; 42 U.S.C. 2000bb–1).

(5) This section shall not be construed as requiring prison authorities to permit, nor shall it be construed to prohibit prison authorities from permitting, access to peyote by Indians while incarcerated within Federal or State prison facilities.

(6) Subject to the provisions of the Religious Freedom Restoration Act (Public Law 103–141; 42 U.S.C. 2000bb–1) [42 U.S.C. 2000bb et seq.], this section shall not be construed to prohibit States from enacting or enforcing reasonable traffic safety laws or regulations.

(7) Subject to the provisions of the Religious Freedom Restoration Act (Public Law 103–141; 42 U.S.C. 2000bb–1), this section does not prohibit the Secretary of Defense from promulgating regulations establishing reasonable limitations on the use, possession, transportation, or distribution of peyote to promote military readiness, safety, or compliance with international law or laws of other countries. Such regulations shall be adopted only after consultation with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice.

(c) Definitions

For purposes of this section—

(1) the term "Indian" means a member of an Indian tribe;

(2) the term "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) the term "Indian religion" means any religion—

(A) which is practiced by Indians, and

(B) the origin and interpretation of which is from within a traditional Indian culture or community; and

(4) the term "State" means any State of the United States, and any political subdivision thereof.

(d) Protection of rights of Indians and Indian tribes

Nothing in this section shall be construed as abrogating, diminishing, or otherwise affecting—

(1) the inherent rights of any Indian tribe;

(2) the rights, express or implicit, of any Indian tribe which exist under treaties, Executive orders, and laws of the United States;

(3) the inherent right of Indians to practice their religions; and
(4) the right of Indians to practice their religions under any Federal or State law.

(Pub. L. 95–341, §3, as added Pub. L. 103–344, §2, Oct. 6, 1994, 108 Stat. 3125.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Religious Freedom Restoration Act, referred to in subsec. (b)(6), (7), probably means the Religious Freedom Restoration Act of 1993, Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to chapter 21B (§2000bb et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (c)(2), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§1996b. Interethnic adoption

(1) Prohibited conduct

A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) Enforcement

Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(3) No effect on the Indian Child Welfare Act of 1978

This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.].

(Pub. L. 104–188, title I, §1808(c), Aug. 20, 1996, 110 Stat. 1904.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Indian Child Welfare Act of 1978, referred to in par. (3), is Pub. L. 95–608, Nov. 8, 1978, 92 Stat. 3069, which is classified principally to chapter 21 (§1901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 25 and Tables.

SUBCHAPTER I–A—INSTITUTIONALIZED PERSONS

§1997. Definitions

As used in this subchapter—

(1) The term "institution" means any facility or institution—

(A) which is owned, operated, or managed by, or provides services on behalf of any State or

political subdivision of a State; and

(B) which is—

(i) for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped;

(ii) a jail, prison, or other correctional facility;

(iii) a pretrial detention facility;

(iv) for juveniles—

(I) held awaiting trial;

(II) residing in such facility or institution for purposes of receiving care or treatment; or

(III) residing for any State purpose in such facility or institution (other than a residential facility providing only elementary or secondary education that is not an institution in which reside juveniles who are adjudicated delinquent, in need of supervision, neglected, placed in State custody, mentally ill or disabled, mentally retarded, or chronically ill or handicapped); or

(v) providing skilled nursing, intermediate or long-term care, or custodial or residential care.

(2) Privately owned and operated facilities shall not be deemed "institutions" under this subchapter if—

(A) the licensing of such facility by the State constitutes the sole nexus between such facility and such State;

(B) the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII [42 U.S.C. 1381 et seq., 1395 et seq.], or under a State plan approved under title XIX [42 U.S.C. 1396 et seq.], of the Social Security Act, constitutes the sole nexus between such facility and such State; or

(C) the licensing of such facility by the State, and the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII [42 U.S.C. 1381 et seq., 1395 et seq.], or under a State plan approved under title XIX [42 U.S.C. 1396 et seq.], of the Social Security Act, constitutes the sole nexus between such facility and such State;

(3) The term "person" means an individual, a trust or estate, a partnership, an association, or a corporation;

(4) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States;

(5) The term "legislative days" means any calendar day on which either House of Congress is in session.

(Pub. L. 96–247, §2, May 23, 1980, 94 Stat. 349.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in par. (2)(B), (C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI, XVIII, and XIX of the Social Security Act are classified generally to subchapters XVI (§1381 et seq.), XVIII (§1395 et seq.), and XIX (§1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 96–247, §1, May 23, 1980, 94 Stat. 349, provided: "That this Act [enacting this subchapter] may be cited as the 'Civil Rights of Institutionalized Persons Act'."

§1997a. Initiation of civil actions

(a) Discretionary authority of Attorney General; preconditions

Whenever the Attorney General has reasonable cause to believe that any State or political subdivision of a State, official, employee, or agent thereof, or other person acting on behalf of a State or political subdivision of a State is subjecting persons residing in or confined to an institution, as defined in section 1997 of this title, to egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may institute a civil action in any appropriate United States district court against such party for such equitable relief as may be appropriate to insure the minimum corrective measures necessary to insure the full enjoyment of such rights, privileges, or immunities, except that such equitable relief shall be available under this subchapter to persons residing in or confined to an institution as defined in section 1997(1)(B)(ii) of this title only insofar as such persons are subjected to conditions which deprive them of rights, privileges, or immunities secured or protected by the Constitution of the United States.

(b) Discretionary award of attorney fees

In any action commenced under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee against the United States as part of the costs.

(c) Attorney General to personally sign complaint

The Attorney General shall personally sign any complaint filed pursuant to this section.

(Pub. L. 96–247, §3, May 23, 1980, 94 Stat. 350; Pub. L. 104–134, title I, §101[(a)] [title VIII, §803(a)], Apr. 26, 1996, 110 Stat. 1321, 1321–70; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–134 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Any complaint filed by the Attorney General pursuant to this section shall be personally signed by him."

§1997a–1. Subpoena authority

(a) Authority

The Attorney General, or at the direction of the Attorney General, any officer or employee of the Department of Justice may require by subpoena access to any institution that is the subject of an investigation under this subchapter and to any document, record, material, file, report, memorandum, policy, procedure, investigation, video or audio recording, or quality assurance report relating to any institution that is the subject of an investigation under this subchapter to determine whether there are conditions which deprive persons residing in or confined to the institution of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) Issuance and enforcement of subpoenas

(1) Issuance

Subpoenas issued under this section—

(A) shall bear the signature of the Attorney General or any officer or employee of the Department of Justice as designated by the Attorney General; and

(B) shall be served by any person or class of persons designated by the Attorney General or a designated officer or employee for that purpose.

(2) Enforcement

In the case of contumacy or failure to obey a subpoena issued under this section, the United States district court for the judicial district in which the institution is located may issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt that [1] court.

(c) Protection of subpoenaed records and information

Any document, record, material, file, report, memorandum, policy, procedure, investigation, video or audio recording, or quality assurance report or other information obtained under a subpoena issued under this section—

(1) may not be used for any purpose other than to protect the rights, privileges, or immunities secured or protected by the Constitution or laws of the United States of persons who reside, have resided, or will reside in an institution;

(2) may not be transmitted by or within the Department of Justice for any purpose other than to protect the rights, privileges, or immunities secured or protected by the Constitution or laws of the United States of persons who reside, have resided, or will reside in an institution; and

(3) shall be redacted, obscured, or otherwise altered if used in any publicly available manner so as to prevent the disclosure of any personally identifiable information.

(Pub. L. 96–247, §3A, as added Pub. L. 111–148, title X, §10606(d)(2), Mar. 23, 2010, 124 Stat. 1008.)

[1] So in original. Probably should be preceded by "of".

§1997b. Certification requirements; Attorney General to personally sign certification

(a) At the time of the commencement of an action under section 1997a of this title the Attorney General shall certify to the court—

(1) that at least 49 calendar days previously the Attorney General has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of—

(A) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(B) the supporting facts giving rise to the alleged conditions and the alleged pattern or practice, including the dates or time period during which the alleged conditions and pattern or practice of resistance occurred; and when feasible, the identity of all persons reasonably suspected of being involved in causing the alleged conditions and pattern or practice at the time of the certification, and the date on which the alleged conditions and pattern or practice were first brought to the attention of the Attorney General; and

(C) the minimum measures which the Attorney General believes may remedy the alleged conditions and the alleged pattern or practice of resistance;

(2) that the Attorney General has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of the Attorney General's intention to commence an investigation of such institution, that such notice was delivered at least seven days prior to the commencement of such investigation and that between the time of such notice and the commencement of an action under section 1997a of this title—

(A) the Attorney General has made a reasonable good faith effort to consult with the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution, or their designees, regarding financial, technical, or other assistance which may be available from the United States and

which the Attorney General believes may assist in the correction of such conditions and pattern or practice of resistance;

(B) the Attorney General has encouraged the appropriate officials to correct the alleged conditions and pattern or practice of resistance through informal methods of conference, conciliation and persuasion, including, to the extent feasible, discussion of the possible costs and fiscal impacts of alternative minimum corrective measures, and it is the Attorney General's opinion that reasonable efforts at voluntary correction have not succeeded; and

(C) the Attorney General is satisfied that the appropriate officials have had a reasonable time to take appropriate action to correct such conditions and pattern or practice, taking into consideration the time required to remodel or make necessary changes in physical facilities or relocate residents, reasonable legal or procedural requirements, the urgency of the need to correct such conditions, and other circumstances involved in correcting such conditions; and

(3) that the Attorney General believes that such an action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) The Attorney General shall personally sign any certification made pursuant to this section.

(Pub. L. 96–247, §4, May 23, 1980, 94 Stat. 350; Pub. L. 97–256, title II, §201(a), Sept. 8, 1982, 96 Stat. 816; Pub. L. 104–134, title I, §101[(a)] [title VIII, §803(b)], Apr. 26, 1996, 110 Stat. 1321, 1321–71; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–134, §101[(a)] [title VIII, §803(b)(1)(A)], substituted "the Attorney General" for "he" in introductory provisions and in subpar. (C).

Subsec. (a)(2). Pub. L. 104–134, §101[(a)] [title VIII, §803(b)(1)(A)], substituted "the Attorney General" for "he" wherever appearing in introductory provisions and in subpars. (A) to (C).

Pub. L. 104–134, §101[(a)] [title VIII, §803(b)(1)(B)], substituted "the Attorney General's" for "his" in introductory provisions and in subpar. (B).

Subsec. (a)(3). Pub. L. 104–134, §101[(a)] [title VIII, §803(b)(1)(A)], substituted "the Attorney General" for "he".

Subsec. (b). Pub. L. 104–134, §101[(a)] [title VIII, §803(b)(2)], amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Any certification made by the Attorney General pursuant to this section shall be personally signed by him."

1982—Subsec. (a). Pub. L. 97–256 substituted "section 1997a of this title" for "section 1997 of this title" in provisions preceding par. (1).

§1997c. Intervention in actions

(a) Discretionary authority of Attorney General; preconditions; time period

(1) Whenever an action has been commenced in any court of the United States seeking relief from egregious or flagrant conditions which deprive persons residing in institutions of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm and the Attorney General has reasonable cause to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may intervene in such action upon motion by the Attorney General.

(2) The Attorney General shall not file a motion to intervene under paragraph (1) before 90 days after the commencement of the action, except that if the court determines it would be in the interests of justice, the court may shorten or waive the time period.

(b) Certification requirements by Attorney General

(1) The Attorney General shall certify to the court in the motion to intervene filed under subsection (a)—

(A) that the Attorney General has notified in writing, at least fifteen days previously, the Governor or chief executive officer, attorney general or chief legal officer of the appropriate State or political subdivision, and the director of the institution of—

(i) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(ii) the supporting facts giving rise to the alleged conditions, including the dates and time period during which the alleged conditions and pattern or practice of resistance occurred; and

(iii) to the extent feasible and consistent with the interests of other plaintiffs, the minimum measures which the Attorney General believes may remedy the alleged conditions and the alleged pattern or practice of resistance; and

(B) that the Attorney General believes that such intervention by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(2) The Attorney General shall personally sign any certification made pursuant to this section.

(c) Attorney General to personally sign motion to intervene

The Attorney General shall personally sign any motion to intervene made pursuant to this section.

(d) Discretionary award of attorney fees; other award provisions unaffected

In any action in which the United States joins as an intervenor under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee against the United States as part of the costs. Nothing in this subsection precludes the award of attorney's fees available under any other provisions of the United States Code.

(Pub. L. 96–247, §5, May 23, 1980, 94 Stat. 351; Pub. L. 104–134, title I, §101[(a)] [title VIII, §803(c)], Apr. 26, 1996, 110 Stat. 1321, 1321–71; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b)(1)(A). Pub. L. 104–134, §101[(a)] [title VIII, §803(c)(1)(A)], substituted "the Attorney General" for "he" in introductory provisions and in cl. (iii).

Subsec. (b)(1)(B). Pub. L. 104–134, §101[(a)] [title VIII, §803(c)(1)(A)], substituted "the Attorney General" for "he".

Subsec. (b)(2). Pub. L. 104–134, §101[(a)] [title VIII, §803(c)(1)(B)], amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Any certification made by the Attorney General pursuant to this subsection shall be personally signed by him."

Subsec. (c). Pub. L. 104–134, §101[(a)] [title VIII, §803(c)(2)], amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Any motion to intervene made by the Attorney General pursuant to this section shall be personally signed by him."

§1997d. Prohibition of retaliation

No person reporting conditions which may constitute a violation under this subchapter shall be subjected to retaliation in any manner for so reporting.

(Pub. L. 96–247, §6, May 23, 1980, 94 Stat. 352.)

§1997e. Suits by prisoners

(a) Applicability of administrative remedies

No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

(b) Failure of State to adopt or adhere to administrative grievance procedure

The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 1997a or 1997c of this title.

(c) Dismissal

(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

(d) Attorney's fees

(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 1988 [1] of this title, such fees shall not be awarded, except to the extent that—

(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 1988 [1] of this title; and

(B)(i) the amount of the fee is proportionately related to the court ordered relief for the violation; or

(ii) the fee was directly and reasonably incurred in enforcing the relief ordered for the violation.

(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant.

(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18 for payment of court-appointed counsel.

(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 1988 [1] of this title.

(e) Limitation on recovery

No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act (as defined in section 2246 of title 18).

(f) Hearings

(1) To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is

required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

(2) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.

(g) Waiver of reply

(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1983 of this title or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

(2) The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

(h) "Prisoner" defined

As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(Pub. L. 96–247, §7, May 23, 1980, 94 Stat. 352; Pub. L. 103–322, title II, §20416(a), Sept. 13, 1994, 108 Stat. 1833; Pub. L. 104–134, title I, §101[(a)] [title VIII, §803(d)], Apr. 26, 1996, 110 Stat. 1321, 1321–71; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 113–4, title XI, §1101(a), Mar. 7, 2013, 127 Stat. 134.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1988 of this title, referred to in subsec. (d)(1), (4), was in the original a reference to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), and has been translated as reading section 722 of the Revised Statutes of the United States to reflect the probable intent of Congress. Section 2 of the Revised Statutes, which defined the term "county", was repealed and reenacted as section 2 of Title 1, General Provisions, by act July 30, 1947, ch. 388, 61 Stat. 633, 640.

AMENDMENTS

2013—Subsec. (e). Pub. L. 113–4 inserted "or the commission of a sexual act (as defined in section 2246 of title 18)" before period at end.

1996—Pub. L. 104–134 amended section generally, substituting provisions relating to suits by prisoners, consisting of subsecs. (a) to (h), for former provisions relating to exhaustion of remedies, consisting of subsecs. (a) to (d).

1994—Subsec. (a). Pub. L. 103–322, §20416(a)(1), substituted "exceed 180 days" for "exceed ninety days" in par. (1) and inserted before period at end of par. (2) "or are otherwise fair and effective".

Subsec. (c). Pub. L. 103–322, §20416(a)(2), inserted "or are otherwise fair and effective" before period at end of par. (1) and "or is no longer fair and effective" before period at end of par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–322, title II, §20416(b), Sept. 13, 1994, 108 Stat. 1834, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Sept. 13, 1994]."

NONDISCLOSURE OF INFORMATION IN ACTIONS BROUGHT BY PRISONERS

Pub. L. 105–277, div. A, §101(b) [title I, §127], Oct. 21, 1998, 112 Stat. 2681–50, 2681–74, provided that:

"Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

"(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order, unless a verdict of liability has been entered against that person; and

"(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order."

[Pub. L. 105–277, div. A, §101(b) [title I, §127], set out above, applicable to fiscal year 2000 and thereafter, see Pub. L. 106–113, div. B, §1000(a)(1) [title I, §109], set out as an Applicability of Provisions Relating to Use of Counterterrorism Appropriations and Nondisclosure of Information in Actions Brought by Prisoners note under section 524 of Title 28, Judiciary and Judicial Procedure.]

[1] *See References in Text note below.*

§1997f. Report to Congress

The Attorney General shall include in the report to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28—

(1) a statement of the number, variety, and outcome of all actions instituted pursuant to this subchapter including the history of, precise reasons for, and procedures followed in initiation or intervention in each case in which action was commenced;

(2) a detailed explanation of the procedures by which the Department has received, reviewed and evaluated petitions or complaints regarding conditions in institutions;

(3) an analysis of the impact of actions instituted pursuant to this subchapter, including, when feasible, an estimate of the costs incurred by States and other political subdivisions;

(4) a statement of the financial, technical, or other assistance which has been made available from the United States to the State in order to assist in the correction of the conditions which are alleged to have deprived a person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States; and

(5) the progress made in each Federal institution toward meeting existing promulgated standards for such institutions or constitutionally guaranteed minima.

(Pub. L. 96–247, §8, May 23, 1980, 94 Stat. 353; Pub. L. 97–256, title II, §201(b), Sept. 8, 1982, 96 Stat. 817; Pub. L. 104–134, title I, §101[(a)] [title VIII, §803(e)], Apr. 26, 1996, 110 Stat. 1321, 1321–73; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–134 substituted "the report" for "his report" in introductory provisions.

1982—Pub. L. 97–256 substituted "Attorney General" for "Attorney".

§1997g. Priorities for use of funds

It is the intent of Congress that deplorable conditions in institutions covered by this subchapter amounting to deprivations of rights protected by the Constitution or laws of the United States be corrected, not only by litigation as contemplated in this subchapter, but also by the voluntary good faith efforts of agencies of Federal, State, and local governments. It is the further intention of Congress that where Federal funds are available for use in improving such institutions, priority

should be given to the correction or elimination of such unconstitutional or illegal conditions which may exist. It is not the intent of this provision to require the redirection of funds from one program to another or from one State to another.

(Pub. L. 96–247, §9, May 23, 1980, 94 Stat. 354.)

§1997h. Notice to Federal departments

At the time of notification of the commencement of an investigation of an institution under section 1997a of this title or of the notification of an intention to file a motion to intervene under section 1997c of this title, and if the relevant institution receives Federal financial assistance from the Department of Health and Human Services or the Department of Education, the Attorney General shall notify the appropriate Secretary of the action and the reasons for such action and shall consult with such officials. Following such consultation, the Attorney General may proceed with an action under this subchapter if the Attorney General is satisfied that such action is consistent with the policies and goals of the executive branch.

(Pub. L. 96–247, §10, May 23, 1980, 94 Stat. 354; Pub. L. 104–134, title I, §101[(a)] [title VIII, §803(f)], Apr. 26, 1996, 110 Stat. 1321, 1321–73; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–134 substituted "the action" for "his action" and "the Attorney General is satisfied" for "he is satisfied".

§1997i. Disclaimer respecting standards of care

Provisions of this subchapter shall not authorize promulgation of regulations defining standards of care.

(Pub. L. 96–247, §11, May 23, 1980, 94 Stat. 354.)

§1997j. Disclaimer respecting private litigation

The provisions of this subchapter shall in no way expand or restrict the authority of parties other than the United States to enforce the legal rights which they may have pursuant to existing law with regard to institutionalized persons. In this regard, the fact that the Attorney General may be conducting an investigation or contemplating litigation pursuant to this subchapter shall not be grounds for delay of or prejudice to any litigation on behalf of parties other than the United States.

(Pub. L. 96–247, §12, May 23, 1980, 94 Stat. 354.)

SUBCHAPTER II—PUBLIC ACCOMMODATIONS

§2000a. Prohibition against discrimination or segregation in places of public accommodation

(a) Equal access

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities,

privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Establishments affecting interstate commerce or supported in their activities by State action as places of public accommodation; lodgings; facilities principally engaged in selling food for consumption on the premises; gasoline stations; places of exhibition or entertainment; other covered establishments

Each of the following establishments which serves the public is a place of public accommodation within the meaning of this subchapter if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) Operations affecting commerce; criteria; "commerce" defined

The operations of an establishment affect commerce within the meaning of this subchapter if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

(d) Support by State action

Discrimination or segregation by an establishment is supported by State action within the meaning of this subchapter if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) Private establishments

The provisions of this subchapter shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

(Pub. L. 88–352, title II, §201, July 2, 1964, 78 Stat. 243.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–2, §1, Jan. 29, 2009, 123 Stat. 5, provided that: "This Act [amending sections 2000e–5 and 2000e–16 of this title and sections 626, 633a, and 794a of Title 29, Labor, and enacting provisions set out as notes under section 2000e–5 of this title] may be cited as the 'Lilly Ledbetter Fair Pay Act of 2009'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–411, §1, Oct. 14, 1992, 106 Stat. 2102, provided that: "This Act [amending section 2000e–4 of this title] may be cited as the 'EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992'."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–261, §1, Mar. 24, 1972, 86 Stat. 103, provided: "That this Act [enacting sections 2000e–16 and 2000e–17 of this title, amending sections 5108 and 5314 to 5316 of Title 5, Government Organization and Employees, and sections 2000e to 2000e–6, 2000e–8, 2000e–9, 2000e–13, and 2000e–14 of this title, and enacting provisions set out as a note under section 2000e–5 of this title] may be cited as the 'Equal Employment Opportunity Act of 1972'."

SHORT TITLE

Pub. L. 88–352, §1, July 2, 1964, 78 Stat. 241, provided: "That this Act [enacting subchapters II to IX of this chapter, amending sections 2204 and 2205 of former Title 5, Executive Departments and Government Officers and Employees, section 1447(d) of Title 28, Judiciary and Judicial Procedure, and sections 1971 and 1975a to 1975d of this title, and enacting provisions set out as a note under section 2000e of this title] may be cited as the 'Civil Rights Act of 1964'."

§2000a–1. Prohibition against discrimination or segregation required by any law, statute, ordinance, regulation, rule or order of a State or State agency

All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

(Pub. L. 88–352, title II, §202, July 2, 1964, 78 Stat. 244.)

§2000a–2. Prohibition against deprivation of, interference with, and punishment for exercising rights and privileges secured by section 2000a or 2000a–1 of this title

No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive any person of any right or privilege secured by section 2000a or 2000a–1 of this title, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 2000a or 2000a–1 of this title, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 2000a or 2000a–1 of this title.

(Pub. L. 88–352, title II, §203, July 2, 1964, 78 Stat. 244.)

§2000a–3. Civil actions for injunctive relief

(a) Persons aggrieved; intervention by Attorney General; legal representation; commencement of action without payment of fees, costs, or security

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2000a–2 of this title, a civil action for

preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) Attorney's fees; liability of United States for costs

In any action commenced pursuant to this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) State or local enforcement proceedings; notification of State or local authority; stay of Federal proceedings

In the case of an alleged act or practice prohibited by this subchapter which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) References to Community Relations Service to obtain voluntary compliance; duration of reference; extension of period

In the case of an alleged act or practice prohibited by this subchapter which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting such act or practice, a civil action may be brought under subsection (a): *Provided*, That the court may refer the matter to the Community Relations Service established by subchapter VIII of this chapter for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: *Provided further*, That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

(Pub. L. 88–352, title II, §204, July 2, 1964, 78 Stat. 244.)

§2000a–4. Community Relations Service; investigations and hearings; executive session; release of testimony; duty to bring about voluntary settlements

The Service is authorized to make a full investigation of any complaint referred to it by the court under section 2000a–3(d) of this title and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.

(Pub. L. 88–352, title II, §205, July 2, 1964, 78 Stat. 244.)

§2000a–5. Civil actions by the Attorney General

(a) Complaint

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights

secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single judge district court: hearing, determination, expedition of action

In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(Pub. L. 88–352, title II, §206, July 2, 1964, 78 Stat. 245.)

§2000a–6. Jurisdiction; exhaustion of other remedies; exclusiveness of remedies; assertion of rights based on other Federal or State laws and pursuit of remedies for enforcement of such rights

(a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subchapter and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this subchapter shall be the exclusive means of enforcing the rights based on this subchapter, but nothing in this subchapter shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this subchapter, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

(Pub. L. 88–352, title II, §207, July 2, 1964, 78 Stat. 245.)

SUBCHAPTER III—PUBLIC FACILITIES

§2000b. Civil actions by the Attorney General

(a) Complaint; certification; institution of civil action; relief requested; jurisdiction; impleading additional parties as defendants

Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 2000c of this title, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(Pub. L. 88–352, title III, §301, July 2, 1964, 78 Stat. 246.)

§2000b–1. Liability of United States for costs and attorney's fee

In any action or proceeding under this subchapter the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person.

(Pub. L. 88–352, title III, §302, July 2, 1964, 78 Stat. 246.)

§2000b–2. Personal suits for relief against discrimination in public facilities

Nothing in this subchapter shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this subchapter.

(Pub. L. 88–352, title III, §303, July 2, 1964, 78 Stat. 246.)

§2000b–3. "Complaint" defined

A complaint as used in this subchapter is a writing or document within the meaning of section 1001, title 18.

(Pub. L. 88–352, title III, §304, July 2, 1964, 78 Stat. 246.)

SUBCHAPTER IV—PUBLIC EDUCATION

§2000c. Definitions

As used in this subchapter—

(a) "Secretary" means the Secretary of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, sex or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

(Pub. L. 88–352, title IV, §401, July 2, 1964, 78 Stat. 246; Pub. L. 92–318, title IX, §906(a), June 23, 1972, 86 Stat. 375; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

EDITORIAL NOTES

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–318 inserted "sex" after "religion,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary means the Secretary of Education" substituted for "Commissioner means the Commissioner of Education" in subsec. (a) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education of Department of Health, Education, and Welfare to Secretary of Education.

§2000c–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 88–352, title IV, §402, July 2, 1964, 78 Stat. 247, authorized the Commissioner to conduct a survey and make a report to the President and the Congress within two years of July, 1964 concerning the availability of educational opportunities for minority group members.

§2000c–2. Technical assistance in preparation, adoption, and implementation of plans for desegregation of public schools

The Secretary is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of

plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Department of Education or other persons specially equipped to advise and assist them in coping with such problems.

(Pub. L. 88–352, title IV, §403, July 2, 1964, 78 Stat. 247; Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning the Secretary of Education, and "Department of Education" substituted in text for "Commissioner" and "Office of Education", respectively, pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education to Secretary of Education and transferred Office of Education to the Department of Education.

§2000c–3. Training institutes; stipends; travel allowances

The Secretary is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Secretary in regulations, including allowances for travel to attend such institute.

(Pub. L. 88–352, title IV, §404, July 2, 1964, 78 Stat. 247; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning the Secretary of Education, substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education to Secretary of Education.

§2000c–4. Grants for inservice training in dealing with and for employment of specialists to advise in problems incident to desegregation; factors for consideration in making grants and fixing amounts, terms, and conditions

(a) The Secretary is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Secretary shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

(Pub. L. 88–352, title IV, §405, July 2, 1964, 78 Stat. 247; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning the Secretary of Education, substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education to Secretary of Education.

§2000c–5. Payments; adjustments; advances or reimbursement; installments

Payments pursuant to a grant or contract under this subchapter may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(Pub. L. 88–352, title IV, §406, July 2, 1964, 78 Stat. 248; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary", meaning the Secretary of Education, substituted in text for "Commissioner" pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education to Secretary of Education.

§2000c–6. Civil actions by the Attorney General

(a) Complaint; certification; notice to school board or college authority; institution of civil action; relief requested; jurisdiction; transportation of pupils to achieve racial balance; judicial power to insure compliance with constitutional standards; impleading additional parties as defendants

Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, sex or national origin,

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional

standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) Persons unable to initiate and maintain legal proceedings

The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) "Parent" and "complaint" defined

The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18.

(Pub. L. 88–352, title IV, §407, July 2, 1964, 78 Stat. 248; Pub. L. 92–318, title IX, §906(a), June 23, 1972, 86 Stat. 375.)

EDITORIAL NOTES

AMENDMENTS

1972—Subsec. (a)(2). Pub. L. 92–318 inserted "sex" after "religion,".

§2000c–7. Liability of United States for costs

In any action or proceeding under this subchapter the United States shall be liable for costs the same as a private person.

(Pub. L. 88–352, title IV, §408, July 2, 1964, 78 Stat. 249.)

§2000c–8. Personal suits for relief against discrimination in public education

Nothing in this subchapter shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

(Pub. L. 88–352, title IV, §409, July 2, 1964, 78 Stat. 249.)

§2000c–9. Classification and assignment

Nothing in this subchapter shall prohibit classification and assignment for reasons other than race, color, religion, sex or national origin.

(Pub. L. 88–352, title IV, §410, July 2, 1964, 78 Stat. 249; Pub. L. 92–318, title IX, §906(a), June 23, 1972, 86 Stat. 375.)

EDITORIAL NOTES

AMENDMENTS

1972—Pub. L. 92–318 inserted "sex" after "religion,".

SUBCHAPTER V—FEDERALLY ASSISTED PROGRAMS

§2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(Pub. L. 88–352, title VI, §601, July 2, 1964, 78 Stat. 252.)

EXECUTIVE DOCUMENTS

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this subchapter by the Attorney General, see section 1–201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of this title.

EX. ORD. NO. 13160. NONDISCRIMINATION ON THE BASIS OF RACE, SEX, COLOR, NATIONAL ORIGIN, DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION, AND STATUS AS A PARENT IN FEDERALLY CONDUCTED EDUCATION AND TRAINING PROGRAMS

Ex. Ord. No. 13160, June 23, 2000, 65 F.R. 39775, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 921–932 of title 20, United States Code; section 2164 of title 10, United States Code; section 2001 *et seq*., of title 25, United States Code; section 7301 of title 5, United States Code; and section 301 of title 3, United States Code, and to achieve equal opportunity in Federally conducted education and training programs and activities, it is hereby ordered as follows:

SECTION 1. *Statement of policy on education programs and activities conducted by executive departments and agencies.*

1–101. The Federal Government must hold itself to at least the same principles of nondiscrimination in educational opportunities as it applies to the education programs and activities of State and local governments, and to private institutions receiving Federal financial assistance. Existing laws and regulations prohibit certain forms of discrimination in Federally conducted education and training programs and activities—including discrimination against people with disabilities, prohibited by the Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq*., as amended, employment discrimination on the basis of race, color, national origin, sex, or religion, prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–17 [42 U.S.C. 2000e et seq.], as amended, discrimination on the basis of race, color, national origin, or religion in educational programs receiving Federal assistance, under Title VI of the Civil Rights Acts of 1964, 42 U.S.C. 2000d [et seq.], and sex-based discrimination in education programs receiving Federal assistance under Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq*. Through this Executive Order, discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent will be prohibited in Federally conducted education and training programs and activities.

1–102. No individual, on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in, a Federally conducted education or training program or activity.

SEC. 2. *Definitions.*

2–201. "Federally conducted education and training programs and activities" includes programs and activities conducted, operated, or undertaken by an executive department or agency.

2–202. "Education and training programs and activities" include, but are not limited to, formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and teacher training programs.

2–203. The Attorney General is authorized to make a final determination as to whether a program falls within the scope of education and training programs and activities covered by this order, under subsection 2–202, or is excluded from coverage, under section 3.

2–204. "Military education or training programs" are those education and training programs conducted by the Department of Defense or, where the Coast Guard is concerned, the Department of Transportation, for the primary purpose of educating or training members of the armed forces or meeting a statutory requirement to

educate or train Federal, State, or local civilian law enforcement officials pursuant to 10 U.S.C. Chapter 18.

2–205. "Armed Forces" means the Armed Forces of the United States.

2–206. "Status as a parent" refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

(a) a biological parent;
(b) an adoptive parent;
(c) a foster parent;
(d) a stepparent;
(e) a custodian of a legal ward;
(f) in loco parentis over such an individual; or
(g) actively seeking legal custody or adoption of such an individual.

SEC. 3. *Exemption from coverage.*

3–301. This order does not apply to members of the armed forces, military education or training programs, or authorized intelligence activities. Members of the armed forces, including students at military academies, will continue to be covered by regulations that currently bar specified forms of discrimination that are now enforced by the Department of Defense and the individual service branches. The Department of Defense shall develop procedures to protect the rights of and to provide redress to civilians not otherwise protected by existing Federal law from discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent and who participate in military education or training programs or activities conducted by the Department of Defense.

3–302. This order does not apply to, affect, interfere with, or modify the operation of any otherwise lawful affirmative action plan or program.

3–303. An individual shall not be deemed subjected to discrimination by reason of his or her exclusion from the benefits of a program established consistent with federal law or limited by Federal law to individuals of a particular race, sex, color, disability, national origin, age, religion, sexual orientation, or status as a parent different from his or her own.

3–304. This order does not apply to ceremonial or similar education or training programs or activities of schools conducted by the Department of the Interior, Bureau of Indian Affairs, that are culturally relevant to the children represented in the school. "Culturally relevant" refers to any class, program, or activity that is fundamental to a tribe's culture, customs, traditions, heritage, or religion.

3–305. This order does not apply to (a) selections based on national origin of foreign nationals to participate in covered education or training programs, if such programs primarily concern national security or foreign policy matters; or (b) selections or other decisions regarding participation in covered education or training programs made by entities outside the executive branch. It shall be the policy of the executive branch that education or training programs or activities shall not be available to entities that select persons for participation in violation of Federal or State law.

3–306. The prohibition on discrimination on the basis of age provided in this order does not apply to age-based admissions of participants to education or training programs, if such programs have traditionally been age-specific or must be age-limited for reasons related to health or national security.

SEC. 4. *Administrative enforcement.*

4–401. Any person who believes himself or herself to be aggrieved by a violation of this order or its implementing regulations, rules, policies, or guidance may, personally or through a representative, file a written complaint with the agency that such person believes is in violation of this order or its implementing regulations, rules, policies, or guidance. Pursuant to procedures to be established by the Attorney General, each executive department or agency shall conduct an investigation of any complaint by one of its employees alleging a violation of this Executive Order.

4–402. (a) If the office within an executive department or agency that is designated to investigate complaints for violations of this order or its implementing rules, regulations, policies, or guidance concludes that an employee has not complied with this order or any of its implementing rules, regulations, policies, or guidance, such office shall complete a report and refer a copy of the report and any relevant findings or supporting evidence to an appropriate agency official. The appropriate agency official shall review such material and determine what, if any, disciplinary action is appropriate.

(b) In addition, the designated investigating office may provide appropriate agency officials with a recommendation for any corrective and/or remedial action. The appropriate officials shall consider such recommendation and implement corrective and/or remedial action by the agency, when appropriate. Nothing in this order authorizes monetary relief to the complainant as a form of remedial or corrective action by an executive department or agency.

4–403. Any action to discipline an employee who violates this order or its implementing rules, regulations, policies, or guidance, including removal from employment, where appropriate, shall be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act of 1978, Public Law No. 95–454, 92 Stat. 1111 [see Tables for classification].

SEC. 5. *Implementation and Agency Responsibilities.*

5–501. The Attorney General shall publish in the Federal Register such rules, regulations, policies, or guidance, as the Attorney General deems appropriate, to be followed by all executive departments and agencies. The Attorney General shall address:

a. which programs and activities fall within the scope of education and training programs and activities covered by this order, under subsection 2–202, or excluded from coverage, under section 3 of this order;

b. examples of discriminatory conduct;

c. applicable legal principles;

d. enforcement procedures with respect to complaints against employees;

e. remedies;

f. requirements for agency annual and tri-annual reports as set forth in section 6 of this order; and

g. such other matters as deemed appropriate.

5–502. Within 90 days of the publication of final rules, regulations, policies, or guidance by the Attorney General, each executive department and agency shall establish a procedure to receive and address complaints regarding its Federally conducted education and training programs and activities. Each executive department and agency shall take all necessary steps to effectuate any subsequent rules, regulations, policies, or guidance issued by the Attorney General within 90 days of issuance.

5–503. The head of each executive department and agency shall be responsible for ensuring compliance within this order.

5–504. Each executive department and agency shall cooperate with the Attorney General and provide such information and assistance as the Attorney General may require in the performance of the Attorney General's functions under this order.

5–505. Upon request and to the extent practicable, the Attorney General shall provide technical advice and assistance to executive departments and agencies to assist in full compliance with this order.

SEC. 6. *Reporting Requirements.*

6–601. Consistent with the regulations, rules, policies, or guidance issued by the Attorney General, each executive department and agency shall submit to the Attorney General a report that summarizes the number and nature of complaints filed with the agency and the disposition of such complaints. For the first 3 years after the date of this order, such reports shall be submitted annually within 90 days of the end of the preceding year's activities. Subsequent reports shall be submitted every 3 years and within 90 days of the end of each 3-year period.

SEC. 7. *General Provisions.*

7–701. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order 12250 [42 U.S.C. 2000d–1 note].

SEC. 8. *Judicial Review.*

8–801. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701, *et seq.*

WILLIAM J. CLINTON.

EX. ORD. NO. 13899. COMBATING ANTI-SEMITISM

Ex. Ord. No. 13899, Dec. 11, 2019, 84 F.R. 68779, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. My Administration is committed to combating the rise of anti-Semitism and anti-Semitic incidents in the United States and around the world. Anti-Semitic incidents have increased since 2013, and students, in particular, continue to face anti-Semitic harassment in schools and on university and college campuses.

Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d *et seq*., prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving Federal financial assistance. While Title VI does not cover discrimination based on religion, individuals who face discrimination on the basis of race, color, or national origin do not lose protection under Title VI for also being a member of a group

that shares common religious practices. Discrimination against Jews may give rise to a Title VI violation when the discrimination is based on an individual's race, color, or national origin.

It shall be the policy of the executive branch to enforce Title VI against prohibited forms of discrimination rooted in anti-Semitism as vigorously as against all other forms of discrimination prohibited by Title VI.

SEC. 2. *Ensuring Robust Enforcement of Title VI*. (a) In enforcing Title VI, and identifying evidence of discrimination based on race, color, or national origin, all executive departments and agencies (agencies) charged with enforcing Title VI shall consider the following:

(i) the non-legally binding working definition of anti-Semitism adopted on May 26, 2016, by the International Holocaust Remembrance Alliance (IHRA), which states, "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities"; and

(ii) the "Contemporary Examples of Anti-Semitism" identified by the IHRA, to the extent that any examples might be useful as evidence of discriminatory intent.

(b) In considering the materials described in subsections (a)(i) and (a)(ii) of this section, agencies shall not diminish or infringe upon any right protected under Federal law or under the First Amendment. As with all other Title VI complaints, the inquiry into whether a particular act constitutes discrimination prohibited by Title VI will require a detailed analysis of the allegations.

SEC. 3. *Additional Authorities Prohibiting Anti-Semitic Discrimination*. Within 120 days of the date of this order [Dec. 11, 2019], the head of each agency charged with enforcing Title VI shall submit a report to the President, through the Assistant to the President for Domestic Policy, identifying additional nondiscrimination authorities within its enforcement authority with respect to which the IHRA definition of anti-Semitism could be considered.

SEC. 4. *Rule of Construction*. Nothing in this order shall be construed to alter the evidentiary requirements pursuant to which an agency makes a determination that conduct, including harassment, amounts to actionable discrimination, or to diminish or infringe upon the rights protected under any other provision of law.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 14188. ADDITIONAL MEASURES TO COMBAT ANTI-SEMITISM

Ex. Ord. No. 14188, Jan. 29, 2025, 90 F.R. 8847, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

SECTION 1. *Purpose*. My Administration has fought and will continue to fight anti-Semitism in the United States and around the world. On December 11, 2019, I issued Executive Order 13899 [set out above], my first Executive Order on Combating Anti-Semitism, finding that students, in particular, faced anti-Semitic harassment in schools and on university and college campuses. Executive Order 13899 provided interpretive assistance on the enforcement of the Nation's civil rights laws to ensure that they would protect American Jews to the same extent to which all other American citizens are protected. The prior administration effectively nullified Executive Order 13899 by failing to give the terms of the order full force and effect throughout the Government. This order reaffirms Executive Order 13899 and directs additional measures to advance the policy thereof in the wake of the Hamas terrorist attacks of October 7, 2023, against the people of Israel. These attacks unleashed an unprecedented wave of vile anti-Semitic discrimination, vandalism, and violence against our citizens, especially in our schools and on our campuses. Jewish students have faced an unrelenting barrage of discrimination; denial of access to campus common areas and facilities, including libraries and classrooms; and intimidation, harassment, and physical threats and assault. A joint report by the House Committees on Education and the Workforce, Energy and Commerce, Judiciary, Oversight and Accountability, Veterans' Affairs, and Ways and Means calls the Federal Government's failure to fight anti-Semitism and protect Jewish students "astounding." This failure is unacceptable and ends today.

SEC. 2. *Policy*. It shall be the policy of the United States to combat anti-Semitism vigorously, using all

available and appropriate legal tools, to prosecute, remove, or otherwise hold to account the perpetrators of unlawful anti-Semitic harassment and violence.

SEC. 3. *Additional Measures to Combat Campus Anti-Semitism*. (a) Within 60 days of the date of this order [Jan. 29, 2025], the head of each executive department or agency (agency) shall submit a report to the President, through the Assistant to the President for Domestic Policy, identifying all civil and criminal authorities or actions within the jurisdiction of that agency, beyond those already implemented under Executive Order 13899, that might be used to curb or combat anti-Semitism, and containing an inventory and analysis of all pending administrative complaints, as of the date of the report, against or involving institutions of higher education alleging civil-rights violations related to or arising from post-October 7, 2023, campus anti-Semitism.

(b) The report submitted by the Attorney General under this section shall additionally include an inventory and an analysis of all court cases, as of the date of the report, against or involving institutions of higher education alleging civil-rights violations related to or arising from post-October 7, 2023, campus anti-Semitism and indicate whether the Attorney General intends to or has taken any action with respect to such matters, including filing statements of interest or intervention.

(c) The Attorney General is encouraged to employ appropriate civil-rights enforcement authorities, such as 18 U.S.C. 241, to combat anti-Semitism.

(d) The report submitted by the Secretary of Education under this section shall additionally include an inventory and an analysis of all Title VI complaints and administrative actions, including in K-12 education, related to anti-Semitism–pending or resolved after October 7, 2023–within the Department's Office for Civil Rights.

(e) In addition to identifying relevant authorities to curb or combat anti-Semitism generally required by this section, the Secretary of State, the Secretary of Education, and the Secretary of Homeland Security, in consultation with each other, shall include in their reports recommendations for familiarizing institutions of higher education with the grounds for inadmissibility under 8 U.S.C. 1182(a)(3) [sic] so that such institutions may monitor for and report activities by alien students and staff relevant to those grounds and for ensuring that such reports about aliens lead, as appropriate and consistent with applicable law, to investigations and, if warranted, actions to remove such aliens.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§2000d–1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such

requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 88–352, title VI, §602, July 2, 1964, 78 Stat. 252.)

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Function of the President relating to approval of rules, regulations, and orders of general applicability under this section, delegated to the Attorney General, see section 1–101 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out below.

EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT

Nondiscrimination in government employment and in employment by government contractors and subcontractors, see Ex. Ord. No. 11246, eff. Sept. 24, 1965, 30 F.R. 12319, and Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of this title.

EXECUTIVE ORDER NO. 11247

Ex. Ord. No. 11247, eff. Sept. 24, 1965, 30 F.R. 12327, which related to enforcement of coordination of nondiscrimination in federally assisted programs, was superseded by Ex. Ord. No. 11764, eff. Jan. 21, 1974, 39 F.R. 2575, formerly set out below.

EXECUTIVE ORDER NO. 11764

Ex. Ord. No. 11764, Jan. 21, 1974, 39 F.R. 2575, which related to coordination of enforcement of provisions of this subchapter, was revoked by section 1–501 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72996, set out below.

EX. ORD. NO. 12250. LEADERSHIP AND COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF NONDISCRIMINATION LAWS

Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682), and Section 301 of Title 3 of the United States Code, and in order to provide, under the leadership of the Attorney General, for the consistent and effective implementation of various laws prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance, it is hereby ordered as follows:

1–1. DELEGATION OF FUNCTION

1–101. The function vested in the President by Section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), relating to the approval of rules, regulations, and orders of general applicability, is hereby delegated to the Attorney General.

1–102. The function vested in the President by Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682), relating to the approval of rules, regulations, and orders of general applicability, is hereby delegated to the Attorney General.

1–2. COORDINATION OF NONDISCRIMINATION PROVISIONS

1–201. The Attorney General shall coordinate the implementation and enforcement by Executive agencies of various nondiscrimination provisions of the following laws:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

(d) Any other provision of Federal statutory law which provides, in whole or in part, that no person in the United States shall, on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

1–202. In furtherance of the Attorney General's responsibility for the coordination of the implementation and enforcement of the nondiscrimination provisions of laws covered by this Order, the Attorney General shall review the existing and proposed rules, regulations, and orders of general applicability of the Executive agencies in order to identify those which are inadequate, unclear or unnecessarily inconsistent.

1–203. The Attorney General shall develop standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews.

1–204. The Attorney General shall issue guidelines for establishing reasonable time limits on efforts to secure voluntary compliance, on the initiation of sanctions, and for referral to the Department of Justice for enforcement where there is noncompliance.

1–205. The Attorney General shall establish and implement a schedule for the review of the agencies' regulations which implement the various nondiscrimination laws covered by this Order.

1–206. The Attorney General shall establish guidelines and standards for the development of consistent and effective recordkeeping and reporting requirements by Executive agencies; for the sharing and exchange by agencies of compliance records, findings, and supporting documentation; for the development of comprehensive employee training programs; for the development of effective information programs; and for the development of cooperative programs with State and local agencies, including sharing of information, deferring of enforcement activities, and providing technical assistance.

1–207. The Attorney General shall initiate cooperative programs between and among agencies, including the development of sample memoranda of understanding, designed to improve the coordination of the laws covered by this Order.

1–3. IMPLEMENTATION BY THE ATTORNEY GENERAL

1–301. In consultation with the affected agencies, the Attorney General shall promptly prepare a plan for the implementation of this Order. This plan shall be submitted to the Director of the Office of Management and Budget.

1–302. The Attorney General shall periodically evaluate the implementation of the nondiscrimination provisions of the laws covered by this Order, and advise the heads of the agencies concerned on the results of such evaluations as to recommendations for needed improvement in implementation or enforcement.

1–303. The Attorney General shall carry out his functions under this Order, including the issuance of such regulations as he deems necessary, in consultation with affected agencies.

1–304. The Attorney General shall annually report to the President through the Director of the Office of Management and Budget on the progress in achieving the purposes of this Order. This report shall include any recommendations for changes in the implementation or enforcement of the nondiscrimination provisions of the laws covered by this Order.

1–305. The Attorney General shall chair the Interagency Coordinating Council established by Section 507 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794c).

1–4. AGENCY IMPLEMENTATION

1–401. Each Executive agency shall cooperate with the Attorney General in the performance of the Attorney General's functions under this Order and shall, unless prohibited by law, furnish such reports and information as the Attorney General may request.

1–402. Each Executive agency responsible for implementing a nondiscrimination provision of a law covered by this Order shall issue appropriate implementing directives (whether in the nature of regulations or policy guidance). To the extent permitted by law, they shall be consistent with the requirements prescribed by the Attorney General pursuant to this Order and shall be subject to the approval of the Attorney General, who may require that some or all of them be submitted for approval before taking effect.

1–403. Within 60 days after a date set by the Attorney General, Executive agencies shall submit to the Attorney General their plans for implementing their responsibilities under this Order.

1–5. GENERAL PROVISIONS

1–501. Executive Order No. 11764 is revoked. The present regulations of the Attorney General relating to

the coordination of enforcement of Title VI of the Civil Rights Act of 1964 [this subchapter] shall continue in effect until revoked or modified (28 CFR 42.401 to 42.415).

1–502. Executive Order No. 11914 is revoked. The present regulations of the Secretary of Health and Human Services relating to the coordination of the implementation of Section 504 of the Rehabilitation Act of 1973, as amended [29 U.S.C. 794], shall be deemed to have been issued by the Attorney General pursuant to this Order and shall continue in effect until revoked or modified by the Attorney General.

1–503. Nothing in this Order shall vest the Attorney General with the authority to coordinate the implementation and enforcement by Executive agencies of statutory provisions relating to equal employment.

1–504. Existing agency regulations implementing the nondiscrimination provisions of laws covered by this Order shall continue in effect until revoked or modified.

JIMMY CARTER.

EXECUTIVE ORDER NO. 13166

Ex. Ord. No. 13166, Aug. 11, 2000, 65 F.R. 50121, which related to improving access to services for persons with limited English proficiency, was revoked by Ex. Ord. No. 14224, §3(b), Mar. 1, 2025, 90 F.R. 11363, set out as a note under under section 601 of Title 5, Government Organization and Employees.

§2000d–2. Judicial review; administrative procedure provisions

Any department or agency action taken pursuant to section 2000d–1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d–1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that chapter.

(Pub. L. 88–352, title VI, §603, July 2, 1964, 78 Stat. 253.)

EDITORIAL NOTES

CODIFICATION

"Chapter 7 of title 5" and "that chapter" substituted in text for "section 10 of the Administrative Procedure Act" and "that section", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 10 of the Administrative Procedure Act was classified to section 1009 of Title 5.

§2000d–3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

(Pub. L. 88–352, title VI, §604, July 2, 1964, 78 Stat. 253.)

§2000d–4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of

insurance or guaranty.

(Pub. L. 88–352, title VI, §605, July 2, 1964, 78 Stat. 253.)

§2000d–4a. "Program or activity" and "program" defined

For the purposes of this subchapter, the term "program or activity" and the term "program" mean all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

(Pub. L. 88–352, title VI, §606, as added Pub. L. 100–259, §6, Mar. 22, 1988, 102 Stat. 31; amended Pub. L. 103–382, title III, §391(q), Oct. 20, 1994, 108 Stat. 4024; Pub. L. 107–110, title X, §1076(y), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 114–95, title IX, §9215(r), Dec. 10, 2015, 129 Stat. 2171.)

EDITORIAL NOTES

AMENDMENTS

2015—Par. (2)(B). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2002—Par. (2)(B). Pub. L. 107–110 substituted "7801" for "8801".

1994—Par. (2)(B). Pub. L. 103–382 substituted "section 8801 of title 20" for "section 198(a)(10) of the Elementary and Secondary Education Act of 1965".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under

section 6301 of Title 20, Education.

EXCLUSION FROM COVERAGE

This section not to be construed to extend application of Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY

This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of Title 20, Education.

§2000d–5. Prohibited deferral of action on applications by local educational agencies seeking Federal funds for alleged noncompliance with Civil Rights Act

The Secretary of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], by the Act of September 30, 1950 [1] (Public Law 874, Eighty-first Congress) or by the Cooperative Research Act [20 U.S.C. 331 et seq.], on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d–1], such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Secretary, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964: *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88–352), compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned.

(Pub. L. 89–750, title I, §182, Nov. 3, 1966, 80 Stat. 1209; Pub. L. 90–247, title I, §112, Jan. 2, 1968, 81 Stat. 787; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 103–382, title III, §392(b)(1), Oct. 20, 1994, 108 Stat. 4026.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191, known as the Elementary and Secondary Education Amendments of 1966. For complete classification of that Act to the Code, see Short Title of 1966 Amendment note set out under section 6301 of Title 20, Education, and Tables.

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

Act of September 30, 1950, referred to in text, is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, popularly known as the Educational Agencies Financial Aid Act, which was classified generally to chapter 13 (§236 et seq.) of Title 20 prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The Cooperative Research Act, referred to in text, is act July 26, 1954, ch. 576, 68 Stat. 533, which was classified generally to chapter 15 (§331 et seq.) of Title 20, and terminated on July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93–380, title IV, Aug. 21, 1974, 88 Stat. 544. See section 1851 et seq. of this title. For complete classification of this Act to the Code, see Tables.

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION

Section was enacted as part of the Elementary and Secondary Education Amendments of 1966, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

AMENDMENTS

1994—Pub. L. 103–382, which directed amendment of this section by striking out "by the Act of September 23, 1950 (Public Law 815, 81st Congress),", was executed by striking out "by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress)," before "or by the Cooperative" to reflect the probable intent of Congress.

1968—Pub. L. 90–247 inserted proviso.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 89–750, title I, §191, Nov. 3, 1966, 80 Stat. 1210, provided that: "The provisions of this title [enacting this section and sections 241m, 871 to 880, and 886 of Title 20, Education, amending sections 241b, 241c, 241e, 241f, 241g, 241h, 241j, 241k, 241l, 244, 331a, 332a, 332b, 821, 822, 823, 841, 842, 843, 844, 861, 862, 863, 864, 883, and 884 of Title 20, repealing section 241d of Title 20, and enacting provisions set out as notes under sections 241a, 241b, and 241c of Title 20] shall be effective with respect to fiscal years beginning after June 30, 1966, except as specifically provided otherwise."

TRANSFER OF FUNCTIONS

"Secretary of Education" and "Secretary" substituted in text for "Commissioner of Education" and "Commissioner", respectively, pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education of Department of Health, Education, and Welfare to Secretary of Education.

[1] *See References in Text note below.*

§2000d–6. Policy of United States as to application of nondiscrimination provisions in schools of local educational agencies

(a) Declaration of uniform policy

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 182 of the Elementary and Secondary Education Amendments of 1966 [42 U.S.C. 2000d–5] dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Nature of uniformity

Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Prohibition of construction for diminution of obligation for enforcement or compliance with nondiscrimination requirements

Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(d) Additional funds

It is the sense of the Congress that the Department of Justice and the Secretary of Education should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

(Pub. L. 91–230, §2, Apr. 13, 1970, 84 Stat. 121; Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (a) and (c), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (§2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION

Section was enacted as part of the Elementary and Secondary Education Amendments of 1969, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Department of Health, Education, and Welfare" in subsec. (d) pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of Title 20, Education, and which transferred functions and offices (relating to education) of Department and Secretary of Health, Education, and Welfare to Secretary of Education.

§2000d–7. Civil rights remedies equalization

(a) General provision

(1) A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

(2) In a suit against a State for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

(b) Effective date

The provisions of subsection (a) shall take effect with respect to violations that occur in whole or in part after October 21, 1986.

(Pub. L. 99–506, title X, §1003, Oct. 21, 1986, 100 Stat. 1845.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a)(1), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (§2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION

Section was enacted as part of the Rehabilitation Act Amendments of 1986, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

SUBCHAPTER VI—EQUAL EMPLOYMENT OPPORTUNITIES

§2000e. Definitions

For the purposes of this subchapter—

(a) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of title 26, except that during the first year after March 24, 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) twenty-five or more during the first year after March 24, 1972, or (B) fifteen or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended [29 U.S.C. 151 et seq.], or the Railway Labor Act, as amended [45 U.S.C. 151 et seq.];

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or

employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.], and further includes any governmental industry, business, or activity.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.].

(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(k) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 2000e–2(h) of this title shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: *Provided*, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

(l) The term "complaining party" means the Commission, the Attorney General, or a person who may bring an action or proceeding under this subchapter.

(m) The term "demonstrates" means meets the burdens of production and persuasion.

(n) The term "respondent" means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program,

including an on-the-job training program, or Federal entity subject to section 2000e–16 of this title.

(Pub. L. 88–352, title VII, §701, July 2, 1964, 78 Stat. 253; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 92–261, §2, Mar. 24, 1972, 86 Stat. 103; Pub. L. 95–555, §1, Oct. 31, 1978, 92 Stat. 2076; Pub. L. 95–598, title III, §330, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–166, title I, §§104, 109(a), Nov. 21, 1991, 105 Stat. 1074, 1077.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Labor Relations Act, as amended, referred to in subsec. (e)(1), is act July 5, 1935, ch. 372, 49 Stat. 449, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

The Railway Labor Act, referred to in subsec. (e)(1), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Labor-Management Reporting and Disclosure Act of 1959, referred to in subsec. (h), is Pub. L. 86–257, Sept. 14, 1959, 73 Stat. 519, which is classified principally to chapter 11 (§401 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 29 and Tables.

For definition of Canal Zone, referred to in subsec. (i), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

The Outer Continental Shelf Lands Act, referred to in subsec. (i), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

AMENDMENTS

1991—Subsec. (f). Pub. L. 102–166, §109(a), inserted at end "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States."

Subsecs. (l) to (n). Pub. L. 102–166, §104, added subsecs. (l) to (n).

1986—Subsec. (b). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1978—Subsec. (a). Pub. L. 95–598 substituted "trustees in cases under title 11" for "trustees in bankruptcy".

Subsec. (k). Pub. L. 95–555 added subsec. (k).

1972—Subsec. (a). Pub. L. 92–261, §2(1), included within "person" governments, governmental agencies, and political subdivisions.

Subsec. (b). Pub. L. 92–261, §2(2), substituted "fifteen or more employees" for "twenty-five or more employees", extended coverage to include State and local governments, excepted from coverage any department or agency of the District of Columbia subject by statute to procedures of the competitive service, as defined in section 2102 of title 5, and substituted provisions under which persons having fewer than twenty-five employees during the first year after March 24, 1972, were not to be considered employers, for provisions under which persons having fewer than a specified number of employees during the first year after the effective date of this section, and the second and third years after such date were not to be considered employers.

Subsec. (c). Pub. L. 92–261, §2(3), struck out from term "employment agency" exemption from coverage for agencies of the United States, States or political subdivisions of States, other than the United States Employment Service and the system of State and local employment services receiving Federal assistance.

Subsec. (e). Pub. L. 92–261, §2(4), substituted provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as twenty-five or more during the first year after March 24, 1972, and fifteen or more thereafter, for provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as one hundred or more during the first year after the effective date of this section, seventy-five or more during the second year after such date, fifty or more during the third year after such date, and twenty-five or more thereafter.

Subsec. (f). Pub. L. 92–261, §2(5), inserted provisions enumerating persons excepted from term

"employee".

Subsec. (h). Pub. L. 92–261, §2(6), inserted ", and further includes any governmental industry, business, or activity" after "Labor-Management Reporting and Disclosure Act of 1959".

Subsec. (j). Pub. L. 92–261, §2(7), added subsec. (j).

1966—Subsec. (b). Pub. L. 89–554 struck out proviso which stated that it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin and directed the President to utilize his existing authority to effectuate this policy.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 104 of Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

Pub. L. 102–166, title I, §109(c) Nov. 21, 1991, 105 Stat. 1078, provided that: "The amendments made by this section [amending this section and sections 2000e–1, 12111, and 12112 of this title] shall not apply with respect to conduct occurring before the date of the enactment of this Act [Nov. 21, 1991]."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1978 AMENDMENT; EXCEPTIONS TO APPLICATION

Pub. L. 95–555, §2, Oct. 31, 1978, 92 Stat. 2076, provided that:

"(a) Except as provided in subsection (b), the amendment made by this Act [amending this section] shall be effective on the date of enactment [Oct. 31, 1978].

"(b) The provisions of the amendment made by the first section of this Act [amending this section] shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act [Oct. 31, 1978] until 180 days after enactment of this Act."

EFFECTIVE DATE

Pub. L. 88–352, title VII, §716(a), (b), July 2, 1964, 78 Stat. 266, provided that:

"(a) This title [enacting this section and sections 2000e–1, 2000e–4, 2000e–7 to 2000e–15 of this title, and amending sections 2204 and 2205(a)(45) of former Title 5, Executive Departments and Government Officers and Employees] shall become effective one year after the date of its enactment [July 2, 1964].

"(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 [sections 2000e–2, 2000e–3, 2000e–5, and 2000e–6 of this title] shall become effective immediately [July 2, 1964]."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–555, Oct. 31, 1978, 92 Stat. 2076, which enacted subsec. (k) of this section and notes set out below, is popularly known as the "Pregnancy Discrimination Act".

GLASS CEILING

Pub. L. 102–166, title II, Nov. 21, 1991, 105 Stat. 1081–1087, entitled the "Glass Ceiling Act of 1991", established a Glass Ceiling Commission which was to submit to Congress, no later than 15 months after Nov. 21, 1991, study and recommendations concerning eliminating artificial barriers to advancement of women and minorities in the workplace and increasing opportunities and developmental experiences of women and minorities to foster advancement to management and decisionmaking positions in businesses, authorized creation of a National Award for Diversity and Excellence in American Executive Management which was to be awarded annually by the Commission to a qualified business concern which promoted more diverse skilled work force at management and decisionmaking levels in business, and further provided for composition of Commission, powers, staff and consultants, confidentiality of information, appropriations, and termination of Commission and authority to make awards 4 years after Nov. 21, 1991.

READJUSTMENT OF BENEFITS

Pub. L. 95–555, §3, Oct. 31, 1978, 92 Stat. 2076, provided that: "Until the expiration of a period of one year from the date of enactment of this Act [Oct. 31, 1978] or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person

who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act [amending this section and enacting provisions set out above] shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11126

Ex. Ord. No. 11126, Nov. 1, 1963, 28 F.R. 11717, as amended by Ex. Ord. No. 11221, May 6, 1965, 30 F.R. 6427; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, which related to the Interdepartmental Committee on the Status of Women and the Citizens' Advisory Council on the Status of Women, was revoked by Ex. Ord. No. 12050, Apr. 4, 1978, 43 F.R. 14431, formerly set out below.

EXECUTIVE ORDER NO. 11246

Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, as amended by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303; Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985; Ex. Ord. No. 12086, Oct. 5, 1978, 43 F.R. 46501; Ex. Ord. No. 13279, §4, Dec. 12, 2002, 67 F.R. 77143; Ex. Ord. No. 13665, §2, Apr. 8, 2014, 79 F.R. 20749; Ex. Ord. No. 13672, §2, July 21, 2014, 79 F.R. 42971, which related to nondiscrimination in employment by Federal contractors and subcontractors, was revoked by Ex. Ord. No. 14173, §3(b)(i), Jan. 21, 2025, 90 F.R. 8634.

EX. ORD. NO. 11478. EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, as amended by Ex. Ord. No. 11590, Apr. 23, 1971, 36 F.R. 7831; Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053; Ex. Ord. No. 13087, May 28, 1998, 63 F.R. 30097; Ex. Ord. No. 13152, May 2, 2000, 65 F.R. 26115; Ex. Ord. No. 13672, §1, July 21, 2014, 79 F.R. 42971, provided:

NOW THEREFORE, under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

SECTION 1. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, age, sexual orientation, gender identity, or status as a parent., [sic] and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government, to the extent permitted by law.

SEC. 2. The head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the policy set forth in section 1. It is the responsibility of each department and agency head, to the maximum extent possible, to provide sufficient resources to administer such a program in a positive and effective manner; assure that recruitment activities reach all sources of job candidates; utilize to the fullest extent the present skills of each employee; provide the maximum feasible opportunity to employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities; provide training and advice to managers and supervisors to assure their understanding and implementation of the policy expressed in this Order; assure participation at the local level with other employers, schools, and public or private groups in cooperative efforts to improve community conditions which affect employability; and provide for a system within the department or agency for periodically evaluating the effectiveness with which the policy of this Order is being carried out.

SEC. 3. The Equal Employment Opportunity Commission shall be responsible for directing and furthering the implementation of the policy of the Government of the United States to provide equal opportunity in Federal employment for all employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) and to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, or age.

SEC. 4. The Equal Employment Opportunity Commission, after consultation with all affected departments

and agencies, shall issue such rules, regulations, orders, and instructions and request such information from the affected departments and agencies as it deems necessary and and [sic] appropriate to carry out its responsibilities under this Order.

SEC. 5. All departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this Order and shall furnish the Commission such reports and information as it may request. The head of each department or agency shall comply with rules, regulations, orders and instructions issued by the Equal Employment Opportunity Commission pursuant to Section 4 of this Order.

SEC. 6. "Status as a parent" refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

(a) a biological parent;
(b) an adoptive parent;
(c) a foster parent;
(d) a stepparent;
(e) a custodian of a legal ward;
(f) in loco parentis over such an individual; or
(g) actively seeking legal custody or adoption of such an individual.

SEC. 7. The Office of Personnel Management shall be authorized to develop guidance on the provisions of this order prohibiting discrimination on the basis of an individual's sexual orientation or status as a parent.

SEC. 8. This Order applies (a) to military departments as defined in section 102 of title 5, United States Code, and executive agencies (other than the General Accounting Office [now Government Accountability Office]) as defined in section 105 of title 5, United States Code, and to the employees thereof (including employees paid from nonappropriated funds), and (b) to those portions of the legislative and judicial branches of the Federal Government and of the Government of the District of Columbia having positions in the competitive service and to the employees in those positions. This Order does not apply to aliens employed outside the limits of the United States.

SEC. 9. Part I of Executive Order No. 11246 of September 24, 1965, and those parts of Executive Order No. 11375 of October 13, 1967, which apply to Federal employment, are hereby superseded.

SEC. 10. This Order shall be applicable to the United States Postal Service and to the Postal Rate Commission established by the Postal Reorganization Act of 1970 [Title 39, Postal Service].

SEC. 11. This Executive Order does not confer any right or benefit enforceable in law or equity against the United States or its representatives.

EXECUTIVE ORDER NO. 12050

Ex. Ord. No. 12050, Apr. 4, 1978, 43 F.R. 14431, as amended by Ex. Ord. No. 12057, May 8, 1978, 43 F.R. 19811; Ex. Ord. No. 12135, May 9, 1979, 44 F.R. 27639; Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, which established a National Advisory Committee for Women, was omitted in view of the revocation of sections 1 to 5 and 7 and 8 by Ex. Ord. No. 12135, May 9, 1979, 44 F.R. 27639 and the revocation of section 6 by Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239.

EX. ORD. NO. 12067. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Ex. Ord. No. 12067, June 30, 1978, 43 F.R. 28967, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including Section 9 of Reorganization Plan Number 1 of 1978 (43 FR 19807) [set out under section 2000e–4 of this title and in the Appendix to Title 5, Government Organizations and Employees], it is ordered as follows:

1–1. IMPLEMENTATION OF REORGANIZATION PLAN

1–101. The transfer to the Equal Employment Opportunity Commission of all the functions of the Equal Employment Opportunity Coordinating Council, and the termination of that Council, as provided by Section 6 of Reorganization Plan Number 1 of 1978 (43 FR 19807) [set out under section 2000e–4 of this title and in the Appendix to Title 5, Government Organization and Employees] shall be effective on July 1, 1978.

1–2. RESPONSIBILITIES OF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

1–201. The Equal Employment Opportunity Commission shall provide leadership and coordination to the efforts of Federal departments and agencies to enforce all Federal statutes, Executive orders, regulations, and

policies which require equal employment opportunity without regard to race, color, religion, sex, national origin, age or handicap. It shall strive to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the Federal departments and agencies having responsibility for enforcing such statutes, Executive orders, regulations and policies.

1–202. In carrying out its functions under this order the Equal Employment Opportunity Commission shall consult with and utilize the special expertise of Federal departments and agencies with equal employment opportunity responsibilities. The Equal Employment Opportunity Commission shall cooperate with such departments and agencies in the discharge of their equal employment responsibilities.

1–203. All Federal departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this order and shall furnish the Commission such reports and information as it may request.

1–3. SPECIFIC RESPONSIBILITIES

1–301. To implement its responsibilities under Section 1–2, the Equal Employment Opportunity Commission shall, where feasible:

(a) develop uniform standards, guidelines, and policies defining the nature of employment discrimination on the ground of race, color, religion, sex, national origin, age or handicap under all Federal statutes, Executive orders, regulations, and policies which require equal employment opportunity;

(b) develop uniform standards and procedures for investigations and compliance reviews to be conducted by Federal departments and agencies under any Federal statute, Executive order, regulation or policy requiring equal employment opportunity;

(c) develop procedures with the affected agencies, including the use of memoranda of understanding, to minimize duplicative investigations or compliance reviews of particular employers or classes of employers or others covered by Federal statutes, Executive orders, regulations or policies requiring equal employment opportunity;

(d) ensure that Federal departments and agencies develop their own standards and procedures for undertaking enforcement actions when compliance with equal employment opportunity requirements of any Federal statute, Executive order, regulation or policy cannot be secured by voluntary means;

(e) develop uniform record-keeping and reporting requirements concerning employment practices to be utilized by all Federal departments and agencies having equal employment enforcement responsibilities;

(f) provide for the sharing of compliance records, findings, and supporting documentation among Federal departments and agencies responsible for ensuring equal employment opportunity;

(g) develop uniform training programs for the staff of Federal departments and agencies with equal employment opportunity responsibilities;

(h) assist all Federal departments and agencies with equal employment opportunity responsibilities in developing programs to provide appropriate publications and other information for those covered and those protected by Federal equal employment opportunity statutes, Executive orders, regulations, and policies; and

(i) initiate cooperative programs, including the development of memoranda of understanding between agencies, designed to improve the coordination of equal employment opportunity compliance and enforcement.

1–302. The Equal Employment Opportunity Commission shall assist the Office of Personnel Management, or its successor, in establishing uniform job-related qualifications and requirements for job classifications and descriptions for Federal employees involved in enforcing all Federal equal employment opportunity provisions.

1–303. The Equal Employment Opportunity Commission shall issue such rules, regulations, policies, procedures or orders as it deems necessary to carry out its responsibilities under this order. It shall advise and offer to consult with the affected Federal departments and agencies during the development of any proposed rules, regulations, policies, procedures or orders and shall formally submit such proposed issuances to affected departments and agencies at least 15 working days prior to public announcement. The Equal Employment Opportunity Commission shall use its best efforts to reach agreement with the agencies on matters in dispute. Departments and agencies shall comply with all final rules, regulations, policies, procedures or orders of the Equal Employment Opportunity Commission.

1–304. All Federal departments and agencies shall advise and offer to consult with the Equal Employment Opportunity Commission during the development of any proposed rules, regulations, policies, procedures or orders concerning equal employment opportunity. Departments and agencies shall formally submit such proposed issuances to the Equal Employment Opportunity Commission and other interested Federal departments and agencies at least 15 working days prior to public announcement. The Equal Employment

Opportunity Commission shall review such proposed rules, regulations, policies, procedures or orders to ensure consistency among the operations of the various Federal departments and agencies. Issuances related to internal management and administration are exempt from this clearance process. Case handling procedures unique to a single program also are exempt, although the Equal Employment Opportunity Commission may review such procedures in order to assure maximum consistency within the Federal equal employment opportunity program.

1–305. Before promulgating significant rules, regulations, policies, procedures or orders involving equal employment opportunity, the Commission and affected departments and agencies shall afford the public an opportunity to comment.

1–306. The Equal Employment Opportunity Commission may make recommendations concerning staff size and resource needs of the Federal departments and agencies having equal employment opportunity responsibilities to the Office of Management and Budget.

1–307. (a) It is the intent of this order that disputes between or among agencies concerning matters covered by this order shall be resolved through good faith efforts of the affected agencies to reach mutual agreement. Use of the dispute resolution mechanism contained in Subsections (b) and (c) of this Section should be resorted to only in extraordinary circumstances.

(b) Whenever a dispute which cannot be resolved through good faith efforts arises between the Equal Employment Opportunity Commission and another Federal department or agency concerning the issuance of an equal employment opportunity rule, regulation, policy, procedure, order or any matter covered by this Order, the Chairman of the Equal Employment Opportunity Commission or the head of the affected department or agency may refer the matter to the Executive Office of the President. Such reference must be in writing and may not be made later than 15 working days following receipt of the initiating agency's notice of intent publicly to announce an equal employment opportunity rule, regulation, policy, procedure or order. If no reference is made within the 15 day period, the decision of the agency which initiated the proposed issuance will become effective.

(c) Following reference of a disputed matter to the Executive Office of the President, the Assistant to the President for Domestic Affairs and Policy (or such other official as the President may designate) shall designate an official within the Executive Office of the President to meet with the affected agencies to resolve the dispute within a reasonable time.

1–4. ANNUAL REPORT

1–401. The Equal Employment Opportunity Commission shall include in the annual report transmitted to the President and the Congress pursuant to Section 715 of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–14), a statement of the progress that has been made in achieving the purpose of this order. The Equal Employment Opportunity Commission shall provide Federal departments and agencies an opportunity to comment on the report prior to formal submission.

1–5. GENERAL PROVISIONS

1–501. Nothing in this order shall relieve or lessen the responsibilities or obligations imposed upon any person or entity by Federal equal employment law, Executive order, regulation or policy.

1–502. Nothing in this order shall limit the Attorney General's role as legal adviser to the Executive Branch.

JIMMY CARTER.

EX. ORD. NO. 12086. CONSOLIDATION OF CONTRACT COMPLIANCE FUNCTIONS FOR EQUAL EMPLOYMENT OPPORTUNITY

Ex. Ord. No. 12086, Oct. 5, 1978, 43 F.R. 46501, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], in order to provide for the transfer to the Department of Labor of certain contract compliance functions relating to equal employment opportunity, it is hereby ordered as follows:

1–1. TRANSFER OF FUNCTIONS

1–101. The functions concerned with being primarily responsible for the enforcement of the equal employment opportunity provisions under Parts II and III of Executive Order. No. 11246, as amended [set out as a note above], are transferred or reassigned to the Secretary of Labor from the following agencies:

(a) Department of the Treasury.

(b) Department of Defense.

(c) Department of the Interior.
(d) Department of Commerce.
(e) Department of Health and Human Services.
(f) Department of Housing and Urban Development.
(g) Department of Transportation.
(h) Department of Energy.
(i) Environmental Protection Agency.
(j) General Services Administration.
(k) Small Business Administration.

1–102. The records, property, personnel and positions, and unexpended balances of appropriations or funds related to the functions transferred or reassigned by this Order, that are available and necessary to finance or discharge those functions, are transferred to the Secretary of Labor.

1–103. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

1–2. CONFORMING AMENDMENTS TO EXECUTIVE ORDER NO. 11246

1–201(a). In order to reflect the transfer of enforcement responsibility to the Secretary of Labor, Section 201 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.".

(b) Paragraph (7) of the contract clauses specified in Section 202 of Executive Order No. 11246, as amended, is amended to read:

"(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.".

1–202. In subsection (c) of Section 203 of Executive Order No. 11246, as amended, delete "contracting agency" in the proviso and substitute "Secretary of Labor" therefor.

1–203. In both the beginning and end of subsection (d) of Section 203 of Executive Order No. 11246, as amended, delete "contracting agency or the" in the phrase "contracting agency or the Secretary".

1–204. Section 205 of Executive Order No. 11246, as amended, is amended by deleting the last two sentences, which dealt with agency designation of compliance officers, and revising the rest of that Section to read:

"SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.".

1–205. In order to delete references to the contracting agencies conducting investigations, Section 206 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.".

"(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.".

1–206. In Section 207 of Executive Order No. 11246, as amended, delete "contracting agencies, other" in the first sentence.

1–207. The introductory clause in Section 209(a) of Executive Order No. 11246, as amended, is amended by deleting "or the appropriate contracting agency" from "In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:".

1–208. In paragraph (5) of Section 209(a) of Executive Order No. 11246, as amended, insert at the beginning the phrase "After consulting with the contracting agency, direct the contracting agency to", and at the end of paragraph (5) delete "contracting agency" and substitute therefor "Secretary of Labor" so that paragraph (5) is amended to read:

"(5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.".

1–209. In order to reflect the transfer from the agencies to the Secretary of Labor of the enforcement functions, substitute "Secretary of Labor" for "each contracting agency" in Section 209(b) of Executive Order No. 11246, as amended, so that Section 209(b) is amended to read:

"(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.".

1–210. In order to reflect the responsibility of the contracting agencies for prompt compliance with the directions of the Secretary of Labor, Sections 210 and 211 of Executive Order No. 11246, as amended, are amended to read:

"SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.".

"SEC. 211. If the Secretary of Labor shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.".

1–211. Section 212 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.".

1–212. In order to reflect the transfer of enforcement responsibility to the Secretary of Labor, references to the administering department or agency are deleted in clauses (1), (2), and (3) of Section 301 of Executive Order No. 11246, as amended, and those clauses are amended to read:

"(1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order,".

1–213. In order to reflect the transfer from the agencies to the Secretary of Labor of the enforcement functions "Secretary of Labor" shall be substituted for "administering department or agency" in Section 303 of Executive Order No. 11246, as amended, and Section 303 is amended to read:

"SEC. 303(a). The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.".

"(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.".

"(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.".

1–214. Section 401 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.".

1–3. GENERAL PROVISIONS

1–301. The transfers or reassignments provided by Section 1–1 of this Order shall take effect at such time or times as the Director of the Office of Management and Budget shall determine. The Director shall ensure that all such transfers or reassignments take effect within 60 days.

1–302. The conforming amendments provided by Section 1–2 of this Order shall take effect on October 8, 1978; except that, with respect to those agencies identified in Section 1–101 of this Order, the conforming amendments shall be effective on the effective date of the transfer or reassignment of functions as specified pursuant to Section 1–301 of this Order.

EXECUTIVE ORDER NO. 12135

Ex. Ord. No. 12135, May 9, 1979, 44 F.R. 27639, which established the President's Advisory Committee for Women, was revoked by Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, set out below.

EX. ORD. NO. 12336. TASK FORCE ON LEGAL EQUITY FOR WOMEN

Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, as amended by Ex. Ord. No. 12355, Apr. 1, 1982, 47 F.R. 14479, provided:

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities, it is hereby ordered as follows:

SECTION 1. *Establishment.* (a) There is established the Task Force on Legal Equity for Women.

(b) The Task Force members shall be appointed by the President from among nominees by the heads of the following Executive agencies, each of which shall have one representative on the Task Force.

(1) Department of State.
(2) Department of The Treasury.
(3) Department of Defense.
(4) Department of Justice.
(5) Department of The Interior.
(6) Department of Agriculture.
(7) Department of Commerce.
(8) Department of Labor.
(9) Department of Health and Human Services.
(10) Department of Housing and Urban Development.
(11) Department of Transportation.
(12) Department of Energy.
(13) Department of Education.
(14) Agency for International Development.
(15) Veterans Administration [now Department of Veterans Affairs].
(16) Office of Management and Budget.
(17) International Communication Agency.
(18) Office of Personnel Management.
(19) Environmental Protection Agency.
(20) ACTION [now Corporation for National and Community Service].
(21) Small Business Administration.

(c) The President shall designate one of the members to chair the Task Force. Other agencies may be invited to participate in the functions of the Task Force.

SEC. 2. *Functions.* (a) The members of the Task Force shall be responsible for coordinating and facilitating in their respective agencies, under the direction of the head of their agency, the implementation of changes ordered by the President in sex-discriminatory Federal regulations, policies, and practices.

(b) The Task Force shall periodically report to the President on the progress made throughout the Government in implementing the President's directives.

(c) The Attorney General shall complete the review of Federal laws, regulations, policies, and practices which contain language that unjustifiably differentiates, or which effectively discriminates, on the basis of sex. The Attorney General or his designee shall, on a quarterly basis, report his findings to the President

through the Cabinet Council on Legal Policy.

SEC. 3. *Administration*. (a) The head of each Executive agency shall, to the extent permitted by law, provide the Task Force with such information and advice as the Task Force may identify as being useful to fulfill its functions.

(b) The agency with its representative chairing the Task Force shall, to the extent permitted by law, provide the Task Force with such administrative support as may be necessary for the effective performance of its functions.

(c) The head of each agency represented on the Task Force shall, to the extent permitted by law, furnish its representative such administrative support as is necessary and appropriate.

SEC. 4. *General Provisions*. (a) Section 1–101(h) of Executive Order No. 12258, as amended, is revoked.

(b) Executive Order No. 12135 is revoked.

(c) Section 6 of Executive Order No. 12050, as amended, is revoked.

RONALD REAGAN.

[The International Communication Agency was redesignated the United States Information Agency, see section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22.]

EX. ORD. NO. 13171. HISPANIC EMPLOYMENT IN THE FEDERAL GOVERNMENT

Ex. Ord. No. 13171, Oct. 12, 2000, 65 F.R. 61251, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the representation of Hispanics in Federal employment, within merit system principles and consistent with the application of appropriate veterans' preference criteria, to achieve a Federal workforce drawn from all segments of society, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the executive branch to recruit qualified individuals from appropriate sources in an effort to achieve a workforce drawn from all segments of society. Pursuant to this policy, this Administration notes that Hispanics remain underrepresented in the Federal workforce: they make up only 6.4 percent of the Federal civilian workforce, roughly half of their total representation in the civilian labor force. This Executive Order, therefore, affirms ongoing policies and recommends additional policies to eliminate the underpresentation [sic] of Hispanics in the Federal workforce.

SEC. 2. *Responsibilities of Executive Departments and Agencies*. The head of each executive department and agency (agency) shall establish and maintain a program for the recruitment and career development of Hispanics in Federal employment. In its program, each agency shall:

(a) provide a plan for recruiting Hispanics that creates a fully diverse workforce for the agency in the 21st century;

(b) assess and eliminate any systemic barriers to the effective recruitment and consideration of Hispanics, including but not limited to:

(1) broadening the area of consideration to include applicants from all appropriate sources;

(2) ensuring that selection factors are appropriate and achieve the broadest consideration of applicants and do not impose barriers to selection based on nonmerit factors; and

(3) considering the appointment of Hispanic Federal executives to rating, selection, performance review, and executive resources panels and boards;

(c) improve outreach efforts to include organizations outside the Federal Government in order to increase the number of Hispanic candidates in the selection pool for the Senior Executive Service;

(d) promote participation of Hispanic employees in management, leadership, and career development programs;

(e) ensure that performance plans for senior executives, managers, and supervisors include specific language related to significant accomplishments on diversity recruitment and career development and that accountability is predicated on those plans;

(f) establish appropriate agency advisory councils that include Hispanic Employment Program Managers;

(g) implement the goals of the Government-wide Hispanic Employment Initiatives issued by the Office of Personnel Management (OPM) in September 1997 (Nine-Point Plan), and the Report to the President's Management Council on Hispanic Employment in the Federal Government of March 1999;

(h) ensure that managers and supervisors receive periodic training in diversity management in order to carry out their responsibilities to maintain a diverse workforce; and

(i) reflect a continuing priority for eliminating Hispanic underrepresentation in the Federal workforce and incorporate actions under this order as strategies for achieving workforce diversity goals in the agency's Government Performance and Results Act (GPRA) Annual Performance Plan.

SEC. 3. *Cooperation*. All efforts taken by heads of agencies under sections 1 and 2 of this order shall, as appropriate, further partnerships and cooperation among Federal, public, and private sector employers, and appropriate Hispanic organizations whenever such partnerships and cooperation are possible and would promote the Federal employment of qualified individuals. In developing the long-term comprehensive strategies required by section 2 of this order, agencies shall, as appropriate, consult with and seek information and advice from experts in the areas of special targeted recruitment and diversity in employment.

SEC. 4. *Responsibilities of the Office of Personnel Management*. The Office of Personnel Management is required by law and regulations to undertake a Government-wide minority recruitment effort. Pursuant to that on-going effort and in implementation of this order, the Director of OPM shall:

(a) provide Federal human resources management policy guidance to address Hispanic underrepresentation where it occurs;

(b) take the lead in promoting diversity to executive agencies for such actions as deemed appropriate to promote equal employment opportunity;

(c) within 180 days from the date of this order, prescribe such regulations as may be necessary to carry out the purposes of this order;

(d) within 60 days from the date of this order, establish an Interagency Task Force, chaired by the Director and composed of agency officials at the Deputy Secretary level, or the equivalent. This Task Force shall meet semi-annually to:

(1) review best practices in strategic human resources management planning, including alignment with agency GPRA plans;

(2) assess overall executive branch progress in complying with the requirements of this order;

(3) provide advice on ways to increase Hispanic community involvement; and

(4) recommend any further actions, as appropriate, in eliminating the underrepresentation of Hispanics in the Federal workforce where it occurs; and

(e) issue an annual report with findings and recommendations to the President on the progress made by agencies on matters related to this order. The first annual report shall be issued no later than 1 year from the date of this order.

SEC. 5. *Judicial Review*. This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, enforceable in law or equity except as may be identified in existing laws and regulations, by a party against the United States, its agencies, its officers or employees, or any other person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13506. ESTABLISHING A WHITE HOUSE COUNCIL ON WOMEN AND GIRLS

Ex. Ord. No. 13506, Mar. 11, 2009, 74 F.R. 11271, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. *Policy*. Over the past generation, our society has made tremendous progress in eradicating barriers to women's success. A record number of women are attending college and graduate school. Women make up a growing share of our workforce, and more women are corporate executives and business owners than ever before, helping boost the U.S. economy and foster U.S. competitiveness around the world. Today, women are serving at the highest levels of all branches of our Government.

Despite this progress, certain inequalities continue to persist. On average, American women continue to earn only about 78 cents for every dollar men make, and women are still significantly underrepresented in the science, engineering, and technology fields. Far too many women lack health insurance, and many are unable to take time off to care for a new baby or an ailing family member. Violence against women and girls remains a global epidemic. The challenge of ensuring equal educational opportunities for women and girls endures. As the current economic crisis has swept across our Nation, women have been seriously affected.

These issues do not concern just women. When jobs do not offer family leave, that affects men who wish to help care for their families. When women earn less than men for the same work, that affects families who have to work harder to make ends meet. When our daughters do not have the same educational and career opportunities as our sons, that affects entire communities, our economy, and our future as a Nation.

The purpose of this order is to establish a coordinated Federal response to issues that particularly impact the lives of women and girls and to ensure that Federal programs and policies address and take into account the distinctive concerns of women and girls, including women of color and those with disabilities.

SEC. 2. *White House Council on Women and Girls*. There is established within the Executive Office of the President a White House Council on Women and Girls (Council).

(a) *Membership of the Council*. The Council shall consist of the following members:

(1) the Senior Advisor and Assistant to the President for Intergovernmental Affairs and Public Liaison, who shall serve as Chair of the Council;

(2) the Secretary of State;

(3) the Secretary of the Treasury;

(4) the Secretary of Defense;

(5) the Attorney General;

(6) the Secretary of the Interior;

(7) the Secretary of Agriculture;

(8) the Secretary of Commerce;

(9) the Secretary of Labor;

(10) the Secretary of Health and Human Services;

(11) the Secretary of Housing and Urban Development;

(12) the Secretary of Transportation;

(13) the Secretary of Energy;

(14) the Secretary of Education;

(15) the Secretary of Veterans Affairs;

(16) the Secretary of Homeland Security;

(17) the Representative of the United States of America to the United Nations;

(18) the United States Trade Representative;

(19) the Director of the Office of Management and Budget;

(20) the Administrator of the Environmental Protection Agency;

(21) the Chair of the Council of Economic Advisers;

(22) the Director of the Office of Personnel Management;

(23) the Administrator of the Small Business Administration;

(24) the Assistant to the President and Director of the Domestic Policy Council;

(25) the Assistant to the President for Economic Policy and Director of the National Economic Council; and

(26) the heads of such other executive branch departments, agencies, and offices as the President may, from time to time, designate.

A member of the Council may designate, to perform the Council functions of the member, a senior-level official who is a part of the member's department, agency, or office, and who is a full-time officer or employee of the Federal Government. At the direction of the Chair, the Council may establish subgroups consisting exclusively of Council members or their designees under this section, as appropriate.

(b) *Administration of the Council*. The Department of Commerce shall provide funding and administrative support for the Council to the extent permitted by law and within existing appropriations. The Chair shall convene regular meetings of the Council, determine its agenda, and direct its work. The Chair shall designate an Executive Director of the Council, who shall coordinate the work of the Council and head any staff assigned to the Council.

SEC. 3. *Mission and Functions of the Council*. The Council shall work across executive departments and agencies to provide a coordinated Federal response to issues that have a distinct impact on the lives of women and girls, including assisting women-owned businesses to compete internationally and working to increase the participation of women in the science, engineering, and technology workforce, and to ensure that Federal programs and policies adequately take those impacts into account. The Council shall be responsible for providing recommendations to the President on the effects of pending legislation and executive branch policy proposals; for suggesting changes to Federal programs or policies to address issues of special importance to women and girls; for reviewing and recommending changes to policies that have a distinct impact on women in the Federal workforce; and for assisting in the development of legislative and policy proposals of special importance to women and girls. The functions of the Council are advisory only.

SEC. 4. *Outreach*. Consistent with the objectives set out in this order, the Council, in accordance with applicable law, in addition to regular meetings, shall conduct outreach with representatives of nonprofit organizations, State and local government agencies, elected officials, and other interested persons that will assist with the Council's development of a detailed set of recommendations.

SEC. 5. *Federal Interagency Plan*. The Council shall, within 150 days of the date of this order, develop and submit to the President a Federal interagency plan with recommendations for interagency action consistent with the goals of this order. The Federal interagency plan shall include an assessment by each member

executive department, agency, or office of the status and scope of its efforts to further the progress and advancement of women and girls. Such an assessment shall include a report on the status of any offices or programs that have been created to develop, implement, or monitor targeted initiatives concerning women or girls. The Federal interagency plan shall also include recommendations for issues, programs, or initiatives that should be further evaluated or studied by the Council. The Council shall review and update the Federal interagency plan periodically, as appropriate, and shall present to the President any updated recommendations or findings.

SEC. 6. *General Provisions*. (a) The heads of executive departments and agencies shall assist and provide information to the Council, consistent with applicable law, as may be necessary to carry out the functions of the Council. Each executive department and agency shall bear its own expense for participating in the Council.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EXECUTIVE ORDER NO. 13583

Ex. Ord. No. 13583, Aug. 18, 2011, 76 F.R. 52847, which established a coordinated government-wide initiative to promote diversity and inclusion in the Federal workforce, was revoked by Ex. Ord. No. 14173, §3(a)(ii), Jan. 21, 2025, 90 F.R. 8634.

EX. ORD. NO. 13665. NON-RETALIATION FOR DISCLOSURE OF COMPENSATION INFORMATION

Ex. Ord. No. 13665, Apr. 8, 2014, 79 F.R. 20749, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act [of 1949], 40 U.S.C. 101 *et seq*., and in order to take further steps to promote economy and efficiency in Federal Government procurement, it is hereby ordered as follows:

SECTION 1. *Policy*. This order is designed to promote economy and efficiency in Federal Government procurement. It is the policy of the executive branch to enforce vigorously the civil rights laws of the United States, including those laws that prohibit discriminatory practices with respect to compensation. Federal contractors that employ such practices are subject to enforcement action, increasing the risk of disruption, delay, and increased expense in Federal contracting. Compensation discrimination also can lead to labor disputes that are burdensome and costly.

When employees are prohibited from inquiring about, disclosing, or discussing their compensation with fellow workers, compensation discrimination is much more difficult to discover and remediate, and more likely to persist. Such prohibitions (either express or tacit) also restrict the amount of information available to participants in the Federal contracting labor pool, which tends to diminish market efficiency and decrease the likelihood that the most qualified and productive workers are hired at the market efficient price. Ensuring that employees of Federal contractors may discuss their compensation without fear of adverse action will enhance the ability of Federal contractors and their employees to detect and remediate unlawful discriminatory practices, which will contribute to a more efficient market in Federal contracting.

SEC. 2. [Amended Ex. Ord. No. 11246, set out above.]

SEC. 3. *Regulations*. Within 160 days of the date of this order, the Secretary of Labor shall propose regulations to implement the requirements of this order.

SEC. 4. *Severability*. If any provision of this order, or the application of such provision or amendment to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstances shall not be affected thereby.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to limit the rights of an employee or applicant for employment provided under any provision of law. It also shall not be construed to prevent a Federal contractor covered by this order from pursuing a defense, as long as the defense is not based on a rule, policy, practice, agreement, or other instrument that prohibits employees or applicants from discussing or

disclosing their compensation or the compensation of other employees or applicants, subject to paragraph (3) of section 202 of Executive Order 11246, as added by this order.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 6. *Effective Date*. This order shall become effective immediately, and shall apply to contracts entered into on or after the effective date of rules promulgated by the Department of Labor under section 3 of this order.

BARACK OBAMA.

EXECUTIVE ORDER NO. 13672

Ex. Ord. No. 13672, July 21, 2014, 79 F.R. 42971, which amended Ex. Ords. No. 11246 and 11478, was revoked by Ex. Ord. No. 14173, §3(a)(iii), Jan. 21, 2025, 90 F.R. 8634.

EXECUTIVE ORDER NO. 13988

Ex. Ord. No. 13988, Jan. 20, 2021, 86 F.R. 7023, which related to preventing and combating discrimination on the basis of gender identity or sexual orientation, was revoked by Ex. Ord. No. 14148, §2(d), Jan. 20, 2025, 90 F.R. 8237, and Ex. Ord. No. 14168, §7(b), Jan. 20, 2025, 90 F.R. 8617.

EXECUTIVE ORDER NO. 14020

Ex. Ord. No. 14020, Mar. 8, 2021, 86 F.R. 13797, which established the White House Gender Policy Council, was revoked by Ex. Ord. No. 14148, §2(bb), Jan. 20, 2025, 90 F.R. 8238, and Ex. Ord. No. 14168, §7(b), Jan. 20, 2025, 90 F.R. 8617.

EXECUTIVE ORDER NO. 14035

Ex. Ord. No. 14035, June 25, 2021, 86 F.R. 34593, which related to advancing diversity, equity, inclusion, and accessibility in the Federal workforce, was revoked by Ex. Ord. No. 14148, §2(jj), Jan. 20, 2025, 90 F.R. 8239.

ENHANCED COLLECTION OF RELEVANT DATA AND STATISTICS RELATING TO WOMEN

Memorandum of President of the United States, Mar. 4, 2011, 76 F.R. 12823, provided:

Memorandum for the Heads of Executive Departments and Agencies

I am proud to work with the White House Council on Women and Girls, the Office of Management and Budget, and the Department of Commerce on this week's release of *Women in America*, a report detailing the status of American women in the areas of families and income, health, employment, education, and violence and crime. This report provides a snapshot of the status of American women today, serving as a valuable resource for Government officials, academics, members of non-profit, nongovernmental, and news organizations, and others.

My Administration is committed to ensuring that Federal programs achieve policy goals in the most cost-effective manner. The *Women in America* report, together with the accompanying website collection of relevant data, will assist Government officials in crafting policies in light of available statistical evidence. It will also assist the work of the nongovernmental sector, including journalists, public policy analysts, and academic researchers, by providing data that allow greater understanding of policies and programs.

Preparation of this report revealed the vast data resources of the Federal statistical agencies. It also revealed some gaps in data collection. Gathering and analyzing additional data to fill in the gaps could help policymakers gather a more accurate and comprehensive view of the status and needs of American women.

Accordingly, I hereby request the heads of executive departments and agencies, where possible within existing collections of data and in light of budgetary constraints, to identify and to seek to fill in gaps in statistics and improve survey methodology relating to women wherever appropriate, including in the broad areas covered by the *Women in America* report: families and income, health, employment, education, and violence and crime.

Examples of some of the efforts that could be undertaken by departments and agencies with respect to the gathering or design of comprehensive data related to women include the following:

(a) Maternal Mortality. I encourage the National Center for Health Statistics (NCHS) to continue to work with States and other registration areas to complete the expeditious adoption of the most current standards for the collection of information on vital events, as well as the transition to electronic reporting systems. Maternal mortality is an important indicator of women's health both internationally and nationally. In the United States, maternal mortality statistics are based upon the information recorded on death certificates and collected by State and local vital records offices. The NCHS compiles the data across the 50 States and other registration areas. Due to concerns about data quality in the ascertainment of maternal mortality statistics, the 2003 revision of the standard death certificate introduced improved standards for collecting data. Until all 50 States and registration areas adopt the new data standards, formulating a national-level maternal mortality ratio remains difficult.

(b) Women in Leadership in Corporate America. Women participate in every sector of the workforce. Their current role in corporate leadership is an important indicator of their progress. I encourage the Chair of the Securities and Exchange Commission to seek to supplement the information it already collects by seeking to collect, among other data, information on the presence of women in governance positions in corporations, in order to shed further light on the role of women in corporate America.

(c) Women in Leadership in Public Service. I encourage the Corporation for National and Community Service to include statistics about the role of women in diverse aspects of public service within its planned work on measuring civic engagement.

This memorandum shall be carried out to the extent permitted by law, consistent with the legal authorities of executive departments and agencies and subject to the availability of appropriations. Nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to a department or agency, or the head thereof; or the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

PROMOTING DIVERSITY AND INCLUSION IN THE NATIONAL SECURITY WORKFORCE

Memorandum of President of the United States, Oct. 5, 2016, 81 F.R. 69993, which related to promoting diversity and inclusion in the national security workforce including use of workforce data, professional development, and leadership engagement and accountability, was revoked by Ex. Ord. No. 14173, §3(a)(iv), Jan. 21, 2025, 90 F.R. 8634.

PROMOTING DIVERSITY AND INCLUSION IN OUR NATIONAL PARKS, NATIONAL FORESTS, AND OTHER PUBLIC LANDS AND WATERS

Memorandum of President of the United States, Jan. 12, 2017, 82 F.R. 6179, which related to promoting diversity and inclusion of employees of, and visitors to, national parks, national forests, and other public lands and waters, was revoked by Ex. Ord. No. 14314, §3, 90 F.R. 30202.

§2000e–1. Exemption

(a) Inapplicability of subchapter to certain aliens and employees of religious entities

This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(b) Compliance with statute as violative of foreign law

It shall not be unlawful under section 2000e–2 or 2000e–3 of this title for an employer (or a corporation controlled by an employer), labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such

employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

(c) Control of corporation incorporated in foreign country

(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by section 2000e–2 or 2000e–3 of this title engaged in by such corporation shall be presumed to be engaged in by such employer.

(2) Sections 2000e–2 and 2000e–3 of this title shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

(A) the interrelation of operations;

(B) the common management;

(C) the centralized control of labor relations; and

(D) the common ownership or financial control,

of the employer and the corporation.

(Pub. L. 88–352, title VII, §702, July 2, 1964, 78 Stat. 255; Pub. L. 92–261, §3, Mar. 24, 1972, 86 Stat. 103; Pub. L. 102–166, title I, §109(b)(1), Nov. 21, 1991, 105 Stat. 1077.)

EDITORIAL NOTES

AMENDMENTS

1991—Pub. L. 102–166 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1972—Pub. L. 92–261 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 inapplicable to conduct occurring before Nov. 21, 1991, see section 109(c) of Pub. L. 102–166, set out as a note under section 2000e of this title.

§2000e–2. Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race,

color, religion, sex, or national origin.

(c) Labor organization practices

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion

Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Members of Communist Party or Communist-action or Communist-front organizations

As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950 [50 U.S.C. 781 et seq.].

(g) National security

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed

in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Seniority or merit system; quantity or quality of production; ability tests; compensation based on sex and authorized by minimum wage provisions

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of title 29.

(i) Businesses or enterprises extending preferential treatment to Indians

Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance

Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

(k) Burden of proof in disparate impact cases

(1)(A) An unlawful employment practice based on disparate impact is established under this subchapter only if—

(i) a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity; or

(ii) the complaining party makes the demonstration described in subparagraph (C) with respect to an alternative employment practice and the respondent refuses to adopt such alternative employment practice.

(B)(i) With respect to demonstrating that a particular employment practice causes a disparate impact as described in subparagraph (A)(i), the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining

party can demonstrate to the court that the elements of a respondent's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one employment practice.

(ii) If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

(C) The demonstration referred to by subparagraph (A)(ii) shall be in accordance with the law as it existed on June 4, 1989, with respect to the concept of "alternative employment practice".

(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this subchapter.

(3) Notwithstanding any other provision of this subchapter, a rule barring the employment of an individual who currently and knowingly uses or possesses a controlled substance, as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act [21 U.S.C. 801 et seq.] or any other provision of Federal law, shall be considered an unlawful employment practice under this subchapter only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

(l) Prohibition of discriminatory use of test scores

It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex, or national origin.

(m) Impermissible consideration of race, color, religion, sex, or national origin in employment practices

Except as otherwise provided in this subchapter, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.

(n) Resolution of challenges to employment practices implementing litigated or consent judgments or orders

(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

(II) a reasonable opportunity to present objections to such judgment or order; or

(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

(2) Nothing in this subsection shall be construed to—

(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or

apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

(B) apply to the rights of parties to the action in which a litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28.

(Pub. L. 88–352, title VII, §703, July 2, 1964, 78 Stat. 255; Pub. L. 92–261, §8(a), (b), Mar. 24, 1972, 86 Stat. 109; Pub. L. 102–166, title I, §§105(a), 106, 107(a), 108, Nov. 21, 1991, 105 Stat. 1074–1076.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Subversive Activities Control Act of 1950, referred to in subsec. (f), is title I (§§1–32) of act Sept. 23, 1950, ch. 1024, 64 Stat. 987, which is classified principally to subchapter I (§781 et seq.) of chapter 23 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The Controlled Substances Act, referred to in subsec. (k)(3), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (n)(2)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1991—Subsec. (k). Pub. L. 102–166, §105(a), added subsec. (k).

Subsec. (l). Pub. L. 102–166, §106, added subsec. (l).

Subsec. (m). Pub. L. 102–166, §107(a), added subsec. (m).

Subsec. (n). Pub. L. 102–166, §108, added subsec. (n).

1972—Subsec. (a)(2). Pub. L. 92–261, §8(a), inserted "or applicants for employment" after "his employees".

Subsec. (c)(2). Pub. L. 92–261, §8(b), inserted "or applicants for membership" after "membership".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

SUBVERSIVE ACTIVITIES CONTROL BOARD

Subversive Activities Control Board established by act Sept. 23, 1950, ch. 1024, §12, 64 Stat. 977, and ceased to operate on June 30, 1973.

§2000e–3. Other unlawful employment practices

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement

proceedings

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(b) Printing or publication of notices or advertisements indicating prohibited preference, limitation, specification, or discrimination; occupational qualification exception

It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

(Pub. L. 88–352, title VII, §704, July 2, 1964, 78 Stat. 257; Pub. L. 92–261, §8(c), Mar. 24, 1972, 86 Stat. 109.)

EDITORIAL NOTES

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–261, §8(c)(1), inserted provision making it an unlawful employment practice for a joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against the specified individuals.

Subsec. (b). Pub. L. 92–261, §8(c)(2), inserted provisions making prohibitions applicable to joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs, and notices or advertisements of such joint labor-management committees relating to admission to, or employment in, any program established to provide apprenticeship or other training.

§2000e–4. Equal Employment Opportunity Commission

(a) Creation; composition; political representation; appointment; term; vacancies; Chairman and Vice Chairman; duties of Chairman; appointment of personnel; compensation of personnel

There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve

as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5 governing appointments in the competitive service, such officers, agents, attorneys, administrative law judges, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5372, and 7521 of title 5.

(b) General Counsel; appointment; term; duties; representation by attorneys and Attorney General

(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 2000e–5 and 2000e–6 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this subchapter.

(c) Exercise of powers during vacancy; quorum

A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(d) Seal; judicial notice

The Commission shall have an official seal which shall be judicially noticed.

(e) Reports to Congress and the President

The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken and the moneys it has disbursed. It shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(f) Principal and other offices

The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this subchapter.

(g) Powers of Commission

The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this subchapter such technical assistance as they may request to further their compliance with this subchapter or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this subchapter, to assist in such effectuation by conciliation or such other remedial action as is provided by this subchapter;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of

this subchapter and to make the results of such studies available to the public;

(6) to intervene in a civil action brought under section 2000e–5 of this title by an aggrieved party against a respondent other than a government, governmental agency or political subdivision.

(h) Cooperation with other departments and agencies in performance of educational or promotional activities; outreach activities

(1) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(2) In exercising its powers under this subchapter, the Commission shall carry out educational and outreach activities (including dissemination of information in languages other than English) targeted to—

(A) individuals who historically have been victims of employment discrimination and have not been equitably served by the Commission; and

(B) individuals on whose behalf the Commission has authority to enforce any other law prohibiting employment discrimination,

concerning rights and obligations under this subchapter or such law, as the case may be.

(i) Personnel subject to political activity restrictions

All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 7324 [1] of title 5, notwithstanding any exemption contained in such section.

(j) Technical Assistance Training Institute

(1) The Commission shall establish a Technical Assistance Training Institute, through which the Commission shall provide technical assistance and training regarding the laws and regulations enforced by the Commission.

(2) An employer or other entity covered under this subchapter shall not be excused from compliance with the requirements of this subchapter because of any failure to receive technical assistance under this subsection.

(3) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1992.

(k) EEOC Education, Technical Assistance, and Training Revolving Fund

(1) There is hereby established in the Treasury of the United States a revolving fund to be known as the "EEOC Education, Technical Assistance, and Training Revolving Fund" (hereinafter in this subsection referred to as the "Fund") and to pay the cost (including administrative and personnel expenses) of providing education, technical assistance, and training relating to laws administered by the Commission. Monies in the Fund shall be available without fiscal year limitation to the Commission for such purposes.

(2)(A) The Commission shall charge fees in accordance with the provisions of this paragraph to offset the costs of education, technical assistance, and training provided with monies in the Fund. Such fees for any education, technical assistance, or training—

(i) shall be imposed on a uniform basis on persons and entities receiving such education, assistance, or training,

(ii) shall not exceed the cost of providing such education, assistance, and training, and

(iii) with respect to each person or entity receiving such education, assistance, or training, shall bear a reasonable relationship to the cost of providing such education, assistance, or training to such person or entity.

(B) Fees received under subparagraph (A) shall be deposited in the Fund by the Commission.

(C) The Commission shall include in each report made under subsection (e) information with respect to the operation of the Fund, including information, presented in the aggregate, relating to—

(i) the number of persons and entities to which the Commission provided education, technical assistance, or training with monies in the Fund, in the fiscal year for which such report is prepared,

(ii) the cost to the Commission to provide such education, technical assistance, or training to

such persons and entities, and

(iii) the amount of any fees received by the Commission from such persons and entities for such education, technical assistance, or training.

(3) The Secretary of the Treasury shall invest the portion of the Fund not required to satisfy current expenditures from the Fund, as determined by the Commission, in obligations of the United States or obligations guaranteed as to principal by the United States. Investment proceeds shall be deposited in the Fund.

(4) There is hereby transferred to the Fund $1,000,000 from the Salaries and Expenses appropriation of the Commission.

(Pub. L. 88–352, title VII, §705, July 2, 1964, 78 Stat. 258; Pub. L. 92–261, §8(d)–(f), Mar. 24, 1972, 86 Stat. 109, 110; Pub. L. 93–608, §3(1), Jan. 2, 1975, 88 Stat. 1972; Pub. L. 95–251, §2(a)(11), Mar. 27, 1978, 92 Stat. 183; Pub. L. 102–166, title I, §§110(a), 111, Nov. 21, 1991, 105 Stat. 1078; Pub. L. 102–411, §2, Oct. 14, 1992, 106 Stat. 2102; Pub. L. 104–66, title II, §2031, Dec. 21, 1995, 109 Stat. 728.)

EDITORIAL NOTES

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

The effective date of this Act, referred to in subsec. (b)(1), probably means the date of enactment of Pub. L. 92–261, which was approved Mar. 24, 1972.

Section 7324 of title 5, referred to in subsec. (i), which related to Executive agency employees or District of Columbia government employees influencing elections or taking part in political campaigns, was omitted in the general revision of subchapter III of chapter 73 of Title 5 by Pub. L. 103–94, §2(a), Oct. 6, 1993, 107 Stat. 1003, which enacted a new section 7324, relating to prohibition of political activities while on duty. See section 7323 of Title 5.

CODIFICATION

In subsec. (a), reference to section "5372" of title 5 substituted for reference to section "5362" on authority of Pub. L. 95–454, §801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221, which redesignated sections 5361 through 5365 of title 5 as sections 5371 through 5375.

In subsec. (i), "section 7324 of title 5" substituted for "section 9 of the Act of August 2, 1939, as amended (the Hatch Act)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 9 of the Act of August 2, 1939, as amended, was classified to section 118i of Title 5.

AMENDMENTS

1995—Subsec. (k)(2)(C). Pub. L. 104–66 substituted "including information, presented in the aggregate, relating to" for "including" in introductory provisions, "the number of persons and entities" for "the identity of each person or entity" in cl. (i), "such persons and entities" for "such person or entity" in cl. (ii), and "fees" for "fee" and "such persons and entities" for "such person or entity" in cl. (iii).

1992—Subsec. (k). Pub. L. 102–411 added subsec. (k).

1991—Subsec. (h). Pub. L. 102–166, §111, designated existing provisions as par. (1) and added par. (2).

Subsec. (j). Pub. L. 102–166, §110(a), added subsec. (j).

1978—Subsec. (a). Pub. L. 95–251 substituted "administrative law judges" for "hearing examiners" wherever appearing.

1975—Subsec. (e). Pub. L. 93–608 struck out reporting requirement of names, salaries, and duties of all individuals in employ of Commission.

1972—Subsec. (a). Pub. L. 92–261, §8(d), struck out provisions setting forth length of terms of original members of Commission and provisions authorizing Vice Chairman to act as Chairman in certain circumstances, inserted provisions relating to continuation in office of all members of Commission, and substituted provisions requiring appointment of officers, etc., in accordance with provisions of title 5, fixing compensation of such officers, etc., in accordance with provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, and requiring assignment, removal, and compensation of hearing examiners in accordance with specified sections, for provisions requiring

appointment of officers, etc., in accordance with civil service laws, and fixing compensation of such officers, etc., in accordance with the Classification Act of 1949, as amended.

Subsecs. (b) to (e). Pub. L. 92–261, §8(e), added subsec. (b), struck out subsec. (e) which amended sections 2204 and 2205 of former Title 5, Executive Departments and Government Officers and Employees, and redesignated existing subsecs. (b), (c), and (d) as (c), (d), and (e), respectively.

Subsec. (g)(6). Pub. L. 92–261, §8(f), substituted provisions which authorized Commission to intervene in a civil action brought under section 2000e–5 of this title where respondent is other than a government, governmental agency, or political subdivision for provisions which authorized Commission to refer matters to Attorney General with recommendations to intervene or institute civil actions.

Subsecs. (h) to (j). Pub. L. 92–261, §8(e)(2), (3), struck out subsec. (h) which provided for legal representation for Commission, and redesignated subsecs. (i) and (j) as (h) and (i), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–166, title I, §110(b), Nov. 21, 1991, 105 Stat. 1078, provided that: "The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Nov. 21, 1991]."

Amendment by section 111 of Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (e) of this section is listed in item 20 on page 165), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

EXECUTIVE DOCUMENTS

REORGANIZATION PLAN NO. 1 OF 1978 SUPERSEDED BY CIVIL SERVICE REFORM ACT OF 1978

Pub. L. 95–454, title IX, §905, Oct. 13, 1978, 92 Stat. 1224, provided in part that any provision in Reorganization Plan No. 1 of 1978 [set out below] inconsistent with any provision of that Act [see Tables for classification] was superseded thereby.

REORGANIZATION PLAN NO. 1 OF 1978

43 F.R. 19807, 92 STAT. 3781

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 23, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

EQUAL EMPLOYMENT OPPORTUNITY

SECTION 1. TRANSFER OF EQUAL PAY ENFORCEMENT FUNCTIONS

All functions related to enforcing or administering Section 6(d) of the Fair Labor Standards Act, as amended, (29 U.S.C. 206(d)) are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Civil Service Commission pursuant to Sections 4(d)(1); 4(f); 9; 11(a), (b), and (c); 16(b) and (c) and 17 of the Fair Labor Standards Act, as amended, (29 U.S.C. 204(d)(1); 204(f); 209; 211(a), (b), and (c); 216(b) and (c) and 217) and Section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended, (29 U.S.C. 259).

SEC. 2. TRANSFER OF AGE DISCRIMINATION ENFORCEMENT FUNCTIONS

All functions vested in the Secretary of Labor or in the Civil Service Commission pursuant to Sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a) are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and

enforcement pursuant to Sections 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. 625 and 634) are hereby transferred to the Equal Employment Opportunity Commission.

SEC. 3. TRANSFER OF EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT ENFORCEMENT FUNCTIONS

(a) All equal opportunity in Federal employment enforcement and related functions vested in the Civil Service Commission pursuant to Section 717(b) and (c) of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–16(b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal Employment Opportunity Commission may delegate to the Civil Service Commission or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the Civil Service Commission on other grounds, a Federal employee alleges a violation of Section 717 of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–16) provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

SEC. 4. TRANSFER OF FEDERAL EMPLOYMENT OF HANDICAPPED INDIVIDUALS ENFORCEMENT FUNCTIONS

All Federal employment of handicapped individuals enforcement functions and related functions vested in the Civil Service Commission pursuant to Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) are hereby transferred to the Equal Employment Opportunity Commission. The function of being co-chairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Civil Service Commission pursuant to Section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

SEC. 5. TRANSFER OF PUBLIC SECTOR 707 FUNCTIONS

Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under Section 707 of Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–6) and all necessary functions related thereto, including investigation, findings, notice and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said Title VII. The Attorney General is authorized to delegate any function under Section 707 of said Title VII to any officer or employee of the Department of Justice.

SEC. 6. TRANSFER OF FUNCTIONS AND ABOLITION OF THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

All functions of the Equal Employment Opportunity Coordinating Council, which was established pursuant to Section 715 of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SEC. 7. SAVINGS PROVISION

Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by Section 105 of Title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Plan. Consistent with the provisions of this Plan, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Plan. Consistent with the provisions of this Plan, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Plan in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

SEC. 8. INCIDENTAL TRANSFERS

So much of the personnel, property, records and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office

of Management and Budget shall provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SEC. 9. EFFECTIVE DATE

This Reorganization Plan shall become effective at such time or times, on or before October 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

[Pursuant to Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053, the transfer to the Equal Employment Opportunity Commission of certain functions of the Civil Service Commission relating to enforcement of equal employment opportunity programs as provided by sections 1 to 4 of this Reorg. Plan is effective Jan. 1, 1979.]

[Pursuant to Ex. Ord. No. 12144, June 22, 1979, 44 F.R. 37193, sections 1 and 2 of this Reorg. Plan are effective July 1, 1979, except for transfer of functions already effective Jan. 1, 1979, under Ex. Ord. No. 12106 above.]

[Pursuant to Ex. Ord. No. 12068, June 30, 1978, 43 F.R. 28971, section 5 of this Reorg. Plan is effective July 1, 1978.]

[Pursuant to Ex. Ord. No. 12067, June 30, 1978, 43 F.R. 28967, section 6 of this Reorg. Plan is effective July 1, 1978.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am submitting to you today Reorganization Plan No. 1 of 1978. This Plan makes the Equal Employment Opportunity Commission the principal Federal agency in fair employment enforcement. Together with actions I shall take by Executive Order, it consolidates Federal equal employment opportunity activities and lays, for the first time, the foundation of a unified, coherent Federal structure to combat job discrimination in all its forms.

In 1940 President Roosevelt issued the first Executive Order forbidding discrimination in employment by the Federal government. Since that time the Congress, the courts and the Executive Branch—spurred by the courage and sacrifice of many people and organizations—have taken historic steps to extend equal employment opportunity protection throughout the private as well as public sector. But each new prohibition against discrimination unfortunately has brought with it a further dispersal of Federal equal employment opportunity responsibility. This fragmentation of authority among a number of Federal agencies has meant confusion and ineffective enforcement for employees, regulatory duplication and needless expense for employers.

Fair employment is too vital for haphazard enforcement. My Administration will aggressively enforce our civil rights laws. Although discrimination in any area has severe consequences, limiting economic opportunity affects access to education, housing and health care. I, therefore, ask you to join with me to reorganize administration of the civil rights laws and to begin that effort by reorganizing the enforcement of those laws which ensure an equal opportunity to a job.

Eighteen government units now exercise important responsibilities under statutes, Executive Orders and regulations relating to equal employment opportunity:

The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964, [section 2000e et seq. of this title] which bans employment discrimination based on race, national origin, sex or religion. The EEOC acts on individual complaints and also initiates private sector cases involving a "pattern or practice" of discrimination.

The Department of Labor and 11 other agencies enforce Executive Order 11246 [set out as a note under section 2000e of this title]. This prohibits discrimination in employment on the basis of race, national origin, sex, or religion and requires affirmative action by government contractors. While the Department now coordinates enforcement of this "contract compliance" program, it is actually administered by eleven other departments and agencies. The Department also administers those statutes requiring contractors to take affirmative action to employ handicapped people, disabled veterans and Vietnam veterans.

In addition, the Labor Department enforces the Equal Pay Act of 1963 [section 206(d) of Title 29, Labor], which prohibits employers from paying unequal wages based on sex, and the Age Discrimination in Employment Act of 1967 [section 621 et seq. of Title 29], which forbids age discrimination against persons between the ages of 40 and 65.

The Department of Justice litigates Title VII cases involving public sector employers—State and local governments. The Department also represents the Federal government in lawsuits against Federal contractors and grant recipients who are in violation of Federal nondiscrimination prohibitions.

The Civil Service Commission (CSC) enforces Title VII and all other nondiscrimination and affirmative action requirements for Federal employment. The CSC rules on complaints filed by individuals and monitors affirmative action plans submitted annually by other Federal agencies.

The Equal Employment Opportunity Coordinating Council includes representatives from EEOC, Labor, Justice, CSC and the Civil Rights Commission. It is charged with coordinating the Federal equal employment opportunity enforcement effort and with eliminating overlap and inconsistent standards.

In addition to these major government units, other agencies enforce various equal employment opportunity requirements which apply to specific grant programs. The Department of the Treasury, for example, administers the anti-discrimination prohibitions applicable to recipients of revenue sharing funds.

These programs have had only limited success. Some of the past deficiencies include:

—inconsistent standards of compliance;

—duplicative, inconsistent paperwork requirements and investigative efforts;

—conflicts within agencies between their program responsibilities and their responsibility to enforce the civil rights laws;

—confusion on the part of workers about how and where to seek redress;

—lack of accountability.

I am proposing today a series of steps to bring coherence to the equal employment enforcement effort. These steps, to be accomplished by the Reorganization Plan and Executive Orders, constitute an important step toward consolidation of equal employment opportunity enforcement. They will be implemented over the next two years, so that the agencies involved may continue their internal reform.

Its experience and broad scope make the EEOC suitable for the role of principal Federal agency in fair employment enforcement. Located in the Executive Branch and responsible to the President, the EEOC has developed considerable expertise in the field of employment discrimination since Congress created it by the Civil Rights Act of 1964 [section 2000e–4 of this title]. The Commission has played a pioneer role in defining both employment discrimination and its appropriate remedies.

While it has had management problems in past administrations, the EEOC's new leadership is making substantial progress in correcting them. In the last seven months the Commission has redesigned its internal structures and adopted proven management techniques. Early experience with these procedures indicates a high degree of success in reducing and expediting new cases. At my direction, the Office of Management and Budget is actively assisting the EEOC to ensure that these reforms continue.

The Reorganization Plan I am submitting will accomplish the following:

On July 1, 1978, abolish the Equal Employment Opportunity Coordinating Council (42 U.S.C. 2000e–14) and transfer its duties to the EEOC (no positions or funds shifted).

On October 1, 1978, shift enforcement of equal employment opportunity for Federal employees from the CSC to the EEOC (100 positions and $6.5 million shifted).

On July 1, 1979, shift responsibility for enforcing both the Equal Pay Act and the Age Discrimination in Employment Act from the Labor Department to the EEOC (198 positions and $5.3 million shifted for Equal Pay; 119 positions and $3.5 million for Age Discrimination).

Clarify the Attorney General's authority to initiate "pattern or practice" suits under Title VII in the public sector.

In addition, I will issue an Executive Order on October 1, 1978, to consolidate the contract compliance program—now the responsibility of Labor and eleven "compliance agencies"—into the Labor Department (1,517 positions and $33.1 million shifted).

These proposed transfers and consolidations reduce from fifteen to three the number of Federal agencies having important equal employment opportunity responsibilities under Title VII of the Civil Rights Act of 1964 and Federal contract compliance provisions.

Each element of my Plan is important to the success of the entire proposal.

By abolishing the Equal Employment Opportunity Coordinating Council and transferring its responsibilities to the EEOC, this plan places the Commission at the center of equal employment opportunity enforcement. With these new responsibilities, the EEOC can give coherence and direction to the government's efforts by developing strong uniform enforcement standards to apply throughout the government: standardized data collection procedures, joint training programs, programs to ensure the sharing of enforcement related data among agencies, and methods and priorities for complaint and compliance reviews. Such direction has been absent in the Equal Employment Opportunity Coordinating Council.

It should be stressed, however, that affected agencies will be consulted before EEOC takes any action. When the Plan has been approved, I intend to issue an Executive Order which will provide for consultation, as well as a procedure for reviewing major disputed issues within the Executive Office of the President. The Attorney General's responsibility to advise the Executive Branch on legal issues will also be preserved.

Transfer of the Civil Service Commission's equal employment opportunity responsibilities to EEOC is needed to ensure that: (1) Federal employees have the same rights and remedies as those in the private sector and in State and local government; (2) Federal agencies meet the same standards as are required of other employers; and (3) potential conflicts between an agency's equal employment opportunity and personnel management functions are minimized. The Federal government must not fall below the standard of performance it expects of private employers.

The Civil Service Commission has in the past been lethargic in enforcing fair employment requirements within the Federal government. While the Chairman and other Commissioners I have appointed have already demonstrated their personal commitment to expanding equal employment opportunity, responsibility for ensuring fair employment for Federal employees should rest ultimately with the EEOC.

We must ensure that the transfer in no way undermines the important objectives of the comprehensive civil service reorganization which will be submitted to Congress in the near future. When the two plans take effect; I will direct the EEOC and the CSC to coordinate their procedures to prevent any duplication and overlap.

The Equal Pay Act now administered by the Labor Department, prohibits employers from paying unequal wages based on sex. Title VII of the Civil Rights Act, which is enforced by EEOC, contains a broader ban on sex discrimination. The transfer of Equal Pay responsibility from the Labor Department to the EEOC will minimize overlap and centralize enforcement of statutory prohibitions against sex discrimination in employment.

The transfer will strengthen efforts to combat sex discrimination. Such efforts would be enhanced still further by passage of the legislation pending before you, which I support, that would prohibit employers from excluding women disabled by pregnancy from participating in disability programs.

There is now virtually complete overlap in the employers, labor organizations, and employment agencies covered by Title VII and by the Age Discrimination in Employment Act. This overlap is burdensome to employers and confusing to victims of discrimination. The proposed transfer of the age discrimination program from the Labor Department to the EEOC will eliminate the duplication.

The Plan I am proposing will not affect the Attorney General's responsibility to enforce Title VII against State or local governments or to represent the Federal government in suits against Federal contractors and grant recipients. In 1972, the Congress determined that the Attorney General should be involved in suits against State and local governments. This proposal reinforces that judgment and clarifies the Attorney General's authority to initiate litigation against State or local governments engaged in a "pattern or practice" of discrimination. This in no way diminishes the EEOC's existing authority to investigate complaints filed against State or local governments and, where appropriate, to refer them to the Attorney General. The Justice Department and the EEOC will cooperate so that the Department sues on valid referrals, as well as on its own "pattern or practice" cases.

A critical element of my proposals will be accomplished by Executive Order rather than by the Reorganization Plan. This involves consolidation in the Labor Department of the responsibility to ensure that Federal contractors comply with Executive Order 11246. Consolidation will achieve the following: promote consistent standards, procedures, and reporting requirements; remove contractors from the jurisdiction of multiple agencies; prevent an agency's equal employment objectives from being outweighed by its procurement and construction objectives; and produce more effective law enforcement through unification of planning, training and sanctions. By 1981, after I have had an opportunity to review the manner in which both the EEOC and the Labor Department are exercising their new responsibilities, I will determine whether further action is appropriate.

Finally, the responsibility for enforcing grant-related equal employment provisions will remain with the agencies administering the grant programs. With the EEOC acting as coordinator of Federal equal employment programs, we will be able to bring overlap and duplication to a minimum. We will be able, for example, to see that a university's employment practices are not subject to duplicative investigations under both Title IX of the Education Amendments of 1972 [section 1681 et seq. of Title 20, Education] and the contract compliance program. Because of the similarities between the Executive Order program and those statutes requiring Federal contractors to take affirmative action to employ handicapped individuals and disabled and Vietnam veterans, I have determined that enforcement of these statues should remain in the Labor Department.

Each of the changes set forth in the Reorganization Plan accompanying this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. I have taken care to determine that all functions abolished by the Plan are done only under the statutory authority provided by Section 903(b) of Title 5 of the United States Code.

I do not anticipate that the reorganizations contained in this Plan will result in any significant change in expenditures. They will result in a more efficient and manageable enforcement program.

The Plan I am submitting is moderate and measured. It gives the Equal Employment Opportunity Commission—an agency dedicated solely to this purpose—the primary Federal responsibility in the area of job discrimination, but it is designed to give this agency sufficient time to absorb its new responsibilities. This reorganization will produce consistent agency standards, as well as increased accountability. Combined with the intense commitment of those charged with these responsibilities, it will become possible for us to accelerate this nation's progress in ensuring equal job opportunities for all our people.

JIMMY CARTER.

THE WHITE HOUSE, February 23, 1978.

EX. ORD. NO. 12106. TRANSFER OF CERTAIN EQUAL EMPLOYMENT ENFORCEMENT FUNCTIONS

Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053, provided:

By the authority vested in me as President of the United States of America by Section 9 of Reorganization Plan No. 1 of 1978 (43 FR 19807) [set out above], in order to effectuate the transfer of certain functions relating to the enforcement of equal employment programs, and in order to make certain technical amendments in other Orders to reflect this transfer of functions, it is hereby ordered as follows:

1–101. The transfer to the Equal Employment Opportunity Commission of certain functions of the Civil Service Commission, relating to enforcement of equal employment opportunity programs as provided by Sections 1, 2, 3 and 4 of Reorganization Plan No. 1 of 1978 (43 FR 19807) shall be effective on January 1, 1979.

1–102. Executive Order No. 11478, as amended [set out as a note under section 2000e of this title], is further amended by deleting the preamble, by substituting "national origin, handicap, or age" for "or national origin" in the first sentence of Section 1, and revising Sections 3, 4, and 5 to read as follows:

"SEC. 3. The Equal Employment Opportunity Commission shall be responsible for directing and furthering the implementation of the policy of the Government of the United States to provide equal opportunity in Federal employment for all employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) and to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, or age.

"SEC. 4. The Equal Employment Opportunity Commission, after consultation with all affected departments and agencies, shall issue such rules, regulations, orders, and instructions and request such information from the affected departments and agencies as it deems necessary and appropriate to carry out this Order.

"SEC. 5. All departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this Order and shall furnish the Commission such reports and information as it may request. The head of each department or agency shall comply with rules, regulations, orders and instructions issued by the Equal Employment Opportunity Commission pursuant to Section 4 of this Order."

1–103. Executive Order No. 11022, as amended [formerly set out as a note under section 3001 of this title], is further amended by revising Section 1(b) to read as follows:

"(b) The Council shall be composed of the Secretary of Health, Education, and Welfare [now Health and Human Services], who shall be Chairman, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of Veterans Affairs, the Director of the Office of Personnel Management, the Director of the Community Services Administration, and the Chairman of the Equal Employment Opportunity Commission."

1–104. Executive Order No. 11480 of September 9, 1969 [formerly set out as a note under section 791 of Title 29, Labor], is amended by deleting "and the Chairman of the United States Civil Service Commission" in Section 4 and substituting therefor "Director of the Office of Personnel Management, and the Chairman of the Equal Employment Opportunity Commission".

1–105. Executive Order No. 11830 of January 9, 1975 [set out as a note under section 791 of Title 29, Labor], is amended by deleting Section 2 and revising Section 1 to read as follows:

"In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 19808) the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

"(1) Secretary of Defense.

"(2) Secretary of Labor.

"(3) Secretary of Health, Education, and Welfare [now Health and Human Services], Co-Chairman.

"(4) Director of the Office of Personnel Management.

"(5) Administrator of Veterans Affairs.
"(6) Administrator of General Services.
"(7) Chairman of the Federal Communications Commission.
"(8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
"(9) Such other members as the President may designate."
1–106. This Order shall be effective on January 1, 1979.

JIMMY CARTER.

EX. ORD. NO. 12144. TRANSFER OF CERTAIN EQUAL PAY AND AGE DISCRIMINATION IN EMPLOYMENT ENFORCEMENT FUNCTIONS

Ex. Ord. No. 12144, June 22, 1979, 44 F.R. 37193, provided:

By the authority vested in me as President of the United States of America by the Constitution and laws of the United States, including Section 9 of Reorganization Plan No. 1 of 1978 (43 FR 19807) [set out above], in order to effectuate the transfer of certain functions relating to the enforcement of equal pay and age discrimination in employment programs from the Department of Labor to the Equal Employment Opportunity Commission, it is hereby ordered as follows:

1–101. Sections 1 and 2 of Reorganization Plan No. 1 of 1978 (43 FR 19807) [set out as a note above] shall become effective on July 1, 1979, with the exception of the transfer of functions from the Civil Service Commission, already effective January 1, 1979 (Executive Order No. 12106 [set out above]).

1–102. The records, property, personnel and positions, and unexpended balances of appropriations or funds, available or to be made available, which relate to the functions transferred as provided in this Order are hereby transferred from the Department of Labor to the Equal Employment Opportunity Commission.

1–103. The Director of the Office of Management and Budget shall make such determinations, issue such Orders, and take all actions necessary or appropriate to effectuate the transfers provided in this Order, including the transfer of funds, records, property, and personnel.

1–104. This Order shall be effective July 1, 1979.

JIMMY CARTER.

[1] *See References in Text note below.*

§2000e–5. Enforcement provisions

(a) Power of Commission to prevent unlawful employment practices

The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e–2 or 2000e–3 of this title.

(b) Charges by persons aggrieved or member of Commission of unlawful employment practices by employers, etc.; filing; allegations; notice to respondent; contents of notice; investigation by Commission; contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference, conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal endeavors to end unlawful practices; use of evidence in subsequent proceedings; penalties for disclosure of information; time for determination of reasonable cause

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the "respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the

person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

(c) State or local enforcement proceedings; notification of State or local authority; time for filing charges with Commission; commencement of proceedings

In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) [1] by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(d) State or local enforcement proceedings; notification of State or local authority; time for action on charges by Commission

In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(e) Time for filing charges; time for service of notice of charge on respondent; filing of charge by Commission with State or local agency; seniority system

(1) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local

agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(2) For purposes of this section, an unlawful employment practice occurs, with respect to a seniority system that has been adopted for an intentionally discriminatory purpose in violation of this subchapter (whether or not that discriminatory purpose is apparent on the face of the seniority provision), when the seniority system is adopted, when an individual becomes subject to the seniority system, or when a person aggrieved is injured by the application of the seniority system or provision of the system.

(3)(A) For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this subchapter, when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

(B) In addition to any relief authorized by section 1981a of this title, liability may accrue and an aggrieved person may obtain relief as provided in subsection (g)(1), including recovery of back pay for up to two years preceding the filing of the charge, where the unlawful employment practices that have occurred during the charge filing period are similar or related to unlawful employment practices with regard to discrimination in compensation that occurred outside the time for filing a charge.

(f) Civil action by Commission, Attorney General, or person aggrieved; preconditions; procedure; appointment of attorney; payment of fees, costs, or security; intervention; stay of Federal proceedings; action for appropriate temporary or preliminary relief pending final disposition of charge; jurisdiction and venue of United States courts; designation of judge to hear and determine case; assignment of case for hearing; expedition of case; appointment of master

(1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b), is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days

pending the termination of State or local proceedings described in subsection (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this subchapter. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

(g) Injunctions; appropriate affirmative action; equitable relief; accrual of back pay; reduction of back pay; limitations on judicial orders

(1) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(2)(A) No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 2000e–3(a) of this title.

(B) On a claim in which an individual proves a violation under section 2000e–2(m) of this title and a respondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

(i) may grant declaratory relief, injunctive relief (except as provided in clause (ii)), and

attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under section 2000e–2(m) of this title; and

(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).

(h) Provisions of chapter 6 of title 29 not applicable to civil actions for prevention of unlawful practices

The provisions of chapter 6 of title 29 shall not apply with respect to civil actions brought under this section.

(i) Proceedings by Commission to compel compliance with judicial orders

In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under this section, the Commission may commence proceedings to compel compliance with such order.

(j) Appeals

Any civil action brought under this section and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28.

(k) Attorney's fee; liability of Commission and United States for costs

In any action or proceeding under this subchapter the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

(Pub. L. 88–352, title VII, §706, July 2, 1964, 78 Stat. 259; Pub. L. 92–261, §4, Mar. 24, 1972, 86 Stat. 104; Pub. L. 102–166, title I, §§107(b), 112, 113(b), Nov. 21, 1991, 105 Stat. 1075, 1078, 1079; Pub. L. 111–2, §3, Jan. 29, 2009, 123 Stat. 5.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(2), means Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Rules 65 and 53 of the Federal Rules of Civil Procedure, referred to in subsec. (f)(2), (5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Chapter 6 (§101 et seq.) of title 29, referred to in subsec. (h), is a reference to act Mar. 23, 1932, ch. 90, 47 Stat. 70, popularly known as the Norris-LaGuardia Act. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2009—Subsec. (e)(3). Pub. L. 111–2 added par. (3).

1991—Subsec. (e). Pub. L. 102–166, §112, designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 102–166, §107(b), designated existing provisions as pars. (1) and (2)(A) and added par. (2)(B).

Subsec. (k). Pub. L. 102–166, §113(b), inserted "(including expert fees)" after "attorney's fee".

1972—Subsec. (a). Pub. L. 92–261, §4(a), added subsec. (a). Former subsec. (a) redesignated (b) and amended generally.

Subsec. (b). Pub. L. 92–261, §4(a), redesignated former subsec. (a) as (b), modified the procedure for the filing and consideration of charges by the Commission, subjected to coverage unlawful employment practices of joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs, required the Commission to accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law in its determination of reasonable cause, and inserted provision setting forth the time period, after charges have been filed, allowed to the Commission to determine reasonable cause. Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 92–261, §4(a), redesignated former subsecs. (b) and (c) as (c) and (d),

respectively. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 92–261, §4(a), redesignated former subsec. (d) as (e), extended from ninety to one hundred and eighty days after the occurrence of the alleged unlawful employment practice the time for filing charges under this section and from two hundred and ten to three hundred days the time for filing such charges where the person aggrieved initially instituted proceedings with a State or local agency, and inserted requirement that notice of the charge be served on the respondent within ten days after filing. Former subsec. (e) redesignated (f)(1).

Subsec. (f). Pub. L. 92–261, §4(a), redesignated former subsec. (e) as par. (1), substituted provisions setting forth the procedure for civil actions where the Commission was unable to secure from the respondents a conciliation agreement to prevent further unlawful employment practices for provisions setting forth the procedure for civil actions where the Commission was unable to obtain voluntary compliance with this subchapter and inserted provisions setting forth the procedure for civil action where the respondent is a government, governmental agency, or political subdivision and the Commission could not secure a conciliation agreement, added par. (2), redesignated former subsec. (f) as par. (3), substituted "aggrieved person" for "plaintiff", and added pars. (4) and (5).

Subsec. (g). Pub. L. 92–261, §4(a), inserted provisions which authorized the court to order affirmative action not limited solely to the enumerated affirmative acts and such other equitable relief as deemed appropriate, and provisions which set forth the accrual date for back pay.

Subsecs. (i), (j). Pub. L. 92–261, §4(b)(1), (2), substituted "this section" for "subsection (e) of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–2, §6, Jan. 29, 2009, 123 Stat. 7, provided that: "This Act [amending this section and section 2000e–16 of this title and sections 626, 633a, and 794a of Title 29, Labor, and enacting provisions set out as notes under this section and section 2000a of this title], and the amendments made by this Act, take effect as if enacted on May 28, 2007 and apply to all claims of discrimination in compensation under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), title I and section 503 of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq., 12203], and sections 501 and 504 of the Rehabilitation Act of 1973 [29 U.S.C. 791, 794], that are pending on or after that date."

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92–261, §14, Mar. 24, 1972, 86 Stat. 113, provided that: "The amendments made by this Act to section 706 of the Civil Rights Act of 1964 [this section] shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act [Mar. 24, 1972] and all charges filed thereafter."

FINDINGS

Pub. L. 111–2, §2, Jan. 29, 2009, 123 Stat. 5, provided that: "Congress finds the following:

"(1) The Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007), significantly impairs statutory protections against discrimination in compensation that Congress established and that have been bedrock principles of American law for decades. The Ledbetter decision undermines those statutory protections by unduly restricting the time period in which victims of discrimination can challenge and recover for discriminatory compensation decisions or other practices, contrary to the intent of Congress.

"(2) The limitation imposed by the Court on the filing of discriminatory compensation claims ignores the reality of wage discrimination and is at odds with the robust application of the civil rights laws that Congress intended.

"(3) With regard to any charge of discrimination under any law, nothing in this Act [amending this section and section 2000e–16 of this title and sections 626, 633a, and 794a of Title 29, Labor, and enacting provisions set out as notes under this section and section 2000a of this title] is intended to preclude or limit an aggrieved person's right to introduce evidence of an unlawful employment practice that has occurred outside the time for filing a charge of discrimination.

"(4) Nothing in this Act is intended to change current law treatment of when pension distributions are

considered paid."

APPLICATION TO OTHER LAWS

Pub. L. 111–2, §5(a), (b), Jan. 29, 2009, 123 Stat. 6, provided that:

"(a) AMERICANS WITH DISABILITIES ACT OF 1990.—The amendments made by section 3 [amending this section] shall apply to claims of discrimination in compensation brought under title I and section 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq., 12203), pursuant to section 107(a) of such Act (42 U.S.C. 12117(a)), which adopts the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

"(b) REHABILITATION ACT OF 1973.—The amendments made by section 3 shall apply to claims of discrimination in compensation brought under sections 501 and 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794), pursuant to—

"(1) sections 501(g) and 504(d) of such Act (29 U.S.C. 791(g) [now 29 U.S.C. 791(f)], 794(d)), respectively, which adopt the standards applied under title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.] for determining whether a violation has occurred in a complaint alleging employment discrimination; and

"(2) paragraphs (1) and (2) of section 505(a) of such Act (29 U.S.C. 794a(a)) (as amended by subsection (c))."

[1] *So in original. Probably should be subsection "(b)".*

§2000e–6. Civil actions by the Attorney General

(a) Complaint

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Jurisdiction; three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single judge district court: hearing, determination, expedition of action

The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event

that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(c) Transfer of functions, etc., to Commission; effective date; prerequisite to transfer; execution of functions by Commission

Effective two years after March 24, 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of title 5, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsections (d) and (e) of this section.

(d) Transfer of functions, etc., not to affect suits commenced pursuant to this section prior to date of transfer

Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

(e) Investigation and action by Commission pursuant to filing of charge of discrimination; procedure

Subsequent to March 24, 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 2000e–5 of this title.

(Pub. L. 88–352, title VII, §707, July 2, 1964, 78 Stat. 261; Pub. L. 92–261, §5, Mar. 24, 1972, 86 Stat. 107.)

EDITORIAL NOTES

AMENDMENTS

1972—Subsecs. (c) to (e). Pub. L. 92–261 added subsecs. (c) to (e).

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under this section, and all necessary functions related thereto, including investigation, findings, notice and an opportunity to resolve the matter without contested litigation, were transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with this subchapter, and with the Attorney General authorized to delegate any function under this section to any officer or employee of the Department of Justice, by Reorg. Plan No. 1 of 1978, §5, 43 F.R. 19807, 92 Stat. 3781, set out as a note under section 2000e–4 of this title.

EX. ORD. NO. 12068. TRANSFER OF CERTAIN FUNCTIONS TO ATTORNEY GENERAL

Ex. Ord. No. 12068, June 30, 1978, 43 F.R. 28971, provided:

By virtue of the authority vested in me as President of the United States by the Constitution and laws of the United States, including Section 9 of Reorganization Plan Number 1 of 1978 (43 FR 19807) [set out as a note under section 2000e–4 of this title], in order to clarify the Attorney General's authority to initiate public sector

litigation under Section 707 of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–6), it is ordered as follows:

1–1. SECTION 707 FUNCTIONS OF THE ATTORNEY GENERAL

1–101. Section 5 of Reorganization Plan Number 1 of 1978 (43 FR 19807) [set out as a note under section 2000e–4 of this title] shall become effective on July 1, 1978.

1–102. The functions transferred to the Attorney General by Section 5 of Reorganization Plan Number 1 of 1978 [set out as a note under section 2000e–4 of this title] shall, consistent with Section 707 of Title VII of the Civil Rights Act of 1964, as amended [this section], be performed in accordance with Department of Justice procedures heretofore followed under Section 707.

JIMMY CARTER.

§2000e–7. Effect on State laws

Nothing in this subchapter shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this subchapter.

(Pub. L. 88–352, title VII, §708, July 2, 1964, 78 Stat. 262.)

§2000e–8. Investigations

(a) Examination and copying of evidence related to unlawful employment practices

In connection with any investigation of a charge filed under section 2000e–5 of this title, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this subchapter and is relevant to the charge under investigation.

(b) Cooperation with State and local agencies administering State fair employment practices laws; participation in and contribution to research and other projects; utilization of services; payment in advance or reimbursement; agreements and rescission of agreements

The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this subchapter and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this subchapter. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this subchapter.

(c) Execution, retention, and preservation of records; reports to Commission; training program records; appropriate relief from regulation or order for undue hardship; procedure for exemption; judicial action to compel compliance

Every employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make

such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this subchapter or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this subchapter which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this subchapter, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

(d) Consultation and coordination between Commission and interested State and Federal agencies in prescribing recordkeeping and reporting requirements; availability of information furnished pursuant to recordkeeping and reporting requirements; conditions on availability

In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection.

(e) Prohibited disclosures; penalties

It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this subchapter involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty, of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

(Pub. L. 88–352, title VII, §709, July 2, 1964, 78 Stat. 262; Pub. L. 92–261, §6, Mar. 24, 1972, 86 Stat. 107.)

EDITORIAL NOTES

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–261 inserted provisions authorizing the Commission to engage in and contribute to the cost of research and other projects undertaken by State and local agencies and provisions authorizing the Commission to make advance payments to State and local agencies and their employees for services rendered to the Commission, and struck out provisions relating to agreements between the

Commission and State and local agencies prohibiting private civil actions under section 2000e–5 of this title in specified cases.

Subsec. (c). Pub. L. 92–261 struck out "Except as provided in subsection (d) of this section," before "every employer, employment agency, and labor organization subject to this subchapter shall (1)", required the party seeking an exemption to bring an action in the district court only after the Commission denied the application for the exemption, and inserted provision which authorized the Commission, or the Attorney General in a case involving a government, etc., to apply for a court order compelling compliance with the recordkeeping and reporting obligations set out in this subsection.

Subsec. (d). Pub. L. 92–261 substituted provisions requiring consultation and coordination between Federal and State agencies in prescribing recordkeeping and reporting requirements pursuant to subsec. (c) of this section, and authorizing the Commission to furnish information obtained pursuant to subsec. (c) of this section to interested State and local agencies, for provisions exempting from recordkeeping and reporting requirements employers, etc., required to keep records and make reports under State or local fair employment practice laws, except for the maintenance of notations by such employers, etc., which reflect the differences in coverage or enforcement between State or local laws and the provisions of this subchapter, and dispensing with recordkeeping and reporting requirements where the employer reports under some Executive Order prescribing fair employment practices for Government contractors or subcontractors.

§2000e–9. Conduct of hearings and investigations pursuant to section 161 of title 29

For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 161 of title 29 shall apply.

(Pub. L. 88–352, title VII, §710, July 2, 1964, 78 Stat. 264; Pub. L. 92–261, §7, Mar. 24, 1972, 86 Stat. 109.)

EDITORIAL NOTES

AMENDMENTS

1972—Pub. L. 92–261 substituted provisions making applicable section 161 of title 29 to all hearings and investigations conducted by the Commission or its authorized agents or agencies, for provisions enumerating the investigatory powers of the Commission and the procedure for their enforcement.

§2000e–10. Posting of notices; penalties

(a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts, from or, summaries of, the pertinent provisions of this subchapter and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

(Pub. L. 88–352, title VII, §711, July 2, 1964, 78 Stat. 265.)

§2000e–11. Veterans' special rights or preference

Nothing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

(Pub. L. 88–352, title VII, §712, July 2, 1964, 78 Stat. 265.)

§2000e–12. Regulations; conformity of regulations with administrative procedure

provisions; reliance on interpretations and instructions of Commission

(a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this subchapter. Regulations issued under this section shall be in conformity with the standards and limitations of subchapter II of chapter 5 of title 5.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this subchapter if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this subchapter regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this subchapter.

(Pub. L. 88–352, title VII, §713, July 2, 1964, 78 Stat. 265.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "subchapter II of chapter 5 of title 5" substituted for "the Administrative Procedure Act" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION GUIDELINES ON RELIGIOUS HARASSMENT

Pub. L. 112–55, div. B, title V, §506, Nov. 18, 2011, 125 Stat. 631, provided that: "During the current fiscal year and in each fiscal year thereafter, none of the funds made available in this or any other Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266)."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111–117, div. B, title V, §506, Dec. 16, 2009, 123 Stat. 3150.

Pub. L. 111–8, div. B, title V, §506, Mar. 11, 2009, 123 Stat. 595.

Pub. L. 103–317, title VI, §610, Aug. 26, 1994, 108 Stat. 1774, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) the liberties protected by our Constitution include religious liberty protected by the first amendment;

"(2) citizens of the United States profess the beliefs of almost every conceivable religion;

"(3) Congress has historically protected religious expression even from governmental action not intended to be hostile to religion;

"(4) the Supreme Court has written that 'the free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires';

"(5) the Supreme Court has firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the content of the ideas is offensive to some;

"(6) Congress enacted the Religious Freedom Restoration Act of 1993 [42 U.S.C. 2000bb et seq.] to restate and make clear again our intent and position that religious liberty is and should forever be granted protection from unwarranted and unjustified government intrusions and burdens;

"(7) the Equal Employment Opportunity Commission has written proposed guidelines to title VII of the Civil Rights Act of 1964 [42 U.S.C. 2000e et seq.], published in the Federal Register on October 1,

1993, that expand the definition of religious harassment beyond established legal standards set forth by the Supreme Court, and that may result in the infringement of religious liberty;

"(8) such guidelines do not appropriately resolve issues related to religious liberty and religious expression in the workplace;

"(9) properly drawn guidelines for the determination of religious harassment should provide appropriate guidance to employers and employees and assist in the continued preservation of religious liberty as guaranteed by the first amendment;

"(10) the Commission states in its proposed guidelines that it retains wholly separate guidelines for the determination of sexual harassment because the Commission believes that sexual harassment raises issues about human interaction that are to some extent unique; and

"(11) the subject of religious harassment also raises issues about human interaction that are to some extent unique in comparison to other harassment.

"(b) CATEGORY OF RELIGIOUS HARASSMENT IN PROPOSED GUIDELINES.—For purposes of issuing final regulations under title VII of the Civil Rights Act of 1964 [42 U.S.C. 2000e et seq.] in connection with the proposed guidelines published by the Equal Employment Opportunity Commission on October 1, 1993 (58 Fed. Reg. 51266), the Chairperson of the Equal Employment Opportunity Commission shall ensure that—

"(1) the category of religion shall be withdrawn from the proposed guidelines at this time;

"(2) any new guidelines for the determination of religious harassment shall be drafted so as to make explicitly clear that symbols or expressions of religious belief consistent with the first amendment and the Religious Freedom Restoration Act of 1993 [42 U.S.C. 2000bb et seq.] are not to be restricted and do not constitute proof of harassment;

"(3) the Commission shall hold public hearings on such new proposed guidelines; and

"(4) the Commission shall receive additional public comment before issuing similar new regulations."

§2000e–13. Application to personnel of Commission of sections 111 and 1114 of title 18; punishment for violation of section 1114 of title 18

The provisions of sections 111 and 1114, title 18, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life.

(Pub. L. 88–352, title VII, §714, July 2, 1964, 78 Stat. 265; Pub. L. 92–261, §8(g), Mar. 24, 1972, 86 Stat. 110.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

1972—Pub. L. 92–261 inserted provisions which made section 1114 of title 18 applicable to officers, etc., of the Commission and set forth punishment for violation of such section 1114.

§2000e–14. Equal Employment Opportunity Coordinating Council; establishment; composition; duties; report to President and Congress

The Equal Employment Opportunity Commission shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions

and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before October 1 of each year, the Equal Employment Opportunity Commission shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.

(Pub. L. 88–352, title VII, §715, July 2, 1964, 78 Stat. 265; Pub. L. 92–261, §10, Mar. 24, 1972, 86 Stat. 111; Pub. L. 94–273, §3(24), Apr. 21, 1976, 90 Stat. 377; 1978 Reorg. Plan No. 1, §6, eff. July 1, 1978, 43 F.R. 19807, 92 Stat. 3781.)

EDITORIAL NOTES

CODIFICATION

The first sentence of this section, which read "There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates" was omitted pursuant to Reorg. Plan No. 1 of 1978, §6, 43 F.R. 19807, 92 Stat. 3781, set out as a note under section 2000e–4 of this title, which abolished the Equal Employment Opportunity Coordinating Council, effective July 1, 1978, as provided by section 1–101 of Ex. Ord. No. 12067, June 30, 1978, 43 F.R. 28967, set out as a note under section 2000e of this title. See Transfer of Functions note below.

AMENDMENTS

1976—Pub. L. 94–273 substituted "October" for "July".

1972—Pub. L. 92–261 substituted provisions which established the Equal Employment Opportunity Coordinating Council and set forth the composition, powers, and duties of the Council for provisions which directed the Secretary of Labor to make a report to the Congress not later than June 30, 1965 concerning discrimination in employment because of age.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to transmittal of a report and recommendations to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 19 on page 165 of House Document No. 103–7.

SUBMISSION OF SPECIFIC LEGISLATIVE RECOMMENDATIONS TO CONGRESS BY JANUARY 1, 1967, TO IMPLEMENT REPORT ON AGE DISCRIMINATION

Pub. L. 89–601, title VI, §606, Sept. 23, 1966, 80 Stat. 845, directed the Secretary of Labor to submit to the Congress not later than Jan. 1, 1967 his specific legislative recommendations for implementing the conclusions and recommendations contained in his report on age discrimination in employment made pursuant to provisions of this section prior to its amendment in 1972.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Equal Employment Opportunity Commission" substituted in text for "Council", meaning Equal Employment Opportunity Coordinating Council, pursuant to Reorg. Plan. No. 1 of 1978, §6, 43 F.R. 19807, 92 Stat. 3781, set out as a note under section 2000e–4 of this title, which abolished Equal Employment Opportunity Coordinating Council and transferred its functions to Equal Employment Opportunity Commission, effective July 1, 1978, as provided by section 1–101 of Ex. Ord. No. 12067, June 30, 1978, 43 F.R. 28967, set out as a note under section 2000e of this title.

§2000e–15. Presidential conferences; acquaintance of leadership with provisions for employment rights and obligations; plans for fair administration; membership

The President shall, as soon as feasible after July 2, 1964, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this subchapter to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this subchapter when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this subchapter.

(Pub. L. 88–352, title VII, §716(c), July 2, 1964, 78 Stat. 266.)

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11197

Ex. Ord. No. 11197, eff. Feb. 5, 1965, 30 F.R. 1721, which established the President's Council on Equal Opportunity, was revoked by Ex. Ord. No. 11247, eff. Sept. 24, 1965, 30 F.R. 12327, formerly set out as a note under section 2000d–1 of this title.

§2000e–16. Employment by Federal Government

(a) Discriminatory practices prohibited; employees or applicants for employment subject to coverage

All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, in executive agencies as defined in section 105 of title 5 (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Regulatory Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the judicial branch of the Federal Government having positions in the competitive service, in the Smithsonian Institution, and in the Government Publishing Office, the Government Accountability Office, and the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

(b) Equal Employment Opportunity Commission; enforcement powers; issuance of rules, regulations, etc.; annual review and approval of national and regional equal employment opportunity plans; review and evaluation of equal employment opportunity programs and publication of progress reports; consultations with interested parties; compliance with rules, regulations, etc.; contents of national and regional equal employment opportunity plans; authority of Librarian of Congress

Except as otherwise provided in this subsection, the Equal Employment Opportunity Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Equal Employment Opportunity Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative

program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Equal Employment Opportunity Commission shall be exercised by the Librarian of Congress.

(c) Civil action by employee or applicant for employment for redress of grievances; time for bringing of action; head of department, agency, or unit as defendant

Within 90 days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection (a), or by the Equal Employment Opportunity Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Equal Employment Opportunity Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 2000e–5 of this title, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

(d) Section 2000e–5(f) through (k) of this title applicable to civil actions

The provisions of section 2000e–5(f) through (k) of this title, as applicable, shall govern civil actions brought hereunder, and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties..[1]

(e) Government agency or official not relieved of responsibility to assure nondiscrimination in employment or equal employment opportunity

Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

(f) Section 2000e–5(e)(3) of this title applicable to compensation discrimination

Section 2000e–5(e)(3) of this title shall apply to complaints of discrimination in compensation under this section.

(Pub. L. 88–352, title VII, §717, as added Pub. L. 92–261, §11, Mar. 24, 1972, 86 Stat. 111;

amended 1978 Reorg. Plan No. 1, §3, eff. Jan. 1, 1979, 43 F.R. 19807, 92 Stat. 3781; Pub. L. 96–191, §8(g), Feb. 15, 1980, 94 Stat. 34; Pub. L. 102–166, title I, §114, Nov. 21, 1991, 105 Stat. 1079; Pub. L. 104–1, title II, §201(c)(1), Jan. 23, 1995, 109 Stat. 8; Pub. L. 105–220, title III, §341(a), Aug. 7, 1998, 112 Stat. 1092; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242; Pub. L. 111–2, §5(c)(2), Jan. 29, 2009, 123 Stat. 7; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (e), means Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Executive Order 11478, referred to in subsecs. (c) and (e), is set out as a note under section 2000e of this title.

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–2 added subsec. (f).

2006—Subsec. (a). Pub. L. 109–435 substituted "Postal Regulatory Commission" for "Postal Rate Commission".

2004—Subsec. (a). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1998—Subsec. (a). Pub. L. 105–220 inserted "in the Smithsonian Institution," before "and in the Government Printing Office,".

1995—Subsec. (a). Pub. L. 104–1 substituted "units of the judicial branch" for "units of the legislative and judicial branches" and inserted "Government Printing Office, the General Accounting Office, and the" before "Library of Congress".

1991—Subsec. (c). Pub. L. 102–166, §114(1), substituted "90 days" for "thirty days".

Subsec. (d). Pub. L. 102–166, §114(2), inserted before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties."

1980—Subsec. (a). Pub. L. 96–191 struck out "(other than the General Accounting Office)" after "in executive agencies".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in subsec. (a) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–2 effective as if enacted May 28, 2007, and applicable to certain claims of discrimination in compensation pending on or after that date, see section 6 of Pub. L. 111–2, set out as a note under section 2000e–5 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–220 effective Aug. 7, 1998, and applicable to and may be raised in any administrative or judicial claim or action brought before Aug. 7, 1998, but pending on such date, and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action was brought within the applicable statute of limitations, see section 341(d) of Pub. L. 105–220, formerly set out as a note under section 633a of Title 29, Labor.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–1 effective 1 year after Jan. 23, 1995, see section 1311(e) of Title 2, The Congress.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96–191.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Equal Employment Opportunity Commission" substituted for "Civil Service Commission" in subsecs. (b) and (c) pursuant to Reorg. Plan No. 1 of 1978, §3, 43 F.R. 19807, 92 Stat. 3781, set out as a note under section 2000e–4 of this title, which transferred all equal opportunity in Federal employment enforcement and related functions vested in Civil Service Commission by subsecs. (b) and (c) of this section to Equal Employment Opportunity Commission, with certain authority delegable to Director of Office of Personnel Management, effective Jan. 1, 1979, as provided by section 1–101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053, set out as a note under section 2000e–4 of this title.

EX. ORD. NO. 13145. TO PROHIBIT DISCRIMINATION IN FEDERAL EMPLOYMENT BASED ON GENETIC INFORMATION

Ex. Ord. No. 13145, Feb. 8, 2000, 65 F.R. 6877, provided:

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, it is ordered as follows:

SECTION 1. *Nondiscrimination in Federal Employment on the Basis of Protected Genetic Information.*

1–101. It is the policy of the Government of the United States to provide equal employment opportunity in Federal employment for all qualified persons and to prohibit discrimination against employees based on protected genetic information, or information about a request for or the receipt of genetic services. This policy of equal opportunity applies to every aspect of Federal employment.

1–102. The head of each Executive department and agency shall extend the policy set forth in section 1101 to all its employees covered by section 717 of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–16).

1–103. Executive departments and agencies shall carry out the provisions of this order to the extent permitted by law and consistent with their statutory and regulatory authorities, and their enforcement mechanisms. The Equal Employment Opportunity Commission shall be responsible for coordinating the policy of the Government of the United States to prohibit discrimination against employees in Federal employment based on protected genetic information, or information about a request for or the receipt of genetic services.

SEC. 2. *Requirements Applicable to Employing Departments and Agencies.*

1–201. Definitions.

(a) The term "employee" shall include an employee, applicant for employment, or former employee covered by section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–16).

(b) Genetic monitoring means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, respond to the effects of, or control adverse environmental exposures in the workplace.

(c) Genetic services means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic or therapeutic purposes, or for genetic education or counseling.

(d) Genetic test means the analysis of human DNA, RNA, chromosomes, proteins, or certain metabolites in order to detect disease-related genotypes or mutations. Tests for metabolites fall within the definition of "genetic tests" when an excess or deficiency of the metabolites indicates the presence of a mutation or mutations. The conducting of metabolic tests by a department or agency that are not intended to reveal the presence of a mutation shall not be considered a violation of this order, regardless of the results of the tests. Test results revealing a mutation shall, however, be subject to the provisions of this order.

(e) Protected genetic information.

(1) In general, protected genetic information means:

(A) information about an individual's genetic tests;

(B) information about the genetic tests of an individual's family members; or

(C) information about the occurrence of a disease, or medical condition or disorder in family members of the individual.

(2) Information about an individual's current health status (including information about sex, age, physical exams, and chemical, blood, or urine analyses) is not protected genetic information unless it is described in subparagraph (1).

1–202. In discharging their responsibilities under this order, departments and agencies shall implement the following nondiscrimination requirements.

(a) The employing department or agency shall not discharge, fail or refuse to hire, or otherwise discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of that employee, because of protected genetic information with respect to the employee, or because of information about a request for or the receipt of genetic services by such employee.

(b) The employing department or agency shall not limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect that employee's status, because of protected genetic information with respect to the employee or because of information about a request for or the receipt of genetic services by such employee.

(c) The employing department or agency shall not request, require, collect, or purchase protected genetic information with respect to an employee, or information about a request for or the receipt of genetic services by such employee.

(d) The employing department or agency shall not disclose protected genetic information with respect to an employee, or information about a request for or the receipt of genetic services by an employee except:

(1) to the employee who is the subject of the information, at his or her request;

(2) to an occupational or other health researcher, if the research conducted complies with the regulations and protections provided for under part 46 of title 45, of the Code of Federal Regulations;

(3) if required by a Federal statute, congressional subpoena, or an order issued by a court of competent jurisdiction, except that if the subpoena or court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the subpoena or court order, unless the subpoena or court order also imposes confidentiality requirements; or

(4) to executive branch officials investigating compliance with this order, if the information is relevant to the investigation.

(e) The employing department or agency shall not maintain protected genetic information or information about a request for or the receipt of genetic services in general personnel files; such information shall be treated as confidential medical records and kept separate from personnel files.

SEC. 3. *Exceptions.*

1–301. The following exceptions shall apply to the nondiscrimination requirements set forth in section 1202.

(a) The employing department or agency may request or require information defined in section 1–201(e)(1)(C) with respect to an applicant who has been given a conditional offer of employment or to an employee if:

(1) the request or requirement is consistent with the Rehabilitation Act [of 1973, 29 U.S.C. 701 et seq.] and other applicable law;

(2) the information obtained is to be used exclusively to assess whether further medical evaluation is needed to diagnose a current disease, or medical condition or disorder, or under the terms of section 1–301(b) of this order;

(3) such current disease, or medical condition or disorder could prevent the applicant or employee from performing the essential functions of the position held or desired; and

(4) the information defined in section 1–201(e)(1)(C) of this order will not be disclosed to persons other than medical personnel involved in or responsible for assessing whether further medical evaluation is needed to diagnose a current disease, or medical condition or disorder, or under the terms of section 1–301(b) of this order.

(b) The employing department or agency may request, collect, or purchase protected genetic information with respect to an employee, or any information about a request for or receipt of genetic services by such employee if:

(1) the employee uses genetic or health care services provided by the employer (other than use pursuant to section 1–301(a) of this order);

(2) the employee who uses the genetic or health care services has provided prior knowing, voluntary, and written authorization to the employer to collect protected genetic information;

(3) the person who performs the genetic or health care services does not disclose protected

genetic information to anyone except to the employee who uses the services for treatment of the individual; pursuant to section 1–202(d) of this order; for program evaluation or assessment; for compiling and analyzing information in anticipation of or for use in a civil or criminal legal proceeding; or, for payment or accounting purposes, to verify that the service was performed (but in such cases the genetic information itself cannot be disclosed);

(4) such information is not used in violation of sections 1–202(a) or 1–202(b) of this order.

(c) The employing department or agency may collect protected genetic information with respect to an employee if the requirements of part 46 of title 45 of the Code of Federal Regulations are met.

(d) Genetic monitoring of biological effects of toxic substances in the workplace shall be permitted if all of the following conditions are met:

(1) the employee has provided prior, knowing, voluntary, and written authorization;

(2) the employee is notified when the results of the monitoring are available and, at that time, the employer makes any protected genetic information that may have been acquired during the monitoring available to the employee and informs the employee how to obtain such information;

(3) the monitoring conforms to any genetic monitoring regulations that may be promulgated by the Secretary of Labor; and

(4) the employer, excluding any licensed health care professionals that are involved in the genetic monitoring program, receives results of the monitoring only in aggregate terms that do not disclose the identity of specific employees.

(e) This order does not limit the statutory authority of a Federal department or agency to:

(1) promulgate or enforce workplace safety and health laws and regulations;

(2) conduct or sponsor occupational or other health research that is conducted in compliance with regulations at part 46 of title 45, of the Code of Federal Regulations; or

(3) collect protected genetic information as a part of a lawful program, the primary purpose of which is to carry out identification purposes.

SEC. 4. *Miscellaneous.*

1–401. The head of each department and agency shall take appropriate action to disseminate this policy and, to this end, shall designate a high level official responsible for carrying out its responsibilities under this order.

1–402. Nothing in this order shall be construed to:

(a) limit the rights or protections of an individual under the Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), the Privacy Act of 1974 (5 U.S.C. 552a), or other applicable law; or

(b) require specific benefits for an employee or dependent under the Federal Employees Health Benefits Program or similar program.

1–403. This order clarifies and makes uniform Administration policy and does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers or employees, or any other person.

WILLIAM J. CLINTON.

[1] *So in original.*

§2000e–16a. Short title; purpose; definition

(a) Short title

Sections 2000e–16a to 2000e–16c of this title may be cited as the "Government Employee Rights Act of 1991".

(b) Purpose

The purpose of sections 2000e–16a to 2000e–16c of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

(c) "Violation" defined

For purposes of sections 2000e–16a to 2000e–16c of this title, the term "violation" means a practice that violates section 2000e–16b(a) of this title.

(Pub. L. 102–166, title III, §301, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 103–283, title III,

§312(f)(1), July 22, 1994, 108 Stat. 1446; Pub. L. 104–1, title V, §504(a)(1), Jan. 23, 1995, 109 Stat. 40.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 2000e–16a to 2000e–16c of this title, referred to in text, was in the original "this title", meaning title III of Pub. L. 102–166, which is classified generally to sections 2000e–16a to 2000e–16c of this title. For complete classification of title III to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Government Employee Rights Act of 1991, and not as part of the Civil Rights Act of 1964, title VII of which comprises this subchapter.

Section was formerly classified to section 1201 of Title 2, The Congress.

AMENDMENTS

1995—Pub. L. 104–1 amended section generally, substituting "rights of certain government employees" for "right of Senate and other government employees" in subsec. (b) and striking out definitions of "Senate employee" and "head of employing office" in subsec. (c).

1994—Subsec. (c)(1)(B) to (D). Pub. L. 103–283, which directed the amendment of subsec. (c) by striking out subpar. (B), redesignating subpars. (C) and (D) as (B) and (C), respectively, and striking out "or (B)" after "described in subparagraph (A)" in subpars. (B) and (C), was executed by making the amendment to subsec. (c)(1) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) read as follows: "any employee of the Architect of the Capitol who is assigned to the Senate Restaurants or to the Superintendent of the Senate Office Buildings;".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

§2000e–16b. Discriminatory practices prohibited

(a) Practices

All personnel actions affecting the Presidential appointees described in section 1219 [1] of title 2 or the State employees described in section 2000e–16c of this title shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 2000e–16 of this title;

(2) age, within the meaning of section 633a of title 29; or

(3) disability, within the meaning of section 791 of title 29 and sections 12112 to 12114 of this title.

(b) Remedies

The remedies referred to in sections 1219(a)(1) [1] of title 2 and 2000e–16c(a) of this title—

(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) has occurred, such remedies as would be appropriate if awarded under sections 2000e–5(g), 2000e–5(k), and 2000e–16(d) of this title, and such compensatory damages as would be appropriate if awarded under section 1981 or sections 1981a(a) and 1981a(b)(2) of this title;

(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 633a(c) of title 29; and

(3) may not include punitive damages.

(Pub. L. 102–166, title III, §302, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 104–1, title V, §504(a)(1),

Jan. 23, 1995, 109 Stat. 40.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1219 of title 2, referred to in text, was repealed by Pub. L. 104–331, §5(a), Oct. 26, 1996, 110 Stat. 4072.

CODIFICATION

Section was enacted as part of the Government Employee Rights Act of 1991, and not as part of the Civil Rights Act of 1964, title VII of which comprises this subchapter.

Section was formerly classified to section 1202 of Title 2, The Congress.

AMENDMENTS

1994—Pub. L. 104–1 amended section generally. Prior to amendment, text read as follows: "All personnel actions affecting employees of the Senate shall be made free from any discrimination based on—

"(1) race, color, religion, sex, or national origin, within the meaning of section 2000e–16 of this title;

"(2) age, within the meaning of section 633a of title 29; or

"(3) handicap or disability, within the meaning of section 791 of title 29 and sections 12112 to 12114 of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

[1] *See References in Text note below.*

§2000e–16c. Coverage of previously exempt State employees

(a) Application

The rights, protections, and remedies provided pursuant to section 2000e–16b of this title shall apply with respect to employment of any individual chosen or appointed, by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof—

(1) to be a member of the elected official's personal staff;

(2) to serve the elected official on the policymaking level; or

(3) to serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

(b) Enforcement by administrative action

(1) In general

Any individual referred to in subsection (a) may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission determines that a violation has occurred, the final order shall also provide for appropriate relief.

(2) Referral to State and local authorities

(A) Application

Section 2000e–5(d) of this title shall apply with respect to any proceeding under this section.

(B) Definition

For purposes of the application described in subparagraph (A), the term "any charge filed by a member of the Commission alleging an unlawful employment practice" means a complaint filed under this section.

(c) Judicial review

Any party aggrieved by a final order under subsection (b) may obtain a review of such order under chapter 158 of title 28. For the purpose of this review, the Equal Employment Opportunity Commission shall be an "agency" as that term is used in chapter 158 of title 28.

(d) Standard of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under subsection (b) if it is determined that the order was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;
(2) not made consistent with required procedures; or
(3) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) Attorney's fees

If the individual referred to in subsection (a) is the prevailing party in a proceeding under this subsection,[1] attorney's fees may be allowed by the court in accordance with the standards prescribed under section 2000e–5(k) of this title.

(Pub. L. 102–166, title III, §304, formerly §321, Nov. 21, 1991, 105 Stat. 1097; renumbered §304 and amended Pub. L. 104–1, title V, §504(a)(3), (4), Jan. 23, 1995, 109 Stat. 41.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Government Employee Rights Act of 1991, and not as part of the Civil Rights Act of 1964, title VII of which comprises this subchapter.

Section was formerly classified to section 1220 of Title 2, The Congress.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 102–166 was classified to section 1204 of Title 2, The Congress, prior to repeal by Pub. L. 104–1.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–1, §504(a)(4), struck out "and 1207(h) of title 2" before "shall apply" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

[1] *So in original.*

§2000e–17. Procedure for denial, withholding, termination, or suspension of Government contract subsequent to acceptance by Government of affirmative action plan of employer; time of acceptance of plan

No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of section 554 of title 5, and the following pertinent sections: *Provided*, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further*, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

(Pub. L. 88–352, title VII, §718, as added Pub. L. 92–261, §13, Mar. 24, 1972, 86 Stat. 113.)

SUBCHAPTER VII—REGISTRATION AND VOTING STATISTICS

§2000f. Survey for compilation of registration and voting statistics; geographical areas; scope; application of census provisions; voluntary disclosure; advising of right not to furnish information

The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this subchapter: *Provided, however*, That no person shall be compelled to disclose his race, color, national origin, or questioned about his political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.

(Pub. L. 88–352, title VIII, §801, July 2, 1964, 78 Stat. 266.)

SUBCHAPTER VIII—COMMUNITY RELATIONS SERVICE

§2000g. Establishment of Service; Director of Service: appointment, term; personnel

There is hereby established in and as a part of the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(Pub. L. 88–352, title X, §1001(a), July 2, 1964, 78 Stat. 267; Pub. L. 95–624, §5, Nov. 9, 1978, 92

Stat. 3462.)

EDITORIAL NOTES

CODIFICATION

References to "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted in text for "the Classification Act of 1949, as amended" and "section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55a)", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1978—Pub. L. 95–624 struck out provision authorizing the Director to procure the services of experts and consultants at rates for individuals not in excess of $75 per diem.

EXECUTIVE DOCUMENTS

REORGANIZATION PLAN NO. 1 OF 1966

EFF. APR. 22, 1966, 31 F.R. 6187, 80 STAT. 1607

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 10, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

COMMUNITY RELATIONS SERVICE

SECTION 1. TRANSFER OF SERVICE

Subject to the provisions of this reorganization plan, the Community Relations Service now existing in the Department of Commerce under the Civil Rights Act of 1964 (Pub. L. No. 88–352, July 2, 1964) [see Short Title note under 42 U.S.C. 2000a], including the office of Director there of, is hereby transferred to the Department of Justice.

SEC. 2. TRANSFER OF FUNCTIONS

All functions of the Community Relations Service, and all functions of the Director of the Community Relations Service, together with all functions of the Secretary of Commerce and the Department of Commerce with respect thereto, are hereby transferred to the Attorney General.

SEC. 3. INCIDENTAL TRANSFERS

(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their

enforcement activities with respect to title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964, to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Act of 1957, 1960, and 1964, and the Voting Rights Act of 1965. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964, which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major Government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one department. Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each organization included in Reorganization Plan No. 1 of 1966 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 10, 1966.

§2000g–1. Functions of Service

It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person.

(Pub. L. 88–352, title X, §1002, July 2, 1964, 78 Stat. 267.)

§2000g–2. Cooperation with other agencies; conciliation assistance in confidence and without publicity; information as confidential; restriction on performance of investigative or prosecuting functions; violations and penalties

(a) The Service shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate State or local, public, or private agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than one year.

(Pub. L. 88–352, title X, §1003, July 2, 1964, 78 Stat. 267.)

§2000g–3. Reports to Congress

Subject to the provisions of sections 2000a–4 and 2000g–2(b) of this title, the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

(Pub. L. 88–352, title X, §1004, July 2, 1964, 78 Stat. 267.)

SUBCHAPTER IX—MISCELLANEOUS PROVISIONS

§2000h. Criminal contempt proceedings: trial by jury, criminal practice, penalties, exceptions, intent; civil contempt proceedings

In any proceeding for criminal contempt arising under title II, III, IV, V, VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than $1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court. No person shall be convicted of criminal contempt hereunder unless the act or omission constituting such contempt shall have been intentional, as required in other cases of criminal contempt.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

(Pub. L. 88–352, title XI, §1101, July 2, 1964, 78 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title II, III, IV, V, VI, or VII of this Act, referred to in text, mean title II, III, IV, V, VI, or VII of Pub. L. 88–352, July 2, 1964, 78 Stat. 243. Titles II, III, and IV are classified generally to subchapters II (§2000a et seq.), III (§2000b et seq.), and IV (§2000c et seq.) of this chapter. Title V amended sections 1975a to 1975d of this title. Title VI enacted sections 2000d to 2000d–4 of this title. Title VII enacted sections 2000e to 2000e–15 of this title, amended sections 2204 and 2205 of former Title 5, Executive Departments and Government Officers and Employees, and enacted provisions set out as a note under section 2000e of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§2000h–1. Double jeopardy; specific crimes and criminal contempts

No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission.

(Pub. L. 88–352, title XI, §1102, July 2, 1964, 78 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§2000h–2. Intervention by Attorney General; denial of equal protection on account of race, color, religion, sex or national origin

Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, sex or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

(Pub. L. 88–352, title IX, §902, July 2, 1964, 78 Stat. 266; Pub. L. 92–318, title IX, §906(a), June 23, 1972, 86 Stat. 375.)

EDITORIAL NOTES

AMENDMENTS

1972—Pub. L. 92–318 inserted "sex" after "religion,".

§2000h–3. Construction of provisions not to affect authority of Attorney General, etc., to institute or intervene in actions or proceedings

Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

(Pub. L. 88–352, title XI, §1103, July 2, 1964, 78 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§2000h–4. Construction of provisions not to exclude operation of State laws and not to invalidate consistent State laws

Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

(Pub. L. 88–352, title XI, §1104, July 2, 1964, 78 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§2000h–5. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

(Pub. L. 88–352, title XI, §1105, July 2, 1964, 78 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

§2000h–6. Separability

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 88–352, title XI, §1106, July 2, 1964, 78 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act and the Act, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX of this chapter (§2000a et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CHAPTER 21A—PRIVACY PROTECTION

SUBCHAPTER I—FIRST AMENDMENT PRIVACY PROTECTION

PART A—UNLAWFUL ACTS

Sec.

2000aa. Searches and seizures by government officers and employees in connection with investigation or prosecution of criminal offenses.

PART B—REMEDIES, EXCEPTIONS, AND DEFINITIONS

2000aa–5. Border and customs searches.
2000aa–6. Civil actions by aggrieved persons.
2000aa–7. Definitions.

SUBCHAPTER II—ATTORNEY GENERAL GUIDELINES

2000aa–11. Guidelines for Federal officers and employees.
2000aa–12. Binding nature of guidelines; disciplinary actions for violations; legal proceedings for non-compliance prohibited.

SUBCHAPTER I—FIRST AMENDMENT PRIVACY PROTECTION

PART A—UNLAWFUL ACTS

§2000aa. Searches and seizures by government officers and employees in connection with investigation or prosecution of criminal offenses

(a) Work product materials

Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, or section 2274, 2275, or 2277 of this title, or section 783 of title 50, or if the offense involves the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the sexual exploitation of children, or the sale or purchase of children under section 2251, 2251A, 2252, or 2252A of title 18); or

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being.

(b) Other documents

Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product materials, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense to which the materials relate: *Provided, however*, That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, or section 2274, 2275, or 2277 of this title, or section 783 of title 50, or if the offense involves the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the sexual exploitation of children, or the sale or purchase of children under section 2251, 2251A, 2252, or 2252A of title 18);

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being;

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of such materials; or

(4) such materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and—

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice.

(c) Objections to court ordered subpoenas; affidavits

In the event a search warrant is sought pursuant to paragraph (4)(B) of subsection (b), the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

(Pub. L. 96–440, title I, §101, Oct. 13, 1980, 94 Stat. 1879; Pub. L. 104–208, div. A, title I, §101(a) [title I, §121[6]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–30.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–208, §101(a) [title I, §121[6(1)]], inserted ", or if the offense involves the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the sexual exploitation of children, or the sale or purchase of children under section 2251, 2251A, 2252, or 2252A of title 18" before parenthesis at end.

Subsec. (b)(1). Pub. L. 104–208, §101(a) [title I, §121[6(2)]], inserted ", or if the offense involves the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the sexual exploitation of children, or the sale or purchase of children under section 2251, 2251A, 2252, or 2252A of title 18" before parenthesis at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 96–440, title I, §108, Oct. 13, 1980, 94 Stat. 1882, provided that: "The provisions of this title [enacting this subchapter] shall become effective on January 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the provisions of this title shall become effective one year from the date of enactment of this Act [Oct. 13, 1980]."

SHORT TITLE

Pub. L. 96–440, §1, Oct. 13, 1980, 94 Stat. 1879, provided: "That this Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Privacy Protection Act of 1980'."

PART B—REMEDIES, EXCEPTIONS, AND DEFINITIONS

§2000aa–5. Border and customs searches

This chapter shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of, or at international points of, entry into the United States in order to enforce the customs laws of the United States.

(Pub. L. 96–440, title I, §105, Oct. 13, 1980, 94 Stat. 1880.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any

governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96–440, set out as a note under section 2000aa of this title.

§2000aa–6. Civil actions by aggrieved persons

(a) Right of action

A person aggrieved by a search for or seizure of materials in violation of this chapter shall have a civil cause of action for damages for such search or seizure—

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this chapter, or against any other governmental unit, all of which shall be liable for violations of this chapter by their officers or employees while acting within the scope or under color of their office or employment; and

(2) against an officer or employee of a State who has violated this chapter while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1).

(b) Good faith defense

It shall be a complete defense to a civil action brought under paragraph (2) of subsection (a) that the officer or employee had a reasonable good faith belief in the lawfulness of his conduct.

(c) Official immunity

The United States, a State, or any other governmental unit liable for violations of this chapter under subsection (a)(1), may not assert as a defense to a claim arising under this chapter the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(d) Exclusive nature of remedy

The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this chapter, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(e) Admissibility of evidence

Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this chapter.

(f) Damages; costs and attorneys' fees

A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of $1,000, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however,* That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment.

(g) Attorney General; claims settlement; regulations

The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this chapter by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted.

(h) Jurisdiction

The district courts shall have original jurisdiction of all civil actions arising under this section.

(Pub. L. 96–440, title I, §106, Oct. 13, 1980, 94 Stat. 1880.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96–440, set out as a note under section 2000aa of this title.

§2000aa–7. Definitions

(a) "Documentary materials", as used in this chapter, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magentically [1] or electronically recorded cards, tapes, or discs, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense.

(b) "Work product materials", as used in this chapter, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by any other person;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authored, or created such material.

(c) "Any other governmental unit", as used in this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

(Pub. L. 96–440, title I, §107, Oct. 13, 1980, 94 Stat. 1881.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96–440, set out as a note under section 2000aa of this title.

[1] So in original. Probably should be "magnetically".

SUBCHAPTER II—ATTORNEY GENERAL GUIDELINES

§2000aa–11. Guidelines for Federal officers and employees

(a) Procedures to obtain documentary evidence; protection of certain privacy interests

The Attorney General shall, within six months of October 13, 1980, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of an offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such

documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained;

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship such as that which may exist between clergyman and parishioner; lawyer and client; or doctor and patient; and

(4) a requirement that an application for a warrant to conduct a search governed by this subchapter be approved by an attorney for the government, except that in an emergency situation the application may be approved by another appropriate supervisory official if within 24 hours of such emergency the appropriate United States Attorney is notified.

(b) Use of search warrants; reports to Congress

The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the use of search warrants by Federal officers and employees for documentary materials described in subsection (a)(3).

(Pub. L. 96–440, title II, §201, Oct. 13, 1980, 94 Stat. 1882.)

§2000aa–12. Binding nature of guidelines; disciplinary actions for violations; legal proceedings for non-compliance prohibited

Guidelines issued by the Attorney General under this subchapter shall have the full force and effect of Department of Justice regulations and any violation of these guidelines shall make the employee or officer involved subject to appropriate administrative disciplinary action. However, an issue relating to the compliance, or the failure to comply, with guidelines issued pursuant to this subchapter may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence.

(Pub. L. 96–440, title II, §202, Oct. 13, 1980, 94 Stat. 1883.)

CHAPTER 21B—RELIGIOUS FREEDOM RESTORATION

Sec.

2000bb. Congressional findings and declaration of purposes.
2000bb–1. Free exercise of religion protected.
2000bb–2. Definitions.
2000bb–3. Applicability.
2000bb–4. Establishment clause unaffected.

§2000bb. Congressional findings and declaration of purposes

(a) Findings

The Congress finds that—

(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not substantially burden religious exercise without compelling justification;

(4) in Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by

laws neutral toward religion; and

(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) Purposes

The purposes of this chapter are—

(1) to restore the compelling interest test as set forth in Sherbert v. Verner, 374 U.S. 398 (1963) and Wisconsin v. Yoder, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

(Pub. L. 103–141, §2, Nov. 16, 1993, 107 Stat. 1488.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

CONSTITUTIONALITY

For information regarding the constitutionality of this section, see the Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court on the Constitution Annotated website, constitution.congress.gov.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 103–141, §1, Nov. 16, 1993, 107 Stat. 1488, provided that: "This Act [enacting this chapter and amending section 1988 of this title and section 504 of Title 5, Government Organization and Employees] may be cited as the 'Religious Freedom Restoration Act of 1993'."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13798. PROMOTING FREE SPEECH AND RELIGIOUS LIBERTY

Ex. Ord. No. 13798, May 4, 2017, 82 F.R. 21675, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to guide the executive branch in formulating and implementing policies with implications for the religious liberty of persons and organizations in America, and to further compliance with the Constitution and with applicable statutes and Presidential Directives, it is hereby ordered as follows:

SECTION 1. *Policy*. It shall be the policy of the executive branch to vigorously enforce Federal law's robust protections for religious freedom. The Founders envisioned a Nation in which religious voices and views were integral to a vibrant public square, and in which religious people and institutions were free to practice their faith without fear of discrimination or retaliation by the Federal Government. For that reason, the United States Constitution enshrines and protects the fundamental right to religious liberty as Americans' first freedom. Federal law protects the freedom of Americans and their organizations to exercise religion and participate fully in civic life without undue interference by the Federal Government. The executive branch will honor and enforce those protections.

SEC. 2. *Respecting Religious and Political Speech*. All executive departments and agencies (agencies) shall, to the greatest extent practicable and to the extent permitted by law, respect and protect the freedom of persons and organizations to engage in religious and political speech. In particular, the Secretary of the Treasury shall ensure, to the extent permitted by law, that the Department of the Treasury does not take any adverse action against any individual, house of worship, or other religious organization on the basis that such individual or organization speaks or has spoken about moral or political issues from a religious perspective, where speech of similar character has, consistent with law, not ordinarily been treated as participation or intervention in a political campaign on behalf of (or in opposition to) a candidate for public office by the Department of the Treasury. As used in this section, the term "adverse action" means the imposition of any tax

or tax penalty; the delay or denial of tax-exempt status; the disallowance of tax deductions for contributions made to entities exempted from taxation under section 501(c)(3) of title 26, United States Code; or any other action that makes unavailable or denies any tax deduction, exemption, credit, or benefit.

SEC. 3. *Conscience Protections with Respect to Preventive-Care Mandate*. The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services shall consider issuing amended regulations, consistent with applicable law, to address conscience-based objections to the preventive-care mandate promulgated under section 300gg–13(a)(4) of title 42, United States Code.

SEC. 4. *Religious Liberty Guidance*. In order to guide all agencies in complying with relevant Federal law, the Attorney General shall, as appropriate, issue guidance interpreting religious liberty protections in Federal law.

SEC. 5. *Severability*. If any provision of this order, or the application of any provision to any individual or circumstance, is held to be invalid, the remainder of this order and the application of its other provisions to any other individuals or circumstances shall not be affected thereby.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§2000bb–1. Free exercise of religion protected

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(Pub. L. 103–141, §3, Nov. 16, 1993, 107 Stat. 1488.)

§2000bb–2. Definitions

As used in this chapter—

(1) the term "government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, or of a covered entity;

(2) the term "covered entity" means the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term "exercise of religion" means religious exercise, as defined in section 2000cc–5 of this title.

(Pub. L. 103–141, §5, Nov. 16, 1993, 107 Stat. 1489; Pub. L. 106–274, §7(a), Sept. 22, 2000, 114 Stat. 806.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

AMENDMENTS

2000—Par. (1). Pub. L. 106–274, §7(a)(1), substituted "or of a covered entity" for "a State, or a subdivision of a State".

Par. (2). Pub. L. 106–274, §7(a)(2), substituted "term 'covered entity' means" for "term 'State' includes".

Par. (4). Pub. L. 106–274, §7(a)(3), substituted "religious exercise, as defined in section 2000cc–5 of this title" for "the exercise of religion under the First Amendment to the Constitution".

§2000bb–3. Applicability

(a) In general

This chapter applies to all Federal law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after November 16, 1993.

(b) Rule of construction

Federal statutory law adopted after November 16, 1993, is subject to this chapter unless such law explicitly excludes such application by reference to this chapter.

(c) Religious belief unaffected

Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

(Pub. L. 103–141, §6, Nov. 16, 1993, 107 Stat. 1489; Pub. L. 106–274, §7(b), Sept. 22, 2000, 114 Stat. 806.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–274 struck out "and State" after "Federal".

§2000bb–4. Establishment clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. As used in this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

(Pub. L. 103–141, §7, Nov. 16, 1993, 107 Stat. 1489.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

CHAPTER 21C—PROTECTION OF RELIGIOUS EXERCISE IN LAND USE AND BY INSTITUTIONALIZED PERSONS

Sec.

2000cc. Protection of land use as religious exercise.
2000cc–1. Protection of religious exercise of institutionalized persons.
2000cc–2. Judicial relief.
2000cc–3. Rules of construction.
2000cc–4. Establishment Clause unaffected.
2000cc–5. Definitions.

§2000cc. Protection of land use as religious exercise

(a) Substantial burdens

(1) General rule

No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(2) Scope of application

This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) Discrimination and exclusion

(1) Equal terms

No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) Nondiscrimination

No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(3) Exclusions and limits

No government shall impose or implement a land use regulation that—

(A) totally excludes religious assemblies from a jurisdiction; or
(B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

(Pub. L. 106–274, §2, Sept. 22, 2000, 114 Stat. 803.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 106–274, §1, Sept. 22, 2000, 114 Stat. 803, provided that: "This Act [enacting this chapter and amending sections 1988, 2000bb–2 and 2000bb–3 of this title] may be cited as the 'Religious Land Use and Institutionalized Persons Act of 2000' ".

§2000cc–1. Protection of religious exercise of institutionalized persons

(a) General rule

No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

(1) is in furtherance of a compelling governmental interest; and
(2) is the least restrictive means of furthering that compelling governmental interest.

(b) Scope of application

This section applies in any case in which—

(1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or

(2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

(Pub. L. 106–274, §3, Sept. 22, 2000, 114 Stat. 804.)

§2000cc–2. Judicial relief

(a) Cause of action

A person may assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) Burden of persuasion

If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2000cc of this title, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) Full faith and credit

Adjudication of a claim of a violation of section 2000cc of this title in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(d) Omitted

(e) Prisoners

Nothing in this chapter shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(f) Authority of United States to enforce this chapter

The United States may bring an action for injunctive or declaratory relief to enforce compliance with this chapter. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

(g) Limitation

If the only jurisdictional basis for applying a provision of this chapter is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

(Pub. L. 106–274, §4, Sept. 22, 2000, 114 Stat. 804.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–274, Sept. 22, 2000, 114 Stat. 803, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000cc of this title and Tables.

The Prison Litigation Reform Act of 1995, referred to in subsec. (e), is Pub. L. 104–134, title I, §101(a) [title VIII], Apr. 26, 1996, 110 Stat. 1321, 1321–66. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 3601 of Title 18, Crimes and Criminal Procedure, and Tables.

CODIFICATION

Section is comprised of section 4 of Pub. L. 106–274. Subsec. (d) of section 4 of Pub. L. 106–274 amended section 1988(b) of this title.

§2000cc–3. Rules of construction

(a) Religious belief unaffected

Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

(b) Religious exercise not regulated

Nothing in this chapter shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) Claims to funding unaffected

Nothing in this chapter shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this chapter may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

(d) Other authority to impose conditions on funding unaffected

Nothing in this chapter shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as

provided in this chapter.

(e) Governmental discretion in alleviating burdens on religious exercise

A government may avoid the preemptive force of any provision of this chapter by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) Effect on other law

With respect to a claim brought under this chapter, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any law other than this chapter.

(g) Broad construction

This chapter shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.

(h) No preemption or repeal

Nothing in this chapter shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this chapter.

(i) Severability

If any provision of this chapter or of an amendment made by this chapter, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this chapter, the amendments made by this chapter, and the application of the provision to any other person or circumstance shall not be affected.

(Pub. L. 106–274, §5, Sept. 22, 2000, 114 Stat. 805.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–274, Sept. 22, 2000, 114 Stat. 803, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000cc of this title and Tables.

§2000cc–4. Establishment Clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. In this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

(Pub. L. 106–274, §6, Sept. 22, 2000, 114 Stat. 806.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–274, Sept. 22, 2000, 114 Stat. 803, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000cc of this title and Tables.

§2000cc–5. Definitions

In this chapter:

(1) Claimant

The term "claimant" means a person raising a claim or defense under this chapter.

(2) Demonstrates

The term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

(3) Free Exercise Clause

The term "Free Exercise Clause" means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion.

(4) Government

The term "government"—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 2000cc–2(b) and 2000cc–3 of this title, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.

(5) Land use regulation

The term "land use regulation" means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.

(6) Program or activity

The term "program or activity" means all of the operations of any entity as described in paragraph (1) or (2) of section 2000d–4a of this title.

(7) Religious exercise

(A) In general

The term "religious exercise" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

(B) Rule

The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.

(Pub. L. 106–274, §8, Sept. 22, 2000, 114 Stat. 806.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–274, Sept. 22, 2000, 114 Stat. 803, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000cc of this title and Tables.

CHAPTER 21D—DETAINEE TREATMENT

Sec.

2000dd. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government.
2000dd–0. Additional prohibition on cruel, inhuman, or degrading treatment or punishment.
2000dd–1. Protection of United States Government personnel engaged in authorized interrogations.
2000dd–2. Limitation on interrogation techniques.

§2000dd. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government

(a) In general

No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) Construction

Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) Limitation on supersedure

The provisions of this section shall not be superseded, except by a provision of law enacted after December 30, 2005, which specifically repeals, modifies, or supersedes the provisions of this section.

(d) Cruel, inhuman, or degrading treatment or punishment defined

In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(Pub. L. 109–148, div. A, title X, §1003, Dec. 30, 2005, 119 Stat. 2739; Pub. L. 109–163, div. A, title XIV, §1403, Jan. 6, 2006, 119 Stat. 3475.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date "December 30, 2005", referred to in subsec. (c), was in the original "the date of the enactment of this Act" and was translated as the date of enactment of Pub. L. 109–148.

CODIFICATION

Pub. L. 109–148 and Pub. L. 109–163 enacted identical sections.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 109–148, div. A, title X, §1001, Dec. 30, 2005, 119 Stat. 2739, and Pub. L. 109–163, div. A, title XIV, §1401, Jan. 6, 2006, 119 Stat. 3474, provided that: "This title [enacting this chapter, amending section 2241 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 801 of Title 10, Armed Forces] may be cited as the 'Detainee Treatment Act of 2005'."

UNITED STATES POLICY TOWARD DETAINEES

Pub. L. 110–53, title XX, §2034, Aug. 3, 2007, 121 Stat. 517, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) The National Commission on Terrorist Attacks Upon the United States (commonly referred to as the '9/11 Commission') declared that the United States 'should work with friends to develop mutually agreed-on principles for the detention and humane treatment of captured international terrorists who are not being held under a particular country's criminal laws' and recommended that the United States engage its allies 'to develop a common coalition approach toward the detention and humane treatment of captured terrorists'.

"(2) A number of investigations remain ongoing by countries that are close United States allies in the war on terrorism regarding the conduct of officials, employees, and agents of the United States and of other countries related to conduct regarding detainees.

"(3) The Secretary of State has launched an initiative to try to address the differences between the United States and many of its allies regarding the treatment of detainees.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary, acting through the Legal Adviser of the Department of State, should continue to build on the Secretary's efforts to engage United States allies to develop a common coalition approach, in compliance with Common Article 3 of the Geneva Conventions and other applicable legal principles, toward the detention and humane treatment of individuals detained during Operation Iraqi Freedom, Operation Enduring Freedom, or in connection with United States counterterrorist operations.

"(c) REPORTING TO CONGRESS.—

"(1) BRIEFINGS.—The Secretary of State shall keep the appropriate congressional committees fully and currently informed of the progress of any discussions between the United States and its allies regarding the development of the common coalition approach described in subsection (b).

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 3, 2007], the Secretary of State, in consultation with the Attorney General and the Secretary of Defense, shall submit to the appropriate congressional committees a report on any progress towards developing the common coalition approach described in subsection (b).

"(d) DEFINITION.—In this section, the term 'appropriate congressional committees' means—

"(1) with respect to the House of Representatives, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence; and

"(2) with respect to the Senate, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, and the Select Committee on Intelligence."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13491. ENSURING LAWFUL INTERROGATIONS

Ex. Ord. No. 13491, Jan. 22, 2009, 74 F.R. 4893, provided:

By the authority vested in me by the Constitution and the laws of the United States of America, in order to improve the effectiveness of human intelligence-gathering, to promote the safe, lawful, and humane treatment of individuals in United States custody and of United States personnel who are detained in armed conflicts, to ensure compliance with the treaty obligations of the United States, including the Geneva Conventions, and to take care that the laws of the United States are faithfully executed, I hereby order as follows:

SECTION 1. *Revocation*. Executive Order 13440 of July 20, 2007, is revoked. All executive directives, orders, and regulations inconsistent with this order, including but not limited to those issued to or by the Central Intelligence Agency (CIA) from September 11, 2001, to January 20, 2009, concerning detention or the interrogation of detained individuals, are revoked to the extent of their inconsistency with this order. Heads of departments and agencies shall take all necessary steps to ensure that all directives, orders, and regulations of their respective departments or agencies are consistent with this order. Upon request, the Attorney General shall provide guidance about which directives, orders, and regulations are inconsistent with this order.

SEC. 2. *Definitions*. As used in this order:

(a) "Army Field Manual 2–22.3" means FM 2–22.3, Human Intelligence Collector Operations, issued by the Department of the Army on September 6, 2006.

(b) "Army Field Manual 34–52" means FM 34–52, Intelligence Interrogation, issued by the Department of the Army on May 8, 1987.

(c) "Common Article 3" means Article 3 of each of the Geneva Conventions.

(d) "Convention Against Torture" means the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, 1465 U.N.T.S. 85, S. Treaty Doc. No. 100–20 (1988).

(e) "Geneva Conventions" means:

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114);

(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (6 UST 3516).

(f) "Treated humanely," "violence to life and person," "murder of all kinds," "mutilation," "cruel treatment," "torture," "outrages upon personal dignity," and "humiliating and degrading treatment" refer to, and have the same meaning as, those same terms in Common Article 3.

(g) The terms "detention facilities" and "detention facility" in section 4(a) of this order do not refer to facilities used only to hold people on a short-term, transitory basis.

SEC. 3. *Standards and Practices for Interrogation of Individuals in the Custody or Control of the United States in Armed Conflicts.*

(a) *Common Article 3 Standards as a Minimum Baseline*. Consistent with the requirements of the Federal torture statute, 18 U.S.C. 2340–2340A, section 1003 of the Detainee Treatment Act of 2005, 42 U.S.C. 2000dd, the Convention Against Torture, Common Article 3, and other laws regulating the treatment and interrogation of individuals detained in any armed conflict, such persons shall in all circumstances be treated humanely and shall not be subjected to violence to life and person (including murder of all kinds, mutilation, cruel treatment, and torture), nor to outrages upon personal dignity (including humiliating and degrading treatment), whenever such individuals are in the custody or under the effective control of an officer, employee, or other agent of the United States Government or detained within a facility owned, operated, or controlled by a department or agency of the United States.

(b) *Interrogation Techniques and Interrogation-Related Treatment*. Effective immediately, an individual in the custody or under the effective control of an officer, employee, or other agent of the United States Government, or detained within a facility owned, operated, or controlled by a department or agency of the United States, in any armed conflict, shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in Army Field Manual 2–22.3 (Manual). Interrogation techniques, approaches, and treatments described in the Manual shall be implemented strictly in accord with the principles, processes, conditions, and limitations the Manual prescribes. Where processes required by the Manual, such as a requirement of approval by specified Department of Defense officials, are inapposite to a department or an agency other than the Department of Defense, such a department or agency shall use processes that are substantially equivalent to the processes the Manual prescribes for the Department of Defense. Nothing in this section shall preclude the Federal Bureau of Investigation, or other Federal law enforcement agencies, from continuing to use authorized, non-coercive techniques of interrogation that are designed to elicit voluntary statements and do not involve the use of force, threats, or promises.

(c) *Interpretations of Common Article 3 and the Army Field Manual*. From this day forward, unless the Attorney General with appropriate consultation provides further guidance, officers, employees, and other agents of the United States Government may, in conducting interrogations, act in reliance upon Army Field Manual 2–22.3, but may not, in conducting interrogations, rely upon any interpretation of the law governing interrogation—including interpretations of Federal criminal laws, the Convention Against Torture, Common Article 3, Army Field Manual 2–22.3, and its predecessor document, Army Field Manual 34–52—issued by the Department of Justice between September 11, 2001, and January 20, 2009.

SEC. 4. *Prohibition of Certain Detention Facilities, and Red Cross Access to Detained Individuals.*

(a) *CIA Detention*. The CIA shall close as expeditiously as possible any detention facilities that it currently operates and shall not operate any such detention facility in the future.

(b) *International Committee of the Red Cross Access to Detained Individuals*. All departments and agencies of the Federal Government shall provide the International Committee of the Red Cross with notification of, and timely access to, any individual detained in any armed conflict in the custody or under the effective control of an officer, employee, or other agent of the United States Government or detained within a facility owned, operated, or controlled by a department or agency of the United States Government, consistent with Department of Defense regulations and policies.

SEC. 5. *Special Interagency Task Force on Interrogation and Transfer Policies.*

(a) *Establishment of Special Interagency Task Force*. There shall be established a Special Task Force on Interrogation and Transfer Policies (Special Task Force) to review interrogation and transfer policies.

(b) *Membership*. The Special Task Force shall consist of the following members, or their designees:

(i) the Attorney General, who shall serve as Chair;

(ii) the Director of National Intelligence, who shall serve as Co-Vice-Chair;

(iii) the Secretary of Defense, who shall serve as Co-Vice-Chair;

(iv) the Secretary of State;

(v) the Secretary of Homeland Security;

(vi) the Director of the Central Intelligence Agency;

(vii) the Chairman of the Joint Chiefs of Staff; and

(viii) other officers or full-time or permanent part-time employees of the United States, as determined by the Chair, with the concurrence of the head of the department or agency concerned.

(c) *Staff*. The Chair may designate officers and employees within the Department of Justice to serve as staff to support the Special Task Force. At the request of the Chair, officers and employees from other departments or agencies may serve on the Special Task Force with the concurrence of the head of the department or agency that employ such individuals. Such staff must be officers or full-time or permanent part-time employees of the United States. The Chair shall designate an officer or employee of the Department of Justice to serve as the Executive Secretary of the Special Task Force.

(d) *Operation*. The Chair shall convene meetings of the Special Task Force, determine its agenda, and direct its work. The Chair may establish and direct subgroups of the Special Task Force, consisting exclusively of members of the Special Task Force, to deal with particular subjects.

(e) *Mission*. The mission of the Special Task Force shall be:

(i) to study and evaluate whether the interrogation practices and techniques in Army Field Manual 2–22.3, when employed by departments or agencies outside the military, provide an appropriate means of acquiring the intelligence necessary to protect the Nation, and, if warranted, to recommend any additional or different guidance for other departments or agencies; and

(ii) to study and evaluate the practices of transferring individuals to other nations in order to ensure that such practices comply with the domestic laws, international obligations, and policies of the United States and do not result in the transfer of individuals to other nations to face torture or otherwise for the purpose, or with the effect, of undermining or circumventing the commitments or obligations of the United States to ensure the humane treatment of individuals in its custody or control.

(f) *Administration*. The Special Task Force shall be established for administrative purposes within the Department of Justice and the Department of Justice shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative support and funding for the Special Task Force.

(g) *Recommendations*. The Special Task Force shall provide a report to the President, through the Assistant to the President for National Security Affairs and the Counsel to the President, on the matters set forth in subsection (d) within 180 days of the date of this order, unless the Chair determines that an extension is necessary.

(h) *Termination*. The Chair shall terminate the Special Task Force upon the completion of its duties.

SEC. 6. *Construction with Other Laws*. Nothing in this order shall be construed to affect the obligations of officers, employees, and other agents of the United States Government to comply with all pertinent laws and treaties of the United States governing detention and interrogation, including but not limited to: the Fifth and Eighth Amendments to the United States Constitution; the Federal torture statute, 18 U.S.C. 2340–2340A; the War Crimes Act [of 1996], 18 U.S.C. 2441; the Federal assault statute, 18 U.S.C. 113; the Federal maiming statute, 18 U.S.C. 114; the Federal "stalking" statute, 18 U.S.C. 2261A; articles 93, 124, 128, and 134 of the Uniform Code of Military Justice, 10 U.S.C. 893, 924, 928, and 934; section 1003 of the Detainee Treatment Act of 2005, 42 U.S.C. 2000dd; section 6(c) of the Military Commissions Act of 2006, Public Law 109–366; the Geneva Conventions; and the Convention Against Torture. Nothing in this order shall be construed to diminish any rights that any individual may have under these or other laws and treaties. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

BARACK OBAMA.

§2000dd–0. Additional prohibition on cruel, inhuman, or degrading treatment or punishment

(1) In general

No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) Cruel, inhuman, or degrading treatment or punishment defined

In this section, the term "cruel, inhuman, or degrading treatment or punishment" means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) Compliance

The President shall take action to ensure compliance with this section, including through the establishment of administrative rules and procedures.

(Pub. L. 109–366, §6(c), Oct. 17, 2006, 120 Stat. 2635.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Military Commissions Act of 2006, and not as part of the Detainee Treatment Act of 2005 which comprises this chapter.

§2000dd–1. Protection of United States Government personnel engaged in authorized interrogations

(a) Protection of United States Government personnel

In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent's engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) Counsel

The United States Government shall provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution or investigation arising out of practices described in that subsection, whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10.

(Pub. L. 109–148, div. A, title X, §1004, Dec. 30, 2005, 119 Stat. 2740; Pub. L. 109–163, div. A, title XIV, §1404, Jan. 6, 2006, 119 Stat. 3475; Pub. L. 109–366, §8(a), Oct. 17, 2006, 120 Stat. 2636; Pub. L. 110–181, div. A, title X, §1063(d)(1), Jan. 28, 2008, 122 Stat. 323; Pub. L. 110–417, [div. A], title X, §1061(b)(10), Oct. 14, 2008, 122 Stat. 4613.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 109–148 and Pub. L. 109–163 enacted identical sections. The section enacted by Pub. L. 109–148, but not the section enacted by Pub. L. 109–163, was amended by Pub. L. 109–366, see 2006 Amendment notes below. The text of this section is based on the text of section 1004 of Pub. L. 109–148 as amended by Pub. L. 109–366.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–181, §1063(d)(1), as amended by Pub. L. 110–417, made technical correction to directory language of Pub. L. 109–366, §8(a)(3). See 2006 Amendment note below.

2006—Subsec. (b). Pub. L. 109–366, §8(a)(3), as amended by Pub. L. 110–181, §1063(d)(1), as amended by Pub. L. 110–417, inserted "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection,".

Pub. L. 109–366, §8(a)(1), (2), substituted "shall provide" for "may provide" and inserted "or investigation" after "criminal prosecution".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 effective Jan. 28, 2008, and as if included in Pub. L. 110–181 as enacted, see section 1061(b) of Pub. L. 110–417, set out as a note under section 6382 of Title 5, Government Organization and Employees.

Pub. L. 110–181, div. A, title X, §1063(d), Jan. 28, 2008, 122 Stat. 323, provided that the amendments made by section 1063(d), which amended this section and provisions set out as a note under section 801 of Title 10, Armed Forces, are effective as of Oct. 17, 2006, and as if included in Pub. L. 109–366 as enacted.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–366, §8(b), Oct. 17, 2006, 120 Stat. 2636, provided that: "Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution that—

"(1) relates to the detention and interrogation of aliens described in such section;

"(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

"(3) relates to actions occurring between September 11, 2001, and December 30, 2005."

§2000dd–2. Limitation on interrogation techniques

(a) Limitation on interrogation techniques to those in the Army Field Manual

(1) Army Field Manual 2–22.3 defined

In this subsection, the term "Army Field Manual 2–22.3" means the Army Field Manual 2–22.3 entitled "Human Intelligence Collector Operations" in effect on November 25, 2015, or any similar successor Army Field Manual.

(2) Restriction

(A) In general

An individual described in subparagraph (B) shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in the Army Field Manual 2–22.3.

(B) Individual described

An individual described in this subparagraph is an individual who is—

(i) in the custody or under the effective control of an officer, employee, or other agent of the United States Government; or

(ii) detained within a facility owned, operated, or controlled by a department or agency of the United States, in any armed conflict.

(3) Implementation

Interrogation techniques, approaches, and treatments described in Army Field Manual 2–22.3 shall be implemented strictly in accord with the principles, processes, conditions, and limitations prescribed by Army Field Manual 2–22.3.

(4) Agencies other than the Department of Defense

If a process required by Army Field Manual 2–22.3, such as a requirement of approval by a specified Department of Defense official, is inapposite to a department or an agency other than the Department of Defense, the head of such department or agency shall ensure that a process that is substantially equivalent to the process prescribed by Army Field Manual 2–22.3 for the Department of Defense is utilized by all officers, employees, or other agents of such department or agency.

(5) Interrogation by Federal law enforcement

The limitations in this subsection shall not apply to officers, employees, or agents of the Federal Bureau of Investigation, the Department of Homeland Security, or other Federal law enforcement entities.

(6) Update of the Army Field Manual

(A) Requirement to update

(i) In general

Not sooner than three years after November 25, 2015, and once every three years thereafter, the Secretary of Defense, in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence, shall complete a thorough review of Army Field Manual 2–22.3, and revise Army Field Manual 2–22.3, as necessary to ensure that Army Field Manual 2–22.3 complies with the legal obligations of the United States and the practices for interrogation described therein do not involve the use or threat of force.

(ii) Availability to the public

Army Field Manual 2–22.3 shall remain available to the public and any revisions to the Army Field Manual 2–22.3 adopted by the Secretary of Defense shall be made available to the public 30 days prior to the date the revisions take effect.

(B) Report on best practices of interrogations

(i) Requirement for report

Not later than 120 days after November 25, 2015, the interagency body established pursuant to Executive Order 13491 (commonly known as the High-Value Detainee Interrogation Group) shall submit to the Secretary of Defense, the Director of National Intelligence, the Attorney General, and other appropriate officials a report on best practices for interrogation that do not involve the use of force.

(ii) Recommendations

The report required by clause (i) may include recommendations for revisions to Army Field Manual 2–22.3 based on the body of research commissioned by the High-Value Detainee Interrogation Group.

(iii) Availability to the public

Not later than 30 days after the report required by clause (i) is submitted such report shall

be made available to the public.

(b) International Committee of the Red Cross access to detainees

(1) Requirement

The head of any department or agency of the United States Government shall provide the International Committee of the Red Cross with notification of, and prompt access to, any individual detained in any armed conflict in the custody or under the effective control of an officer, employee, contractor, subcontractor, or other agent of the United States Government or detained within a facility owned, operated, or effectively controlled by a department, agency, contractor, or subcontractor of the United States Government, consistent with Department of Defense regulations and policies.

(2) Construction

Nothing in this subsection shall be construed—

(A) to create or otherwise imply the authority to detain; or

(B) to limit or otherwise affect any other individual rights or state obligations which may arise under United States law or international agreements to which the United States is a party, including the Geneva Conventions, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

(Pub. L. 114–92, div. A, title X, §1045, Nov. 25, 2015, 129 Stat. 977.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order 13491, referred to in subsec. (a)(6)(B)(i), is Ex. Ord. No. 13491, Jan. 22, 2009, 74 F.R. 4893, which is set out as a note under section 2000dd of this title.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2016, and not as part of the Detainee Treatment Act of 2005 which comprises this chapter.

CHAPTER 21E—PRIVACY AND CIVIL LIBERTIES PROTECTION AND OVERSIGHT

Sec.

2000ee. Privacy and Civil Liberties Oversight Board.
2000ee–1. Privacy and civil liberties officers.
2000ee–2. Privacy and data protection policies and procedures.
2000ee–3. Federal agency data mining reporting.

§2000ee. Privacy and Civil Liberties Oversight Board

(a) In general

There is established as an independent agency within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this section as the "Board").

(b) Findings

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the

Government uses its powers for the purposes for which the powers were given.

(3) The National Commission on Terrorist Attacks Upon the United States correctly concluded that "The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.".

(c) Purpose

The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) Functions

(1) Advice and counsel on policy development and implementation

The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under subsections (d) and (f) of section 485 of title 6;

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under subsections (d) and (f) of section 485 of title 6;

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has established—

(i) that the need for the power is balanced with the need to protect privacy and civil liberties;

(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(2) Oversight

The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines issued or developed under subsections (d) and (f) of section 485 of title 6 and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch relating to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) Relationship with privacy and civil liberties officers

The Board shall—

(A) receive and review reports and other information from privacy officers and civil liberties officers under section 2000ee–1 of this title;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

(4) Testimony

The members of the Board shall appear and testify before Congress upon request.

(e) Reports

(1) In general

The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers under section 2000ee–1 of this title; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) Contents

Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period;

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

(D) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement; and

(E) for the preceding period, any requests submitted under subsection (g)(1)(D) for the issuance of subpoenas that were modified or denied by the Attorney General.

(f) Informing the public

The Board—

(1) shall make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) shall hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law, but may, notwithstanding section 552b of title 5, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public.

(g) Access to information

(1) Authorization

If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element;

(C) request information or assistance from any State, tribal, or local government; and

(D) at the direction of a majority of the members of the Board, submit a written request to the Attorney General of the United States that the Attorney General require, by subpoena, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) Review of subpoena request

(A) In general

Not later than 30 days after the date of receipt of a request by the Board under paragraph (1)(D), the Attorney General shall—

(i) issue the subpoena as requested; or

(ii) provide the Board, in writing, with an explanation of the grounds on which the subpoena request has been modified or denied.

(B) Notification

If a subpoena request is modified or denied under subparagraph (A)(ii), the Attorney General shall, not later than 30 days after the date of that modification or denial, notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(3) Enforcement of subpoena

In the case of contumacy or failure to obey a subpoena issued pursuant to paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(4) Agency cooperation

Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(5) Access

Nothing in this section shall be construed to authorize the Board, or any agent thereof, to gain access to information regarding an activity covered by section 3093(a) of title 50.

(h) Membership

(1) Members

The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications

Members of the Board shall be selected solely on the basis of their professional qualifications,

achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party. The President shall, before appointing an individual who is not a member of the same political party as the President, consult with the leadership of that party, if any, in the Senate and House of Representatives.

(3) Incompatible office

An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(4) Term

(A) Commencement

Each member of the Board shall serve a term of 6 years, commencing on the date of the appointment of the member to the Board.

(B) Reappointment

A member may be reappointed to one or more additional terms.

(C) Vacancy

A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(D) Extension

Upon the expiration of the term of office of a member, the member may continue to serve for up to one year after the date of expiration, at the election of the member—

(i) during the period preceding the reappointment of the member pursuant to subparagraph (B); or

(ii) until the member's successor has been appointed and qualified.

(5) Quorum and meetings

The Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(i) Compensation and travel expenses

(1) Compensation

(A) Chairman

The chairman of the Board shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5.

(B) Members

Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5 for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) Travel expenses

Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) [1] of title 5, while away from their homes or regular places of business in the performance of services for the Board.

(j) Staff

(1) Appointment and compensation

The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be

necessary to enable the Board to carry out its functions, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5.

(2) Appointment in absence of chairman

If the position of chairman of the Board is vacant, during the period of the vacancy, the Board, at the direction of the unanimous vote of the serving members of the Board, may exercise the authority of the chairman under paragraph (1).

(3) Detailees

Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(4) Consultant services

The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) Security clearances

(1) In general

The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(2) Rules and procedures

After consultation with the Secretary of Defense, the Attorney General, and the Director of National Intelligence, the Board shall adopt rules and procedures of the Board for physical, communications, computer, document, personnel, and other security relating to carrying out the functions of the Board.

(l) Treatment as agency, not as advisory committee

The Board—

(1) is an agency (as defined in section 551(1) of title 5); and

(2) is not an advisory committee (as defined in section 1001(2) of title 5).

(m) Authorization of appropriations

There are authorized to be appropriated to carry out this section amounts as follows:

(1) For fiscal year 2008, $5,000,000.

(2) For fiscal year 2009, $6,650,000.

(3) For fiscal year 2010, $8,300,000.

(4) For fiscal year 2011, $10,000,000.

(5) For fiscal year 2012 and each subsequent fiscal year, such sums as may be necessary.

(Pub. L. 108–458, title I, §1061, Dec. 17, 2004, 118 Stat. 3684; Pub. L. 110–53, title VIII, §801(a), Aug. 3, 2007, 121 Stat. 352; Pub. L. 114–113, div. M, title III, §305, Dec. 18, 2015, 129 Stat. 2913; Pub. L. 115–118, title I, §108, Jan. 19, 2018, 132 Stat. 15; Pub. L. 117–263, div. F, title LXVIII, §6801, Dec. 23, 2022, 136 Stat. 3586; Pub. L. 117–286, §4(a)(259), Dec. 27, 2022, 136 Stat. 4334.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (i)(2), was amended generally by Pub. L. 94–22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

CODIFICATION

Section was formerly set out as a note under section 601 of Title 5, Government Organization and Employees.

AMENDMENTS

2022—Subsec. (h)(4). Pub. L. 117–263, §6801, amended par. (4) generally. Prior to amendment, text read as follows: "Each member of the Board shall serve a term of 6 years, except that—

"(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

"(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

"(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

"(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted."

Subsec. (l)(2). Pub. L. 117–286 substituted "section 1001(2) of title 5)." for "section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.))."

2018—Subsec. (f). Pub. L. 115–118, §108(b)(1), substituted "The Board" for "The Board shall" in introductory provisions.

Subsec. (f)(1). Pub. L. 115–118, §108(b)(2), substituted "shall make its" for "make its".

Subsec. (f)(2). Pub. L. 115–118, §108(b)(3), substituted "shall hold public" for "hold public" and inserted before period at end ", but may, notwithstanding section 552b of title 5, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public".

Subsec. (j)(2) to (4). Pub. L. 115–118, §108(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

2015—Subsec. (g)(5). Pub. L. 114–113 added par. (5).

2007—Pub. L. 110–53 amended section generally, substituting provisions relating to Privacy and Civil Liberties Oversight Board, consisting of subsecs. (a) to (m), for provisions relating to Privacy and Civil Liberties Oversight Board, consisting of subsecs. (a) to (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–53, title VIII, §801(d), Aug. 3, 2007, 121 Stat. 358, provided that:

"(1) IN GENERAL.—The amendments made by subsection (a) and subsection (b) [amending this section] shall take effect 180 days after the date of enactment of this Act [Aug. 3, 2007].

"(2) TRANSITION PROVISIONS.—Subsection (c) [enacting provisions set out as a note under this section] shall take effect on the date of enactment of this Act."

SECURITY RULES AND PROCEDURES

Pub. L. 110–53, title VIII, §801(b), Aug. 3, 2007, 121 Stat. 357, provided that: "The Privacy and Civil Liberties Oversight Board shall promptly adopt the security rules and procedures required under section 1061(k)(2) of the National Security Intelligence Reform Act of 2004 [42 U.S.C. 2000ee(k)(2)] (as added by subsection (a) of this section)."

TRANSITION PROVISIONS

Pub. L. 110–53, title VIII, §801(c), Aug. 3, 2007, 121 Stat. 357, provided that:

"(1) TREATMENT OF INCUMBENT MEMBERS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

"(A) CONTINUATION OF SERVICE.—Any individual who is a member of the Privacy and Civil

Liberties Oversight Board on the date of enactment of this Act [Aug. 3, 2007] may continue to serve on the Board until 180 days after the date of enactment of this Act.

"(B) TERMINATION OF TERMS.—The term of any individual who is a member of the Privacy and Civil Liberties Oversight Board on the date of enactment of this Act shall terminate 180 days after the date of enactment of this Act.

"(2) APPOINTMENTS.—

"(A) IN GENERAL.—The President and the Senate shall take such actions as necessary for the President, by and with the advice and consent of the Senate, to appoint members to the Privacy and Civil Liberties Oversight Board as constituted under the amendments made by subsection (a) [amending this section] in a timely manner to provide for the continuing operation of the Board and orderly implementation of this section [amending this section and enacting provisions set out as notes under this section].

"(B) DESIGNATIONS.—In making the appointments described under subparagraph (A) of the first members of the Privacy and Civil Liberties Oversight Board as constituted under the amendments made by subsection (a), the President shall provide for the members to serve terms of 2, 3, 4, 5, and 6 years beginning on the effective date described under subsection (d)(1) [set out above], with the term of each such member to be designated by the President."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13353. ESTABLISHING THE PRESIDENT'S BOARD ON SAFEGUARDING AMERICANS' CIVIL LIBERTIES

Ex. Ord. No. 13353, Aug. 27, 2004, 69 F.R. 53585, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further strengthen protections for the rights of Americans in the effective performance of national security and homeland security functions, it is hereby ordered as follows:

SECTION 1. *Policy*. The United States Government has a solemn obligation, and shall continue fully, to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, in the effective performance of national security and homeland security functions.

SEC. 2. *Establishment of Board*. To advance the policy set forth in section 1 of this order (Policy), there is hereby established the President's Board on Safeguarding Americans' Civil Liberties (Board). The Board shall be part of the Department of Justice for administrative purposes.

SEC. 3. *Functions*. The Board shall:

(a)(i) advise the President on effective means to implement the Policy, and (ii) keep the President informed of the implementation of the Policy;

(b) periodically request reports from Federal departments and agencies relating to policies and procedures that ensure implementation of the Policy;

(c) recommend to the President policies, guidelines and other administrative actions, technologies, and legislation, as necessary to implement the Policy;

(d) at the request of the head of any Federal department or agency, unless the Chair, after consultation with the Vice Chair, declines the request, promptly review and provide advice on a policy or action of that department or agency that implicates the Policy;

(e) obtain information and advice relating to the Policy from representatives of entities or individuals outside the executive branch of the Federal Government in a manner that seeks their individual advice and does not involve collective judgment or consensus advice or deliberation;

(f) refer, consistent with section 535 of title 28, United States Code, credible information pertaining to possible violations of law relating to the Policy by any Federal employee or official to the appropriate office for prompt investigation;

(g) take steps to enhance cooperation and coordination among Federal departments and agencies in the implementation of the Policy, including but not limited to working with the Director of the Office of Management and Budget and other officers of the United States to review and assist in the coordination of guidelines and policies concerning national security and homeland security efforts, such as information collection and sharing; and

(h) undertake other efforts to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, as the President may direct.

Upon the recommendation of the Board, the Attorney General or the Secretary of Homeland Security may establish one or more committees that include individuals from outside the executive branch of the Federal Government, in accordance with applicable law, to advise the Board on specific issues relating to the Policy. Any such committee shall carry out its functions separately from the Board.

SEC. 4. *Membership and Operation*. The Board shall consist exclusively of the following:

(a) the Deputy Attorney General, who shall serve as Chair;

(b) the Under Secretary for Border and Transportation Security, Department of Homeland Security, who shall serve as Vice Chair;

(c) the Assistant Attorney General (Civil Rights Division);

(d) the Assistant Attorney General (Office of Legal Policy);

(e) the Counsel for Intelligence Policy, Department of Justice;

(f) the Chair of the Privacy Council, Federal Bureau of Investigation;

(g) the Assistant Secretary for Information Analysis, Department of Homeland Security;

(h) the Assistant Secretary (Policy), Directorate of Border and Transportation Security, Department of Homeland Security;

(i) the Officer for Civil Rights and Civil Liberties, Department of Homeland Security;

(j) the Privacy Officer, Department of Homeland Security;

(k) the Under Secretary for Enforcement, Department of the Treasury;

(l) the Assistant Secretary (Terrorist Financing), Department of the Treasury;

(m) the General Counsel, Office of Management and Budget;

(n) the Deputy Director of Central Intelligence for Community Management;

(o) the General Counsel, Central Intelligence Agency;

(p) the General Counsel, National Security Agency;

(q) the Under Secretary of Defense for Intelligence;

(r) the General Counsel of the Department of Defense;

(s) the Legal Adviser, Department of State;

(t) the Director, Terrorist Threat Integration Center; and

(u) such other officers of the United States as the Deputy Attorney General may from time to time designate.

A member of the Board may designate, to perform the Board or Board subgroup functions of the member, any person who is part of such member's department or agency and who is either (i) an officer of the United States appointed by the President, or (ii) a member of the Senior Executive Service or the Senior Intelligence Service. The Chair, after consultation with the Vice Chair, shall convene and preside at meetings of the Board, determine its agenda, direct its work, and, as appropriate to deal with particular subject matters, establish and direct subgroups of the Board that shall consist exclusively of members of the Board. The Chair may invite, in his discretion, officers or employees of other departments or agencies to participate in the work of the Board. The Chair shall convene the first meeting of the Board within 20 days after the date of this order and shall thereafter convene meetings of the Board at such times as the Chair, after consultation with the Vice Chair, deems appropriate. The Deputy Attorney General shall designate an official of the Department of Justice to serve as the Executive Director of the Board.

SEC. 5. *Cooperation*. To the extent permitted by law, all Federal departments and agencies shall cooperate with the Board and provide the Board with such information, support, and assistance as the Board, through the Chair, may request.

SEC. 6. *Administration*. Consistent with applicable law and subject to the availability of appropriations, the Department of Justice shall provide the funding and administrative support for the Board necessary to implement this order.

SEC. 7. *General Provisions*. (a) This order shall not be construed to impair or otherwise affect the authorities of any department, agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable laws and Executive Orders concerning protection of information, including those for the protection of intelligence sources and methods, law enforcement information, and classified national security information, and the Privacy Act of 1974, as amended (5 U.S.C. 552a).

(c) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, or any of its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any other person.

GEORGE W. BUSH.

[1] *See References in Text note below.*

§2000ee–1. Privacy and civil liberties officers

(a) Designation and functions

The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Director of the National Security Agency, the Director of the Federal Bureau of Investigation, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board under section 2000ee of this title to be appropriate for coverage under this section shall designate not less than 1 senior officer to serve as the principal advisor to—

(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—

(A) that the need for the power is balanced with the need to protect privacy and civil liberties;

(B) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

(C) that there are adequate guidelines and oversight to properly confine its use.

(b) Exception to designation authority

(1) Privacy officers

In any department, agency, or element referred to in subsection (a) or designated by the Privacy and Civil Liberties Oversight Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) Civil liberties officers

In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) Supervision and coordination

Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

(1) report directly to the head of the department, agency, or element concerned; and

(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

(d) Agency cooperation

The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

(1) has the information, material, and resources necessary to fulfill the functions of such officer;

(2) is advised of proposed policy changes;

(3) is consulted by decision makers; and

(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

(e) Reprisal for making complaint

No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) Periodic reports

(1) In general

The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than annually, submit a report on the activities of such officers—

(A)(i) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

(ii) to the head of such department, agency, or element; and

(iii) to the Privacy and Civil Liberties Oversight Board; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) Contents

Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

(A) information on the number and types of reviews undertaken;

(B) the type of advice provided and the response given to such advice;

(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

(g) Informing the public

Each privacy officer and civil liberties officer shall—

(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(h) Savings clause

Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

(Pub. L. 108–458, title I, §1062, Dec. 17, 2004, 118 Stat. 3688; Pub. L. 110–53, title VIII, §803(a), Aug. 3, 2007, 121 Stat. 360; Pub. L. 113–126, title III, §329(b)(4), July 7, 2014, 128 Stat. 1406; Pub. L. 115–118, title I, §109, Jan. 19, 2018, 132 Stat. 15; Pub. L. 117–263, div. F, title LXVIII, §6811(d), Dec. 23, 2022, 136 Stat. 3601.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (f)(1). Pub. L. 117–263 substituted "annually" for "semiannually" in introductory

provisions.

2018—Subsec. (a). Pub. L. 115–118 inserted ", the Director of the National Security Agency, the Director of the Federal Bureau of Investigation" after "the Director of the Central Intelligence Agency" in introductory provisions.

2014—Subsec. (f)(1). Pub. L. 113–126 substituted "semiannually" for "quarterly" in introductory provisions.

2007—Pub. L. 110–53 amended section generally. Prior to amendment, text of section read as follows: "It is the sense of Congress that each executive department or agency with law enforcement or antiterrorism functions should designate a privacy and civil liberties officer."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

§2000ee–2. Privacy and data protection policies and procedures

(a) Privacy Officer

Each agency shall have a Chief Privacy Officer to assume primary responsibility for privacy and data protection policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of information in an identifiable form;

(2) assuring that technologies used to collect, use, store, and disclose information in identifiable form allow for continuous auditing of compliance with stated privacy policies and practices governing the collection, use and distribution of information in the operation of the program;

(3) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as defined in the Privacy Act of 1974 [5 U.S.C. 552a];

(4) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(5) conducting a privacy impact assessment of proposed rules of the Department on the privacy of information in an identifiable form, including the type of personally identifiable information collected and the number of people affected;

(6) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of section 552a of title 5, 11 [1] internal controls, and other relevant matters;

(7) ensuring that the Department protects information in an identifiable form and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction;

(8) training and educating employees on privacy and data protection policies to promote awareness of and compliance with established privacy and data protection policies; and

(9) ensuring compliance with the Departments [2] established privacy and data protection policies.

(b) Establishing privacy and data protection procedures and policies

(1) [3] In general

Within 12 months of December 8, 2004, each agency shall establish and implement comprehensive privacy and data protection procedures governing the agency's collection, use, sharing, disclosure, transfer, storage and security of information in an identifiable form relating to the agency employees and the public. Such procedures shall be consistent with legal and

regulatory guidance, including OMB regulations, the Privacy Act of 1974 [5 U.S.C. 552a], and section 208 of the E-Government Act of 2002.

(c) Recording

Each agency shall prepare a written report of its use of information in an identifiable form, along with its privacy and data protection policies and procedures and record it with the Inspector General of the agency to serve as a benchmark for the agency. Each report shall be signed by the agency privacy officer to verify that the agency intends to comply with the procedures in the report. By signing the report the privacy officer also verifies that the agency is only using information in identifiable form as detailed in the report.

(d) Inspector General review

The Inspector General of each agency shall periodically conduct a review of the agency's implementation of this section and shall report the results of its review to the Committees on Appropriations of the House of Representatives and the Senate, the House Committee on Oversight and Government Reform, and the Senate Committee on Homeland Security and Governmental Affairs. The report required by this review may be incorporated into a related report to Congress otherwise required by law including, but not limited to, section 3545 [4] of title 44, the Federal Information Security Management Act of 2002. The Inspector General may contract with an independent, third party organization to conduct the review.

(e) Report

(1) In general

Upon completion of a review, the Inspector General of an agency shall submit to the head of that agency a detailed report on the review, including recommendations for improvements or enhancements to management of information in identifiable form, and the privacy and data protection procedures of the agency.

(2) Internet availability

Each agency shall make each independent third party review, and each report of the Inspector General relating to that review available to the public.

(f) Definition

In this section, the definition of "identifiable form" is consistent with Public Law 107–347, the E-Government Act of 2002, and means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

(Pub. L. 108–447, div. H, title V, §522, Dec. 8, 2004, 118 Stat. 3268; Pub. L. 110–161, div. D, title VII, §742(b), Dec. 26, 2007, 121 Stat. 2032.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Privacy Act of 1974, referred to in subsecs. (a)(3) and (b)(1), is Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 552a of Title 5 and Tables.

Section 3545 of title 44, referred to in subsec. (d), was repealed by Pub. L. 113–283, §2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions similar to section 3545 of title 44 are now contained in section 3555 of title 44, as enacted by Pub. L. 113–283.

The Federal Information Security Management Act of 2002, referred to in subsec. (d), is the statutory short title for title III of Pub. L. 107–347, Dec. 17, 2002, 116 Stat. 2946, and for title X of Pub. L. 107–296, Nov. 25, 116 Stat. 2259. For complete classification of these Acts to the Code, see Short Title of 2002 Amendments note set out under section 101 of Title 44, Public Printing and Documents, Short Title note set out under section 101 of Title 6, Domestic Security, and Tables.

The E-Government Act of 2002, referred to in subsec. (f), is Pub. L. 107–347, Dec. 17, 2002, 116 Stat. 2899. Section 208 of the Act is set out as a note under section 3501 of Title 44, Public Printing and Documents. For complete classification of this Act to the Code, see Short Title of 2002 Amendments note set out under section 101 of Title 44 and Tables.

CODIFICATION

Section was formerly set out as a note under section 552a of Title 5, Government Organization and Employees.

AMENDMENTS

2007—Subsec. (d). Pub. L. 110–161 added subsec. (d) and struck out former subsec. (d) which related to independent, third-party reviews.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13719. ESTABLISHMENT OF THE FEDERAL PRIVACY COUNCIL

Ex. Ord. No. 13719, Feb. 9, 2016, 81 F.R. 7961, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. The mission of the United States Government is to serve its people. In order to accomplish its mission, the Government lawfully collects, maintains, and uses large amounts of information about people in a wide range of contexts. Protecting privacy in the collection and handling of this information is fundamental to the successful accomplishment of the Government's mission. The proper functioning of Government requires the public's trust, and to maintain that trust the Government must strive to uphold the highest standards for collecting, maintaining, and using personal data. Privacy has been at the heart of our democracy from its inception, and we need it now more than ever.

Executive departments and agencies (agencies) already take seriously their mission to protect privacy and have been working diligently to advance that mission through existing interagency mechanisms. Today's challenges, however, require that we find even more effective and innovative ways to improve the Government's efforts. Our efforts to meet these new challenges and preserve our core value of privacy, while delivering better and more effective Government services for the American people, demand leadership and enhanced coordination and collaboration among a diverse group of stakeholders and experts.

Therefore, it shall be the policy of the United States Government that agencies shall establish an interagency support structure that: builds on existing interagency efforts to protect privacy and provides expertise and assistance to agencies; expands the skill and career development opportunities of agency privacy professionals; improves the management of agency privacy programs by identifying and sharing lessons learned and best practices; and promotes collaboration between and among agency privacy professionals to reduce unnecessary duplication of efforts and to ensure the effective, efficient, and consistent implementation of privacy policy Government-wide.

SEC. 2. *Policy on Senior Agency Officials for Privacy*. Within 120 days of the date of this order, the Director of the Office of Management and Budget (Director) shall issue a revised policy on the role and designation of the Senior Agency Officials for Privacy. The policy shall provide guidance on the Senior Agency Official for Privacy's responsibilities at their agencies, required level of expertise, adequate level of resources, and other matters as determined by the Director. Agencies shall implement the requirements of the policy within a reasonable time frame as prescribed by the Director and consistent with applicable law.

SEC. 3. *Responsibilities of Agency Heads*. The head of each agency, consistent with guidance to be issued by the Director as required in section 2 of this order, shall designate or re-designate a Senior Agency Official for Privacy with the experience and skills necessary to manage an agency-wide privacy program. In addition,

the head of each agency, to the extent permitted by law and consistent with ongoing activities, shall work with the Federal Privacy Council, established in section 4 of this order.

SEC. 4. *The Federal Privacy Council.*

(a) *Establishment*. There is hereby established the Federal Privacy Council (Privacy Council) as the principal interagency forum to improve the Government privacy practices of agencies and entities acting on their behalf. The establishment of the Privacy Council will help Senior Agency Officials for Privacy at agencies better coordinate and collaborate, educate the Federal workforce, and exchange best practices. The activities of the Privacy Council will reinforce the essential work that agency privacy officials undertake every day to protect privacy.

(b) *Membership*. The Chair of the Privacy Council shall be the Deputy Director for Management of the Office of Management and Budget. The Chair may designate a Vice Chair, establish working groups, and assign responsibilities for operations of the Privacy Council as he or she deems necessary. In addition to the Chair, the Privacy Council shall be composed of the Senior Agency Officials for Privacy at the following agencies:

(i) Department of State;
(ii) Department of the Treasury;
(iii) Department of Defense;
(iv) Department of Justice;
(v) Department of the Interior;
(vi) Department of Agriculture;
(vii) Department of Commerce;
(viii) Department of Labor;
(ix) Department of Health and Human Services;
(x) Department of Homeland Security;
(xi) Department of Housing and Urban Development;
(xii) Department of Transportation;
(xiii) Department of Energy;
(xiv) Department of Education;
(xv) Department of Veterans Affairs;
(xvi) Environmental Protection Agency;
(xvii) Office of the Director of National Intelligence;
(xviii) Small Business Administration;
(xix) National Aeronautics and Space Administration;
(xx) Agency for International Development;
(xxi) General Services Administration;
(xxii) National Science Foundation;
(xxiii) Office of Personnel Management; and
(xxiv) National Archives and Records Administration.

The Privacy Council may also include other officials from agencies and offices, as the Chair may designate, and the Chair may invite the participation of officials from such independent agencies as he or she deems appropriate.

(c) *Functions*. The Privacy Council shall:

(i) develop recommendations for the Office of Management and Budget on Federal Government privacy policies and requirements;

(ii) coordinate and share ideas, best practices, and approaches for protecting privacy and implementing appropriate privacy safeguards;

(iii) assess and recommend how best to address the hiring, training, and professional development needs of the Federal Government with respect to privacy matters; and

(iv) perform other privacy-related functions, consistent with law, as designated by the Chair.

(d) *Coordination.*

(i) The Chair and the Privacy Council shall coordinate with the Federal Chief Information Officers Council (CIO Council) to promote consistency and efficiency across the executive branch when addressing privacy and information security issues. In addition, the Chairs of the Privacy Council and the CIO Council shall coordinate to ensure that the work of the two councils is complementary and not duplicative.

(ii) The Chair and the Privacy Council should coordinate, as appropriate, with such other interagency councils and councils and offices within the Executive Office of the President, as appropriate, including the President's Management Council, the Chief Financial Officers Council, the President's Council on Integrity and Efficiency, the National Science and Technology Council, the National Economic Council, the Domestic

Policy Council, the National Security Council staff, the Office of Science and Technology Policy, the Interagency Council on Statistical Policy, the Federal Acquisition Regulatory Council, and the Small Agency Council.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are encouraged to comply with the requirements of this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Ex. Ord. No. 13719 was originally published at 81 F.R. 7687 and was republished as set out above to correct an error appearing in the original publication.]

[1] So in original.

[2] So in original. Probably should be "Department's".

[3] So in original. No par. (2) has been enacted.

[4] See References in Text note below.

§2000ee–3. Federal agency data mining reporting

(a) Short title

This section may be cited as the "Federal Agency Data Mining Reporting Act of 2007".

(b) Definitions

In this section:

(1) Data mining

The term "data mining" means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;

(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and

(C) the purpose of the queries, searches, or other analyses is not solely—

(i) the detection of fraud, waste, or abuse in a Government agency or program; or

(ii) the security of a Government computer system.

(2) Database

The term "database" does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.

(c) Reports on data mining activities by Federal agencies

(1) Requirement for report

The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).[1]

(2) Content of report

Each report submitted under subparagraph (A) [2] shall include, for each activity to use or develop data mining, the following information:

(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(B) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(C) A thorough description of the data sources that are being or will be used.

(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.

(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—

(i) protect the privacy and due process rights of individuals, such as redress procedures; and

(ii) ensure that only accurate and complete information is collected, reviewed, gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.

(3) Annex

(A) In general

A report under subparagraph (A) [2] shall include in an annex any necessary—

(i) classified information;

(ii) law enforcement sensitive information;

(iii) proprietary business information; or

(iv) trade secrets (as that term is defined in section 1839 of title 18).

(B) Availability

Any annex described in clause (i)— [3]

(i) shall be available, as appropriate, and consistent with the National Security Act of 1947 [50 U.S.C. 3001 et seq.], to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives; and

(ii) shall not be made available to the public.

(4) Time for report

Each report required under subparagraph (A) [2] shall be—

(A) submitted not later than 180 days after August 3, 2007; and

(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).[2]

(Pub. L. 110–53, title VIII, §804, Aug. 3, 2007, 121 Stat. 362.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c)(3)(B)(i), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in Title 50, and is now classified principally to chapter 44 (§3001 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

[1] So in original. Probably should be "paragraph (3)".

[2] So in original. Probably should be "paragraph (1)".

[3] So in original. Probably should be "subparagraph (A)—".

CHAPTER 21F—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

Sec.

2000ff. Definitions.
2000ff–1. Employer practices.
2000ff–2. Employment agency practices.
2000ff–3. Labor organization practices.
2000ff–4. Training programs.
2000ff–5. Confidentiality of genetic information.
2000ff–6. Remedies and enforcement.
2000ff–7. Disparate impact.
2000ff–8. Construction.
2000ff–9. Medical information that is not genetic information.
2000ff–10. Regulations.
2000ff–11. Authorization of appropriations.

§2000ff. Definitions

In this chapter:

(1) Commission

The term "Commission" means the Equal Employment Opportunity Commission as created by section 2000e–4 of this title.

(2) Employee; employer; employment agency; labor organization; member

(A) In general

The term "employee" means—

(i) an employee (including an applicant), as defined in section 2000e(f) of this title;

(ii) a State employee (including an applicant) described in section 2000e–16c(a) of this title;

(iii) a covered employee (including an applicant), as defined in section 1301 of title 2;
(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3; or
(v) an employee or applicant to which section 2000e–16(a) of this title applies.

(B) Employer

The term "employer" means—
(i) an employer (as defined in section 2000e(b) of this title);
(ii) an entity employing a State employee described in section 2000e–16c(a) of this title;
(iii) an employing office, as defined in section 1301 of title 2;
(iv) an employing office, as defined in section 411(c) of title 3; or
(v) an entity to which section 2000e–16(a) of this title applies.

(C) Employment agency; labor organization

The terms "employment agency" and "labor organization" have the meanings given the terms in section 2000e of this title.

(D) Member

The term "member", with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) Family member

The term "family member" means, with respect to an individual—
(A) a dependent (as such term is used for purposes of section 1181(f)(2) of title 29) of such individual, and
(B) any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual or of an individual described in subparagraph (A).

(4) Genetic information

(A) In general

The term "genetic information" means, with respect to any individual, information about—
(i) such individual's genetic tests,
(ii) the genetic tests of family members of such individual, and
(iii) the manifestation of a disease or disorder in family members of such individual.

(B) Inclusion of genetic services and participation in genetic research

Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual.

(C) Exclusions

The term "genetic information" shall not include information about the sex or age of any individual.

(5) Genetic monitoring

The term "genetic monitoring" means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) Genetic services

The term "genetic services" means—
(A) a genetic test;
(B) genetic counseling (including obtaining, interpreting, or assessing genetic information); or
(C) genetic education.

(7) Genetic test

(A) In general

The term "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) Exceptions

The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

(Pub. L. 110–233, title II, §201, May 21, 2008, 122 Stat. 905.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 110–233, title II, §213, May 21, 2008, 122 Stat. 920, provided that: "This title [enacting this chapter] takes effect on the date that is 18 months after the date of enactment of this Act [May 21, 2008]."

SHORT TITLE

Pub. L. 110–233, §1(a), May 21, 2008, 122 Stat. 881, provided that: "This Act [enacting this chapter, sections 300gg–53 and 1320d–9 of this title, and section 9834 of Title 26, Internal Revenue Code, amending sections 300gg–1, 300gg–21, 300gg–22, 300gg–61, 300gg–91, and 1395ss of this title, sections 9802 and 9832 of Title 26, and sections 216, 1132, 1182, and 1191b of Title 29, Labor, and enacting provisions set out as notes under this section, sections 300gg–1, 1320d–9, and 1395ss of this title, section 9802 of Title 26, and sections 216 and 1132 of Title 29] may be cited as the 'Genetic Information Nondiscrimination Act of 2008'."

SEVERABILITY

Pub. L. 110–233, title III, §301, May 21, 2008, 122 Stat. 920, provided that: "If any provision of this Act [see Short Title note above], an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby."

FINDINGS

Pub. L. 110–233, §2, May 21, 2008, 122 Stat. 881, as amended by Pub. L. 111–256, §2(j), Oct. 5, 2010, 124 Stat. 2644, provided that: "Congress makes the following findings:

"(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

"(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic 'defects' such as intellectual disabilities, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to 'correct' apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

"(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell

Anemia Control Act [Pub. L. 92–294, see Tables for classification], which withholds Federal funding from States unless sickle cell testing is voluntary.

"(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of pre-employment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case [sic] Norman-Bloodsaw v. Lawrence Berkeley Laboratory (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

"(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies."

[For meaning of references to an intellectual disability and to individuals with intellectual disabilities in provisions amended by section 2 of Pub. L. 111–256, see section 2(k) of Pub. L. 111–256, set out as a note under section 1400 of Title 20, Education.]

§2000ff–1. Employer practices

(a) Discrimination based on genetic information

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

(b) Acquisition of genetic information

It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 2613 of title 29 or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available

(including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests or requires genetic information of such employer's employees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) Preservation of protections

In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 2000ff–5 of this title.

(Pub. L. 110–233, title II, §202, May 21, 2008, 122 Stat. 907.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b)(5)(D), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(5)(D)(i), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, which is classified principally to chapter 22 (§801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b)(5)(D)(i), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–2. Employment agency practices

(a) Discrimination based on genetic information

It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual;

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this chapter.

(b) Acquisition of genetic information

It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 2613 of title 29 or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970

(29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals.

(c) Preservation of protections

In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 2000ff–5 of this title.

(Pub. L. 110–233, title II, §203, May 21, 2008, 122 Stat. 908.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b)(5)(D), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(5)(D)(i), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, which is classified principally to chapter 22 (§801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b)(5)(D)(i), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–3. Labor organization practices

(a) Discrimination based on genetic information

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member;

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member; or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this chapter.

(b) Acquisition of genetic information

It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 2613 of title 29 or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members.

(c) Preservation of protections

In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 2000ff–5 of this title.

(Pub. L. 110–233, title II, §204, May 21, 2008, 122 Stat. 910.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b)(5)(D), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(5)(D)(i), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, which is classified principally to chapter 22 (§801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b)(5)(D)(i), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–4. Training programs

(a) Discrimination based on genetic information

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual; or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this chapter.

(b) Acquisition of genetic information

It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 2613 of title 29 or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines,

periodicals, and books, but not including medical databases or court records) that include family medical history;

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals; or

(6) where the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory or for purposes of human remains identification, and requests or requires genetic information of such employer's apprentices or trainees, but only to the extent that such genetic information is used for analysis of DNA identification markers for quality control to detect sample contamination.

(c) Preservation of protections

In the case of information to which any of paragraphs (1) through (6) of subsection (b) applies, such information may not be used in violation of paragraph (1), (2), or (3) of subsection (a) or treated or disclosed in a manner that violates section 2000ff–5 of this title.

(Pub. L. 110–233, title II, §205, May 21, 2008, 122 Stat. 911.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (b)(5)(D), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(5)(D)(i), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, which is classified principally to chapter 22 (§801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b)(5)(D)(i), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–5. Confidentiality of genetic information

(a) Treatment of information as part of confidential medical record

If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member, such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member. An employer, employment agency, labor organization, or joint labor-management committee shall be considered to be in compliance with the maintenance of information requirements of this subsection with respect to genetic information subject to this subsection that is maintained with and treated as a confidential medical record under section 12112(d)(3)(B) of this title.

(b) Limitation on disclosure

An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member except—

(1) to the employee or member of a labor organization (or family member if the family member is receiving the genetic services) at the written request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall inform the employee or member of the court order and any genetic information that was disclosed pursuant to such order;

(4) to government officials who are investigating compliance with this chapter if the information is relevant to the investigation;

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 2613 of title 29 or such requirements under State family and medical leave laws; or

(6) to a Federal, State, or local public health agency only with regard to information that is described in section 2000ff(4)(A)(iii) of this title and that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, and that the employee whose family member or family members is or are the subject of a disclosure under this paragraph is notified of such disclosure.

(c) Relationship to HIPAA regulations

With respect to the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), this chapter does not prohibit a covered entity under such regulations from any use or disclosure of health information that is authorized for the covered entity under such regulations. The previous sentence does not affect the authority of such Secretary to modify such regulations.

(Pub. L. 110–233, title II, §206, May 21, 2008, 122 Stat. 913.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12112(d)(3)(B) of this title, referred to in subsec. (a), was in the original "section 102(d)(3)(B) of the Americans With Disabilities Act", and was translated as meaning "section 102(d)(3)(B) of the Americans With Disabilities Act of 1990" to reflect the probable intent of Congress.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (c), is section 264 of Pub. L. 104–191, which is set out as a note under section 1320d–2 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–6. Remedies and enforcement

(a) Employees covered by title VII of the Civil Rights Act of 1964

(1) In general

The powers, procedures, and remedies provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 [42 U.S.C. 2000e–4 to 2000e–6, 2000e–8 to 2000e–10] to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, procedures, and remedies this chapter provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000ff(2)(A)(i) of this title, except as provided in paragraphs (2) and (3).

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title,[1] shall be powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(b) Employees covered by Government Employee Rights Act of 1991

(1) In general

The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this chapter provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000ff(2)(A)(ii) of this title, except as provided in paragraphs (2) and (3).

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title,[1] shall be powers, remedies, and procedures this chapter provides to the Commission, or

any person, alleging such a practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be powers, remedies, and procedures this chapter provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(c) Employees covered by Congressional Accountability Act of 1995

(1) In general

The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act [2 U.S.C. 1311(a)(1)] shall be the powers, remedies, and procedures this chapter provides to that Board, or any person, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000ff(2)(A)(iii) of this title, except as provided in paragraphs (2) and (3).

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title,[1] shall be powers, remedies, and procedures this chapter provides to that Board, or any person, alleging such a practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be powers, remedies, and procedures this chapter provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(4) Other applicable provisions

With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) Employees covered by chapter 5 of title 3

(1) In general

The powers, remedies, and procedures provided in chapter 5 of title 3 to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000ff(2)(A)(iv) of this title, except as provided in paragraphs (2) and (3).

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title,[1] shall be powers, remedies, and procedures this chapter provides to the President, the Commission, such Board, or any person, alleging such a practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be powers, remedies, and procedures this chapter provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(e) Employees covered by section 717 of the Civil Rights Act of 1964

(1) In general

The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee or applicant described in section 2000ff(2)(A)(v) of this title, except as provided in paragraphs (2) and (3).

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title,[1] shall be powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(f) Prohibition against retaliation

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter. The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) Definition

In this section, the term "Commission" means the Equal Employment Opportunity Commission.

(Pub. L. 110–233, title II, §207, May 21, 2008, 122 Stat. 914.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Government Employee Rights Act of 1991, referred to in subsec. (b), is title III of Pub. L. 102–166, Nov. 21, 1991, 105 Stat. 1088, which is classified generally to sections 2000e–16a to 2000e–16c of this title. For complete classification of this Act to the Code, see section 2000e–16a(a) of Title 42 and Tables.

The Congressional Accountability Act of 1995, referred to in subsec. (c)(1), (4), is Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to chapter 24 (§1301 et seq.) of Title 2, The Congress. Title III of the Act is classified generally to subchapter III (§1381 et seq.) of chapter 24 of Title 2. For complete classification of this Act to the Code, see Short Title note under section 1301 of Title 2 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

[1] *So in original. The comma probably should not appear.*

§2000ff–7. Disparate impact

(a) General rule

Notwithstanding any other provision of this Act, "disparate impact", as that term is used in section 2000e–2(k) of this title, on the basis of genetic information does not establish a cause of action under this Act.

(b) Commission

On the date that is 6 years after May 21, 2008, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the "Commission") to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) Membership

(1) In general

The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and Labor of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and Labor of the House of Representatives.

(2) Compensation and expenses

The members of the Commission shall not receive compensation for the performance of services for the Commission, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Commission.

(d) Administrative provisions

(1) Location

The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) Detail of Government employees

Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) Information from Federal agencies

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) Hearings

The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the

objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) Postal services

The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) Report

Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) Authorization of appropriations

There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

(Pub. L. 110–233, title II, §208, May 21, 2008, 122 Stat. 917.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), and (e), is Pub. L. 110–233, May 21, 2008, 122 Stat. 881, known as the Genetic Information Nondiscrimination Act of 2008. For complete classification of this Act to the Code, see Short Title note set out under section 2000ff of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–8. Construction

(a) In general

Nothing in this chapter shall be construed to—

(1) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this chapter, including the protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) (including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112)), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this chapter against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this chapter; or

(B) provide for enforcement of, or penalties for violation of, any requirement or prohibition applicable to any employer, employment agency, labor organization, or joint labor-management committee subject to enforcement for a violation under—

(i) the amendments made by title I of this Act;

(ii)(I) subsection (a) of section 1181 of title 29 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 1182(a)(1)(F) of title 29; or

(III) section 1182(b)(1) of title 29 as such section applies with respect to genetic information as a health status-related factor;

(iii)(I) subsection (a) of section 2701 [1] of the Public Health Service Act as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 2702(a)(1)(F) [1] of such Act; or

(III) section 2702(b)(1) [1] of such Act as such section applies with respect to genetic information as a health status-related factor; or

(iv)(I) subsection (a) of section 9801 of title 26 as such section applies with respect to genetic information pursuant to subsection (b)(1)(B) of such section;

(II) section 9802(a)(1)(F) of title 26; or

(III) section 9802(b)(1) of title 26 as such section applies with respect to genetic information as a health status-related factor;

(3) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(4) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule);

(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations; or

(7) require any specific benefit for an employee or member or a family member of an employee or member under any group health plan or health insurance issuer offering group health insurance coverage in connection with a group health plan.

(b) Genetic information of a fetus or embryo

Any reference in this chapter to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(c) Relation to authorities under title I

With respect to a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, this chapter does not prohibit any activity of such plan or issuer that is authorized for the plan or issuer under any provision of law referred to in clauses (i) through (iv) of subsection (a)(2)(B).

(Pub. L. 110–233, title II, §209, May 21, 2008, 122 Stat. 918.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(1), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(1), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Title I, referred to in subsecs. (a)(2)(B)(i) and (c), means title I of Pub. L. 110–233. For complete

classification of title I to the Code, see Tables.

Section 2701 of the Public Health Service Act, referred to in subsec. (a)(2)(B)(iii)(I), is section 2701 of act July 1, 1944, which was classified to section 300gg of this title, was renumbered section 2704, effective for plan years beginning on or after Jan. 1, 2014, with certain exceptions, and amended, by Pub. L. 111–148, title I, §§1201(2), 1563(c)(1), formerly §1562(c)(1), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 154, 264, 911, and was transferred to section 300gg–3 of this title. A new section 2701 of act July 1, 1944, related to fair health insurance premiums, was added, effective for plan years beginning on or after Jan. 1, 2014, and amended, by Pub. L. 111–148, title I, §1201(4), title X, §10103(a), Mar. 23, 2010, 124 Stat. 155, 892, and is classified to section 300gg of this title.

Section 2702 of the Public Health Service Act, referred to in subsec. (a)(2)(B)(iii)(II), (III), is section 2702 of act July 1, 1944, which was classified to section 300gg–1 of this title, was amended by Pub. L. 111–148, title I, §1201(3), Mar. 23, 2010, 124 Stat. 154, and was transferred to subsecs. (d) to (f) of section 300gg–4 of this title, effective for plan years beginning on or after Jan. 1, 2014. A new section 2702 of act July 1, 1944, related to guaranteed availability of coverage, was added by Pub. L. 111–148, title I, §1201(4), Mar. 23, 2010, 124 Stat. 156, effective for plan years beginning on or after Jan. 1, 2014, and is classified to section 300gg–1 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

[1] *See References in Text note below.*

§2000ff–9. Medical information that is not genetic information

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this chapter based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

(Pub. L. 110–233, title II, §210, May 21, 2008, 122 Stat. 920.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–10. Regulations

Not later than 1 year after May 21, 2008, the Commission shall issue final regulations to carry out this chapter.

(Pub. L. 110–233, title II, §211, May 21, 2008, 122 Stat. 920.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

§2000ff–11. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter (except for section 2000ff–7 of this title).

(Pub. L. 110–233, title II, §212, May 21, 2008, 122 Stat. 920.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after May 21, 2008, see section 213 of Pub. L. 110–233, set out as a note under section 2000ff of this title.

CHAPTER 21G—PREGNANT WORKER FAIRNESS

Sec.

2000gg. Definitions.
2000gg–1. Nondiscrimination with regard to reasonable accommodations related to pregnancy.
2000gg–2. Remedies and enforcement.
2000gg–3. Rulemaking.
2000gg–4. Waiver of State immunity.
2000gg–5. Relationship to other laws.
2000gg–6. Severability.

§2000gg. Definitions

As used in this chapter—

(1) the term "Commission" means the Equal Employment Opportunity Commission;

(2) the term "covered entity"—

(A) has the meaning given the term "respondent" in section 2000e(n) of this title; and

(B) includes—

(i) an employer, which means a person engaged in industry affecting commerce who has 15 or more employees as defined in section 2000e(b) of this title;

(ii) an employing office, as defined in section 1301 of title 2 and section 411(c) of title 3;

(iii) an entity employing a State employee described in section 2000e–16c(a) of this title; and

(iv) an entity to which section 2000e–16(a) of this title applies;

(3) the term "employee" means—

(A) an employee (including an applicant), as defined in section 2000e(f) of this title;

(B) a covered employee (including an applicant), as defined in section 1301 of title 2, and an individual described in section 1311(d) of title 2;

(C) a covered employee (including an applicant), as defined in section 411(c) of title 3;

(D) a State employee (including an applicant) described in section 2000e–16c(a) of this title; or

(E) an employee (including an applicant) to which section 2000e–16(a) of this title applies;

(4) the term "known limitation" means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee's representative has communicated to the employer whether or not such condition meets the definition of disability specified in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(5) the term "person" has the meaning given such term in section 2000e(a) of this title;

(6) the term "qualified employee" means an employee or applicant who, with or without

reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if—

(A) any inability to perform an essential function is for a temporary period;

(B) the essential function could be performed in the near future; and

(C) the inability to perform the essential function can be reasonably accommodated; and

(7) the terms "reasonable accommodation" and "undue hardship" have the meanings given such terms in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be construed as such terms are construed under such Act [42 U.S.C. 12101 et seq.] and as set forth in the regulations required by this chapter, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation.

(Pub. L. 117–328, div. II, §102, Dec. 29, 2022, 136 Stat. 6084.)

EDITORIAL NOTES

REFERENCES IN TEXT

Such Act, referred to in par. (7), means the Americans with Disabilities Act of 1990, Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 117–328, div. II, §109, Dec. 29, 2022, 136 Stat. 6089, provided that: "This division [enacting this chapter and provisions set out as a note under this section] shall take effect on the date that is 180 days after the date of enactment of this Act [Dec. 29, 2022]."

SHORT TITLE

Pub. L. 117–328, div. II, §101, Dec. 29, 2022, 136 Stat. 6084, provided that: "This division [enacting this chapter and provisions set out as a note under this section] may be cited as the 'Pregnant Workers Fairness Act'."

§2000gg–1. Nondiscrimination with regard to reasonable accommodations related to pregnancy

It shall be an unlawful employment practice for a covered entity to—

(1) not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process referred to in section 2000gg(7) of this title;

(3) deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee;

(4) require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or

(5) take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the

employee.

(Pub. L. 117–328, div. II, §103, Dec. 29, 2022, 136 Stat. 6085.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117–328, set out as a note under section 2000gg of this title.

§2000gg–2. Remedies and enforcement

(a) Employees covered by title VII of the Civil Rights Act of 1964

(1) In general

The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) [42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, 2000e–9, and 2000e–10] to the Commission, the Attorney General, or any person alleging a violation of title VII of such Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(A) of this title except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(b) Employees covered by Congressional Accountability Act of 1995

(1) In general

The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) for the purposes of addressing allegations of violations of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this chapter provides to address an allegation of an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(B) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title for the purposes of addressing allegations of such a violation shall be the powers, remedies, and procedures this chapter provides to address allegations of such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, for purposes of addressing

allegations of such a violation, shall be the powers, remedies, and procedures this chapter provides to address any allegation of such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(c) Employees covered by chapter 5 of title 3

(1) In general

The powers, remedies, and procedures provided in chapter 5 of title 3 to the President, the Commission, the Merit Systems Protection Board, or any person alleging a violation of section 411(a)(1) of such title shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(C) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(d) Employees covered by Government Employee Rights Act of 1991

(1) In general

The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b; 2000e–16c) to the Commission or any person alleging a violation of section 302(a)(1) of such Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this chapter provides to the Commission or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(D) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the Commission or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the Commission or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(e) Employees covered by section 717 of the Civil Rights Act of 1964

(1) In general

The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person alleging a violation of that section shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any

person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(E) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(f) Prohibition against retaliation

(1) In general

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this chapter or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(2) Prohibition against coercion

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(3) Remedy

The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) Limitation

Notwithstanding subsections (a)(3), (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful employment practice involves the provision of a reasonable accommodation pursuant to this chapter or regulations implementing this chapter, damages may not be awarded under section 1981a of this title if the covered entity demonstrates good faith efforts, in consultation with the employee with known limitations related to pregnancy, childbirth, or related medical conditions who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such employee with an equally effective opportunity and would not cause an undue hardship on the operation of the covered entity.

(Pub. L. 117–328, div. II, §104, Dec. 29, 2022, 136 Stat. 6085.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Congressional Accountability Act of 1995, referred to in subsec. (b), is Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to chapter 24 (§1301 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note under section 1301 of Title 2 and Tables.

The Government Employee Rights Act of 1991, referred to in subsec. (d), is title III of Pub. L. 102–166, Nov. 21, 1991, 105 Stat. 1088, which is classified generally to sections 2000e–16a to 2000e–16c of this title. For complete classification of this Act to the Code, see section 2000e–16a(a) of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117–328, set out as a note under section 2000gg of this title.

§2000gg–3. Rulemaking

(a) EEOC rulemaking

Not later than 1 year after December 29, 2022, the Commission shall issue regulations in an accessible format in accordance with subchapter II of chapter 5 of title 5 to carry out this chapter. Such regulations shall provide examples of reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions.

(b) OCWR rulemaking

(1) In general

Not later than 6 months after the Commission issues regulations under subsection (a), the Board (as defined in section 1301 of title 2) shall (in accordance with section 1384 of title 2), issue regulations to implement the provisions of this chapter made applicable to employees described in section 2000gg(3)(B) of this title, under section 2000gg–2(b) of this title.

(2) Parallel with agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations issued by the Commission under subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulations issued under paragraph (1) that a modification of such substantive regulations would be more effective for the implementation of the rights and protection under this chapter.

(Pub. L. 117–328, div. II, §105, Dec. 29, 2022, 136 Stat. 6088.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117–328, set out as a note under section 2000gg of this title.

§2000gg–4. Waiver of State immunity

A State shall not be immune under the 11th Amendment to the Constitution from an action in a Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

(Pub. L. 117–328, div. II, §106, Dec. 29, 2022, 136 Stat. 6089.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117–328, set out as a note under section 2000gg of this title.

§2000gg–5. Relationship to other laws

(a) In general

Nothing in this chapter shall be construed—

(1) to invalidate or limit the powers, remedies, and procedures under any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for individuals affected by pregnancy, childbirth, or related medical conditions; or

(2) by regulation or otherwise, to require an employer-sponsored health plan to pay for or cover any particular item, procedure, or treatment or to affect any right or remedy available under any other Federal, State, or local law with respect to any such payment or coverage requirement.

(b) Rule of construction

This chapter is subject to the applicability to religious employment set forth in section 2000e–1(a) of this title.

(Pub. L. 117–328, div. II, §107, Dec. 29, 2022, 136 Stat. 6089.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117–328, set out as a note under section 2000gg of this title.

§2000gg–6. Severability

If any provision of this chapter or the application of that provision to particular persons or circumstances is held invalid or found to be unconstitutional, the remainder of this chapter and the application of that provision to other persons or circumstances shall not be affected.

(Pub. L. 117–328, div. II, §108, Dec. 29, 2022, 136 Stat. 6089.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117–328, set out as a note under section 2000gg of this title.

CHAPTER 22—INDIAN HOSPITALS AND HEALTH FACILITIES

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SUBCHAPTER I—MAINTENANCE AND OPERATION

§2001. Hospitals and health facilities transferred to Public Health Service; restriction on closing hospitals

(a) All functions, responsibilities, authorities, and duties of the Department of the Interior, the Bureau of Indian Affairs, Secretary of the Interior, and the Commissioner of Indian Affairs relating to the maintenance and operation of hospital and health facilities for Indians, and the conservation of the health of Indians, are transferred to, and shall be administered by, the Surgeon General of the United States Public Health Service, under the supervision and direction of the Secretary of Health and Human Services: *Provided*, That hospitals now in operation for a specific tribe or tribes of Indians shall not be closed prior to July 1, 1956, without the consent of the governing body of the tribe or its organized council.

(b) In carrying out his functions, responsibilities, authorities, and duties under this subchapter, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.

(Aug. 5, 1954, ch. 658, §1, 68 Stat. 674; Pub. L. 93–222, §6(a), Dec. 29, 1973, 87 Stat. 935; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

EDITORIAL NOTES

AMENDMENTS

1973—Pub. L. 93–222 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Act Aug. 5, 1954, ch. 658, §6, 68 Stat. 675, as amended by Pub. L. 86–121, §2, July 31, 1959, 73 Stat. 268, provided that: "Sections 1 to 5, inclusive, of this Act [enacting this subchapter and repealing sections 444 to 449 of Title 25, Indians] shall take effect July 1, 1959."

SHORT TITLE

This subchapter is popularly known as the "Transfer Act".

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

§2002. Transfer of hospitals and facilities to State or private institutions; conditions and restrictions; failure to meet requirements

Whenever the health needs of the Indians can be better met thereby, the Secretary of Health and Human Services is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health and Human Services to a non-Indian entity or organization under this subchapter unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided*, That if, following such transfer by the United States Public Health Service, the Secretary of Health and Human Services finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health and Human Services shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility.

(Aug. 5, 1954, ch. 658, §2, 68 Stat. 674; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Section effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as a note under section 2001 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§2003. Regulations

The Secretary of Health and Human Services is also authorized to make such other regulations as he deems desirable to carry out the provisions of this subchapter.

(Aug. 5, 1954, ch. 658, §3, 68 Stat. 674; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20,

Education.

EFFECTIVE DATE

Section effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as a note under section 2001 of this title.

§2004. Transfer of personnel, property, records, monies

The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Office of Management and Budget shall determine to relate primarily to the functions transferred to the Public Health Service of the Department of Health and Human Services hereunder, are transferred for use in the administration of the functions so transferred. Any of the personnel transferred pursuant to this subchapter which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service.

(Aug. 5, 1954, ch. 658, §4, 68 Stat. 674; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Section effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as a note under section 2001 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title.

§2004a. Sanitation facilities

(a) Powers of Surgeon General

In carrying out his functions under this subchapter with respect to the provision of sanitation facilities and services, the Surgeon General is authorized—

(1) to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage- and waste-disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities, and lands;

(2) to acquire lands, or rights or interests therein, including sites, rights-of-way, and easements,

and to acquire rights to the use of water, by purchase, lease, gift, exchange, or otherwise, when necessary for the purposes of this section, except that no lands or rights or interests therein may be acquired from an Indian tribe, band, group, community, or individual other than by gift or for nominal consideration, if the facility for which such lands or rights or interests therein are acquired is for the exclusive benefit of such tribe, band, group, community, or individual, respectively;

(3) to make such arrangements and agreements with appropriate public authorities and nonprofit organizations or agencies and with the Indians to be served by such sanitation facilities (and any other person so served) regarding contributions toward the construction, improvement, extension and provision thereof, and responsibilities for maintenance thereof, as in his judgment are equitable and will best assure the future maintenance of facilities in an effective and operating condition; and

(4) to transfer any facilities provided under this section, together with appurtenant interests in land, with or without a money consideration, and under such terms and conditions as in his judgment are appropriate, having regard to the contributions made and the maintenance responsibilities undertaken, and the special health needs of the Indians concerned, to any State or Territory or subdivision or public authority thereof, or to any Indian tribe, group, band, or community or, in the case of domestic appurtenances and fixtures, to any one or more of the occupants of the Indian home served thereby.

(b) Transfer and reversion of lands

The Secretary of the Interior is authorized to transfer to the Surgeon General for use in carrying out the purposes of this section such interest and rights in federally owned lands under the jurisdiction of the Department of the Interior, and in Indian-owned lands that either are held by the United States in trust for Indians or are subject to a restriction against alienation imposed by the United States, including appurtenances and improvements thereto, as may be requested by the Surgeon General. Any land or interest therein, including appurtenances and improvements to such land, so transferred shall be subject to disposition by the Surgeon General in accordance with paragraph (4) of subsection (a): *Provided*, That, in any case where a beneficial interest in such land is in any Indian, or Indian tribe, band, or group, the consent of such beneficial owner to any such transfer or disposition shall first be obtained: *Provided further*, That where deemed appropriate by the Secretary of the Interior provisions shall be made for a reversion of title to such land if it ceases to be used for the purpose for which it is transferred or disposed.

(c) Project consultation and participation

The Surgeon General shall consult with, and encourage the participation of, the Indians concerned, States and political subdivisions thereof, in carrying out the provisions of this section.

(Aug. 5, 1954, ch. 658, §7, as added Pub. L. 86–121, §1, July 31, 1959, 73 Stat. 267.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

§2004b. Implementation of education, hospital and health facility, etc., contracts and grants by Public Health Service personnel; request for detail of

personnel

In accordance with subsection (d) of section 215 of this title, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to sections 5321 and 5322 of title 25.

(Aug. 5, 1954, ch. 658, §8, as added Pub. L. 93–638, title I, §104(b), formerly §105(b), Jan. 4, 1975, 88 Stat. 2208; renumbered §104(b) and amended Pub. L. 100–472, title II, §203(a), (c), Oct. 5, 1988, 102 Stat. 2290.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–472, which directed amendment of this section by substituting reference to sections 5321 and 5322 of title 25 for reference to section 5321, former section 450g, "and" section 5322 of title 25, was executed by making the substitution for reference to section 5321, former section 450g, "or" section 5322 of title 25, to reflect the probable intent of Congress.

SUBCHAPTER II—CONSTRUCTION OF HEALTH FACILITIES AND COMMUNITY HOSPITALS

§2005. Financial assistance by Surgeon General

Whenever the Surgeon General of the Public Health Service, in carrying out his functions under subchapter I of this chapter with respect to the provision of health services to Indians in any particular area, determines, after consultation with such Indians, that the provision of financial assistance to one or more public or other nonprofit agencies or organizations for the construction of a community hospital constitutes a method of making needed hospital facilities available for such Indians which is more desirable and effective than direct Federal construction, he may provide such financial assistance from funds available for the construction of Indian health facilities for such Indians.

(Pub. L. 85–151, §1, Aug. 16, 1957, 71 Stat. 370.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

§2005a. Amount of assistance; determination of costs

The amount of such financial assistance shall not exceed that portion of the reasonable cost of the construction project which is attributable to the Indian health needs, as determined by the Surgeon General: *Provided*, That in determining, for the purposes of this subchapter, the portion of the cost of the construction project attributable to Indian health needs, the Surgeon General shall take into

account only those categories of Indians for which hospital and medical care, including outpatient care and field health services, is being provided by or at the expense of the Public Health Service on August 16, 1957.

(Pub. L. 85–151, §2, Aug. 16, 1957, 71 Stat. 371.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

§2005b. Conditions of assistance

As a condition to providing assistance under section 2005 of this title, the Surgeon General shall—

(a) require plans and specifications meeting such standards of construction and equipment as he may prescribe, and

(b) obtain such assurances and agreements as in his judgment are equitable in the light of the financial assistance provided under this subchapter and are necessary to assure the availability of the facility for the provision of hospital and medical care to Indians and to assure that the hospital is operated in compliance with State standards for operation and maintenance of hospitals which receive Federal aid under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.].

(Pub. L. 85–151, §3, Aug. 16, 1957, 71 Stat. 371.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Health Service Act, referred to in par. (b), is act July 1, 1944, ch. 373, 58 Stat. 682. Title VI of the Act is classified generally to subchapter IV (§291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

§2005c. Payments

The Surgeon General shall make payments under section 2005 of this title in advance or by way of reimbursement and in such installments consistent with construction progress, as he may determine.

(Pub. L. 85–151, §4, Aug. 16, 1957, 71 Stat. 371.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

§2005d. Eligibility of assisted project for aid under other acts; excluded costs

Neither assistance provided under this subchapter for meeting part of the cost of construction of a hospital project, nor the giving of any assurance required as a condition of such assistance, shall be construed as affecting in any way the eligibility of such project for aid under title VI of the Public Health Service Act [42 U.S.C. 291 et seq.] or any other Federal Act authorizing financial aid in the construction of such project, but construction costs met with Federal funds made available under this subchapter shall not be included in the cost of construction in which the Federal Government shares under such title VI or other Federal Act.

(Pub. L. 85–151, §5, Aug. 16, 1957, 71 Stat. 371.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682. Title VI of the Act is classified generally to subchapter IV (§291 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

§2005e. Definitions

As used in this subchapter:

(a) "Hospital" includes diagnostic or treatment centers and general hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(b) "Diagnostic or treatment center" means a facility for the diagnosis or diagnosis and treatment of ambulatory patients—

(1) which is operated in connection with a hospital, or

(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or, in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State.

(c) "Nonprofit" means owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) "Construction" means construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities), including architects and engineering fees, but excluding legal fees, the cost of off-site improvements and the cost of the acquisition of land.

(Pub. L. 85–151, §6, Aug. 16, 1957, 71 Stat. 371.)

§2005f. Supervision or control of assisted hospitals

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital, with respect to which any funds have been or may be expended under this subchapter.

(Pub. L. 85–151, §7, Aug. 16, 1957, 71 Stat. 372.)

CHAPTER 23—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

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EDITORIAL NOTES

CODIFICATION

The Atomic Energy Act of 1954, which is classified principally to this chapter, is act Aug. 1, 1946, ch. 724. It was originally enacted as the Atomic Energy Act of 1946, act Aug. 1, 1946, ch. 724, 60 Stat. 755, which consisted of sections 1 to 21 and was classified generally to chapter 14 (§1801 et seq.) of this title. The Atomic Energy Act of 1946 was renamed the Atomic Energy Act of 1954 and amended generally by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, and was subsequently transferred to this chapter. Sections that were enacted as part of the 1954 general amendment are shown herein as having been added to act Aug. 1, 1946, and not as amending it, due to the extensive revision and restatement of the 1946 Act's provisions by the 1954 Act. Sections added to the Act after the 1954 general amendment are shown as being added directly to act Aug. 1, 1946, without reference in their source credits to act Aug. 30, 1954.

Division A—Atomic Energy

SUBCHAPTER I—GENERAL PROVISIONS

§2011. Congressional declaration of policy

Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

(a) the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

(b) the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

(Aug. 1, 1946, ch. 724, title I, §1, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1 of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which related to declaration of policy and purpose of former chapter 14 of this title, was classified to section 1801 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118–67, div. B, §1(a), July 9, 2024, 138 Stat. 1448, provided that: "This division [enacting sections 2155b, 2201b, and 10109 of this title, amending sections 2014, 2133, 2134, 2215, 2231, 2235, 5843, and 16274a of this title, enacting provisions set out as notes under this section and sections 2073, 2077, 2133, 2155, 2201, 2201b, 2215, 2235, and 16281 of this title, and amending provisions set out as notes under sections 2133 and 2215 of this title] may be cited as the 'Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024' or the 'ADVANCE Act of 2024'."

Pub. L. 118–62, §1, May 13, 2024, 138 Stat. 1022, provided that: "This Act [amending section 2297h–10a of this title and enacting provisions set out as a note under section 2297h–10a of this title] may be cited as the 'Prohibiting Russian Uranium Imports Act'."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–139, §1, June 7, 2022, 136 Stat. 1258, provided that: "This Act [amending provisions set out as a note under section 2210 of this title] may be cited as the 'RECA Extension Act of 2022'."

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 115–439, §1(a), Jan. 14, 2019, 132 Stat. 5565, provided that: "This Act [enacting section 2215 of this title, amending sections 2134 and 2214 of this title, repealing section 2214 of this title, and enacting provisions set out as notes under sections 2133, 2134, 2214, and 2215 of this title] may be cited as the 'Nuclear Energy Innovation and Modernization Act'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–17, §1, May 22, 2015, 129 Stat. 201, provided that: "This Act [enacting section 2160e of this title] may be cited as the 'Iran Nuclear Agreement Review Act of 2015'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–239, div. C, title XXXI, §3171, Jan. 2, 2013, 126 Stat. 2211, provided that: "This subtitle [subtitle F (§§3171–3178) of title XXXI of div. C of Pub. L. 112–239, enacting sections 2065 and 2142 of this title, amending section 2160d of this title, and enacting provisions set out as a note under section 2065 of this title] may be cited as the 'American Medical Isotopes Production Act of 2012'."

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, §601, Aug. 8, 2005, 119 Stat. 779, provided that: "This subtitle [subtitle A (§§601–610) of title VI of Pub. L. 109–58, amending sections 2210 and 2282a of this title and enacting provisions set out as notes under sections 2210 and 2282a of this title] may be cited as the 'Price-Anderson Amendments Act of 2005'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–245, §1, July 10, 2000, 114 Stat. 501, provided that: "This Act [enacting section 285a–9 of this title and enacting and amending provisions set out as notes under section 2210 of this title] may be cited as the 'Radiation Exposure Compensation Act Amendments of 2000'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–134, title III, §3101, Apr. 26, 1996, 110 Stat. 1321–335, provided that: "This subchapter [subch. A (§§3101–3117) of ch. 1 of title III of Pub. L. 104–134, enacting sections 2297h to 2297h–13 of this title, amending sections 2014, 2239, 2243, 2282, 2296b–7, 2297f, and 2297f–1 of this title and section 9101 of Title 31, Money and Finance, repealing sections 2297 to 2297e–7 of this title, and enacting provisions set out as notes under section 2297 of this title and section 9101 of Title 31] may be cited as the 'USEC Privatization Act'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–408, §1, Aug. 20, 1988, 102 Stat. 1066, provided that: "This Act [enacting section 2282a of

this title, amending sections 2014, 2210, and 2273 of this title, and enacting provisions set out as notes under sections 2014 and 2210 of this title] may be cited as the 'Price-Anderson Amendments Act of 1988'."

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88–489, §21, Aug. 26, 1964, 78 Stat. 607, provided that: "This Act [amending sections 2012, 2013, 2073 to 2078, 2135, 2153, 2201, 2221, 2233, and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under sections 2012 and 2072 of this title] may be cited as the 'Private Ownership of Special Nuclear Materials Act'."

SHORT TITLE OF 1958 AMENDMENT

Pub. L. 85–846, §1, Aug. 28, 1958, 72 Stat. 1084, provided: "That this Act [enacting sections 2291 to 2296 of this title] may be cited as the 'EURATOM Cooperation Act of 1958'."

SHORT TITLE

Act Aug. 1, 1946, ch. 724, title I, §291, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944, provided that: "This Act [enacting this chapter, amending sections 190j and 622 of Title 2, The Congress, and repealing sections 2251 to 2257 and 2315 of this title] may be cited as the 'Atomic Energy Act of 1954'."

SAVINGS CLAUSE

Pub. L. 118–67, div. B, title VI, §603, July 9, 2024, 138 Stat. 1482, provided that: "Nothing in this Act [probably means "this division", see Short Title of 2024 Amendment note above] affects authorities of the Department of State."

SEPARABILITY

Act Aug. 1, 1946, ch. 724, title I, §281, as added by act Aug. 30, 1954, §1; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, §902(a)(8), 106 Stat. 2944, provided that: "If any provision of this Act [see Short Title note above] or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

DEFINITIONS

Pub. L. 118–67, div. B, §2, July 9, 2024, 138 Stat. 1449, provided that: "In this division [see Short Title of 2024 Amendment note above]:

"(1) ACCIDENT TOLERANT FUEL.—The term 'accident tolerant fuel' has the meaning given the term in section 107(a) of the Nuclear Energy Innovation and Modernization Act (Public Law 115–439; 132 Stat. 5577).

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(3) ADVANCED NUCLEAR FUEL.—The term 'advanced nuclear fuel' means—

"(A) advanced nuclear reactor fuel; and

"(B) accident tolerant fuel.

"(4) ADVANCED NUCLEAR REACTOR.—The term 'advanced nuclear reactor' has the meaning given the term in section 3 of the Nuclear Energy Innovation and Modernization Act (42 U.S.C. 2215 note; Public Law 115–439).

"(5) ADVANCED NUCLEAR REACTOR FUEL.—The term 'advanced nuclear reactor fuel' has the meaning given the term in section 3 of the Nuclear Energy Innovation and Modernization Act (42 U.S.C. 2215 note; Public Law 115–439).

"(6) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Environment and Public Works of the Senate; and

"(B) the Committee on Energy and Commerce of the House of Representatives.

"(7) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

"(8) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(9) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)."

§2012. Congressional findings

The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

(b) Repealed. Pub. L. 88–489, §1, Aug. 26, 1964, 78 Stat. 602.

(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

(h) Repealed. Pub. L. 88–489, §2, Aug. 26, 1964, 78 Stat. 602.

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

(Aug. 1, 1946, ch. 724, title I, §2, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921; amended Pub. L. 85–256, §1, Sept. 2, 1957, 71 Stat. 576; Pub. L. 88–489, §§1, 2, Aug. 26, 1964, 78 Stat. 602; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

A prior section 2 of act Aug. 1, 1946, ch. 724, 60 Stat. 756, which related to establishment of Atomic Energy Commission, its membership, tenure, compensation, and appointment of certain officers and committees, was classified to section 1802 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–489, §1, struck out subsec. (b) which found that use of United States property by others must be regulated in national interest and in order to provide for common defense and security and to protect health and safety of public.

Subsec. (h). Pub. L. 88–489, §2, struck out subsec. (h) which found it essential to common defense and security that title to all special nuclear material be in United States while such special nuclear material is

within United States.

1957—Subsec. (i). Pub. L. 85–256 added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONTROL AND REGULATION POWERS OF UNITED STATES AND OF ATOMIC ENERGY COMMISSION UNAFFECTED BY PRIVATE OWNERSHIP OF SPECIAL NUCLEAR MATERIALS

Pub. L. 88–489, §20, Aug. 26, 1964, 78 Stat. 607, provided that: "Nothing in this Act [amending this section and sections 2013, 2073 to 2078, 2135, 2153, 2201, 2233 and 2234 of this title, repealing section 2072 of this title, and enacting provisions set out as notes under this section and section 2072 of this title] shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended [this chapter], to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives."

§2013. Purpose of chapter

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

(b) a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

(c) a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

(d) a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

(e) a program of international cooperation to promote the common defense and security and to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

(f) a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

(Aug. 1, 1946, ch. 724, title I, §3, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 922; amended Pub. L. 88–489, §3, Aug. 26, 1964, 78 Stat. 602; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

A prior section 3 of act Aug. 1, 1946, ch. 724, 60 Stat. 758, which related to research and development activities by the Atomic Energy Commission, was classified to section 1803 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954.

Sections 4 to 10 of act Aug. 1, 1946, ch. 724, 60 Stat. 759–766, which related to production of fissionable material, prohibited acts, ownership and operation of production facilities, irradiation of materials, and manufacture of production facilities; control of fissionable materials; military application of atomic energy; license requirements for utilization of atomic energy, reports to Congress, and issuance of licenses; force and effect of international agreements; property of Commission and its exempt status from taxation; and control of information, were classified to sections 1804 to 1810, respectively, of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954. Section numbers 4 to 10 were not repeated in the general amendment of act Aug. 1, 1946.

AMENDMENTS

1964—Subsec. (c). Pub. L. 88–489 inserted "whether owned by the Government or others" and "and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons".

§2014. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter:

(a) The term "agency of the United States" means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

(b) The term "agreement for cooperation" means any agreement with another nation or regional defense organization authorized or permitted by sections 2074, 2077, 2094, 2112, 2121(c), 2133, 2134, or 2164 of this title, and made pursuant to section 2153 of this title.

(c) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(d) The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(e) The term "byproduct material" means—

(1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(B) any material that—

(i) has been made radioactive by use of a particle accelerator, including by use of a fusion machine; and

(ii) if made radioactive by use of a particle accelerator that is not a fusion machine, is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(4) any discrete source of naturally occurring radioactive material, other than source material, that—

(A) the Commission, in consultation with the Administrator of the Environmental Protection

Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(B) before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

(f) The term "Commission" means the Atomic Energy Commission.

(g) The term "common defense and security" means the common defense and security of the United States.

(h) The term "defense information" means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

(i) The term "design" means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

(j) The term "extraordinary nuclear occurrence" means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, determines to be substantial, and which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, "offsite" means away from "the location" or "the contract location" as defined in the applicable Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, indemnity agreement, entered into pursuant to section 2210 of this title.

(k) The term "financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(l) The term "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(m) The term "indemnitor" means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, with respect to any obligation undertaken by it in indemnity agreement entered into pursuant to section 2210 of this title.

(n) The term "international arrangement" means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

(o) The term "Energy Committees" means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(p) The term "licensed activity" means an activity licensed pursuant to this chapter and covered by the provisions of section 2210(a) of this title.

(q) The term "nuclear incident" means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in section 2210(l) of this title, it shall include any such occurrence outside the United States: *And provided further,* That as the

term is used in section 2210(d) of this title, it shall include any such occurrence outside the United States: *And provided further*, That as the term is used in section 2210(c) of this title, it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to subchapters V, VI, VII, and IX of this division, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Nuclear Regulatory Commission to another person licensed by the Nuclear Regulatory Commission.

(r) The term "operator" means any individual who manipulates the controls of a utilization or production facility.

(s) The term "person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(t) The term "person indemnified" means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section 2210(c) of this title, and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Secretary of Energy or any project to which indemnification under the provisions of section 2210(d) of this title has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.

(u) The term "produce", when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

(v) The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

(w) The term "public liability" means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation), except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in subsections (a), (c), and (k) of section 2210 of this title, claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity where the nuclear incident occurs. "Public liability" also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

(x) The term "research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical

nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(y) The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 2162 of this title.

(z) The term "source material" means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 2091 of this title to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

(aa) The term "special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 2071 of this title, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(bb) The term "United States" when used in a geographical sense includes all territories and possessions of the United States, the Canal Zone and Puerto Rico.

(cc) The term "utilization facility" means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

(dd) FUSION MACHINE.—The term "fusion machine" means a machine that is capable of—

(1) transforming atomic nuclei, through fusion processes, into different elements, isotopes, or other particles; and

(2) directly capturing and using the resultant products, including particles, heat, or other electromagnetic radiation.

(ee) HIGH-LEVEL RADIOACTIVE WASTE; SPENT NUCLEAR FUEL.—The terms "high-level radioactive waste" and "spent nuclear fuel" have the meanings given such terms in section 10101 of this title.

(ff) LEGAL COSTS.—As used in section 2210 of this title, the term "legal costs" means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.

(gg) NUCLEAR WASTE ACTIVITIES.—The term "nuclear waste activities", as used in section 2210 of this title, means activities subject to an agreement of indemnification under subsection (d) of such section, that the Secretary of Energy is authorized to undertake, under this chapter or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96–164 (93 Stat. 1265).

(hh) PRECAUTIONARY EVACUATION.—The term "precautionary evacuation" means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

(2) initiated by an official of a State or a political subdivision of a State, who is authorized by

State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.

(ii) PUBLIC LIABILITY ACTION.—The term "public liability action", as used in section 2210 of this title, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 2210 of this title, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.

(jj) TRANSURANIC WASTE.—The term "transuranic waste" means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

(Aug. 1, 1946, ch. 724, title I, §11, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 922; amended Aug. 6, 1956, ch. 1015, §1, 70 Stat. 1069; Pub. L. 85–256, §3, Sept. 2, 1957, 71 Stat. 576; Pub. L. 85–602, §1, Aug. 8, 1958, 72 Stat. 525; Pub. L. 87–206, §§2, 3, Sept. 6, 1961, 75 Stat. 476; Pub. L. 87–615, §§4, 5, Aug. 29, 1962, 76 Stat. 410; Pub. L. 89–645, §1(a), Oct. 13, 1966, 80 Stat. 891; Pub. L. 94–197, §1, Dec. 31, 1975, 89 Stat. 1111; Pub. L. 95–604, title II, §201, Nov. 8, 1978, 92 Stat. 3033; Pub. L. 100–408, §§4(b)–5(b), 11(b), (d)(2), 16(a)(1), (b)(1), (2), (d)(1)–(3), Aug. 20, 1988, 102 Stat. 1069, 1070, 1076, 1078–1080; Pub. L. 101–575, §5(a), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(8), title XI, §1102, Oct. 24, 1992, 106 Stat. 2944, 2955; Pub. L. 103–437, §15(f)(1), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104–134, title III, §3116(b)(1), Apr. 26, 1996, 110 Stat. 1321–349; Pub. L. 109–58, title VI, §651(e)(1), Aug. 8, 2005, 119 Stat. 806; Pub. L. 118–47, div. G, title I, §107(d), Mar. 23, 2024, 138 Stat. 857; Pub. L. 118–67, div. B, title II, §205(a), July 9, 2024, 138 Stat. 1460.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

For definition of Canal Zone, referred to in subsec. (bb), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Section 213 of Public Law 96–164, referred to in subsec. (gg), is Pub. L. 96–164, title II, §213, Dec. 29, 1979, 93 Stat. 1265, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 11 of act Aug. 1, 1946, ch. 724, 60 Stat. 768, which related to patents and inventions, was classified to section 1811 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954.

Sections 12 to 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 770–775, which related to authority, powers and duties of Atomic Energy Commission; compensation for acquisition of private property; judicial review; Joint Committee of Congress on Atomic Energy; penalties for violation of certain provisions of chapter 14 of this title, injunctions, subpoena of witnesses, and production of documents; reports and recommendations to Congress; definitions; and authorization of appropriations, were classified to sections 1812 to 1819, respectively, of this title, and section 20 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which related to separability of provisions of the act, was set out as a note under section 1801 of this title, prior to the general amendment of act Aug. 1, 1946, by act Aug. 30, 1954. Section numbers 12 to 20 were not repeated in the general amendment of act Aug. 1, 1946.

AMENDMENTS

2024—Subsec. (e)(3)(B)(i). Pub. L. 118–67, §205(a)(1)(A)(i), inserted ", including by use of a fusion machine" after "particle accelerator".

Subsec. (e)(3)(B)(ii). Pub. L. 118–67, §205(a)(1)(A)(ii), inserted "if made radioactive by use of a particle accelerator that is not a fusion machine," before "is produced".

Subsec. (q). Pub. L. 118–47, in second proviso, substituted "occurrence outside the United States:" for "occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States:".

Subsec. (dd). Pub. L. 118–67, §205(a)(5), added subsec. (dd). Former subsec. (dd) redesignated (ee).

Subsec. (ee). Pub. L. 118–67, §205(a)(4), redesignated subsec. (dd) as (ee) and inserted heading. Former subsec. (ee) redesignated (jj).

Pub. L. 118–67, §205(a)(2), inserted heading.

Subsecs. (ff) to (jj). Pub. L. 118–67, §205(a)(2), (3), inserted headings for subsecs. (ff) to (hh), redesignated subsecs. (ee) to (hh) and (jj) as (jj), (gg), (hh), (ii), and (ff), respectively, and transferred the subsecs. to appear in alphabetical order.

2005—Subsec. (e). Pub. L. 109–58 substituted "means—" for "means", realigned margins of pars. (1) and (2), and added pars. (3) and (4).

1996—Subsec. (v). Pub. L. 104–134, which directed the amendment of subsec. (v) by striking out "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology", was executed by striking out "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology" before ", such term as used", to reflect the probable intent of Congress.

1994—Subsec. (o). Pub. L. 103–437 substituted " 'Energy Committees' means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives" for " 'Joint Committee' means the Joint Committee on Atomic Energy".

1992—Subsec. (v). Pub. L. 102–486 amended last sentence generally. Prior to amendment, last sentence read as follows: "Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235."

1990—Subsec. (v). Pub. L. 101–575 inserted at end "Except with respect to the export of a uranium enrichment production facility, such term as used in subchapters IX and XV shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235."

1988—Subsecs. (j), (m). Pub. L. 100–408, §16(b)(1), substituted "Nuclear Regulatory Commission or the Secretary of Energy, as appropriate," for "Commission" wherever appearing.

Subsec. (q). Pub. L. 100–408, §16(d)(1), substituted "section" for "subsection" in three places, which for purposes of codification was translated as "section", thus requiring no change in text.

Pub. L. 100–408, §16(a)(1), substituted "Nuclear Regulatory Commission" for "Commission" wherever appearing.

Subsec. (t). Pub. L. 100–408, §16(d)(2), substituted "section" for "subsection" in two places, which for purposes of codification was translated as "section", thus requiring no change in text.

Pub. L. 100–408, §16(b)(2), substituted "Secretary of Energy" for "Commission" in cl. (2).

Subsec. (w). Pub. L. 100–408, §16(d)(3), substituted "subsections (a), (c), and (k) of section 2210 of this title" for "section 2210(a), (c), and (k) of this title".

Pub. L. 100–408, §5(a), inserted "or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)" after first reference to "nuclear incident".

Subsecs. (dd) to (ff). Pub. L. 100–408, §4(b), added subsecs. (dd) to (ff).

Subsec. (gg). Pub. L. 100–408, §5(b), added subsec. (gg).

Subsec. (hh). Pub. L. 100–408, §11(b), added subsec. (hh).

Subsec. (jj). Pub. L. 100–408, §11(d)(2), added subsec. (jj).

1978—Subsec. (e). Pub. L. 95–604 designated existing provisions as cl. (1) and added cl. (2).

1975—Subsec. (q). Pub. L. 94–197 substituted "source, special nuclear, or byproduct material" for "facility or device" and inserted proviso to include within term as used in section 2210(c) of this title any occurrence outside both the United States and any other nation.

Subsec. (t). Pub. L. 94–197 expanded definition to include nuclear incidents occurring outside the United States as the term is used in section 2210(c) of this title and inserted reference to person required to maintain financial protection.

1966—Subsec. (j). Pub. L. 89–645, §1(a)(2), added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 89–645, §1(a)(1), redesignated former subsecs. (j) and (k) as (k) and (l),

respectively. Former subsec. (l) redesignated (n).

Subsec. (m). Pub. L. 89–645, §1(a)(3), added subsec. (m). Former subsec. (m) redesignated (o).

Subsecs. (n) to (p). Pub. L. 89–645, §1(a)(1), redesignated former subsecs. (l) to (n) as (n) to (p), respectively. Former subsecs. (n) to (p) redesignated (p) to (r), respectively.

Subsec. (q). Pub. L. 89–645, §1(a)(1), (4), redesignated former subsec. (o) as (q) and inserted ", including an extraordinary nuclear occurrence," between "occurrence" and "within", respectively. Former subsec. (q) redesignated (s).

Subsecs. (r) to (cc). Pub. L. 89–645, §1(a)(1), redesignated former subsecs. (p) to (aa) as (r) to (cc), respectively.

1962—Subsec. (o). Pub. L. 87–615, §4, enlarged definition of "nuclear incident" to include any occurrence within the United States causing any of the listed injuries and damages within or outside the United States, provided that as used in section 2210(l) of this title, term shall "include" instead of "mean" any such occurrence outside the United States, and that as used in section 2210(d) of this title, the term shall include any such occurrence outside the United States if such occurrence involves a facility or devise owned by, and used by or under contract with, the United States.

Subsec. (r). Pub. L. 87–615, §5, limited definition of "person indemnified" to nuclear incidents occurring within the United States, or in connection with the nuclear ship Savannah, and inserted provisions with respect to nuclear incidents occurring outside the United States.

1961—Subsec. (b). Pub. L. 87–206, §2, included section 2121(c) of this title in enumeration.

Subsec. (u). Pub. L. 87–206, §3, designated existing provisions as cls. (i) and (ii) and added cl. (iii).

1958—Subsec. (o). Pub. L. 85–602 inserted proviso defining "nuclear incident" as it is used in section 2210(l) of this title.

1957—Subsec. (j). Pub. L. 85–256 added subsec. (j). Former subsec. (j) redesignated (k).

Subsecs. (k) to (m). Pub. L. 85–256, redesignated former subsecs. (j) to (l) as (k) to (m), respectively. Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 85–256 added subsec. (n). Former subsec. (n) redesignated (q).

Subsec. (o). Pub. L. 85–256 added subsec. (o). Former subsec. (o) redesignated (s).

Subsecs. (p), (q). Pub. L. 85–256 redesignated former subsecs. (m) and (n) as (p) and (q), respectively. Former subsecs. (p) and (q) redesignated (t) and (u), respectively.

Subsec. (r). Pub. L. 85–256 added subsec. (r). Former subsec. (r) redesignated (w).

Subsecs. (s), (t). Pub. L. 85–256 redesignated former subsecs. (o) and (p) as (s) and (t), respectively. Former subsecs. (s) and (t) redesignated (x) and (y), respectively.

Subsec. (u). Pub. L. 85–256 added subsec. (u). Former subsec. (u) redesignated (z).

Subsecs. (v) to (aa). Pub. L. 85–256 redesignated former subsecs. (q) to (v) as (v) to (aa), respectively.

1956—Subsec. (u). Act Aug. 6, 1956, substituted "the Canal Zone and Puerto Rico" for "and the Canal Zone".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–408, §20, Aug. 20, 1988, 102 Stat. 1084, provided that:

"(a) Except as provided in subsection (b), the amendments made by this Act [enacting section 2282a of this title and amending this section and sections 2210 and 2273 of this title] shall become effective on the date of the enactment of this Act [Aug. 20, 1988] and shall be applicable with respect to nuclear incidents occurring on or after such date.

"(b)(1) The amendments made by section 11 [amending this section and section 2210 of this title] shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

"(2)(A) Section 234A of the Atomic Energy Act of 1954 [section 2282a of this title] shall not apply to any violation occurring before the date of the enactment of this Act.

"(B) Section 223 c. of the Atomic Energy Act of 1954 [section 2273(c) of this title] shall not apply to any

violation occurring before the date of enactment of this Act."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–604, title II, §208, Nov. 8, 1978, 92 Stat. 3041, provided that: "Except as otherwise provided in this title [see section 202(b) of Pub. L. 95–604, set out as an Effective Date note under section 2113 of this title] the amendments made by this title [enacting sections 2022 and 2114 of this title, amending this section and sections 2021, 2111, and 2201 of this title, and enacting provisions set out as notes under sections 2021 and 2113 of this title] shall take effect on the date of the enactment of this Act [Nov. 8, 1978]."

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2015. Transfer of property

Nothing in this chapter shall be deemed to repeal, modify, amend, or alter the provisions of section 9(a) of the Atomic Energy Act of 1946, as heretofore amended.

(Aug. 1, 1946, ch. 724, title I, §241, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Section 9(a) of the Atomic Energy Act of 1946, as heretofore amended, referred to in text, which was formerly classified to section 1809(a) of this title, provided that: "The President shall direct the transfer to the Commission of all interests owned by the United States or any Government agency in the following property:

"(1) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources (relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items;

"(2) All facilities, equipment, and materials, devoted primarily to atomic energy research and development; and

"(3) Such other property owned by or in the custody or control of the Manhattan Engineer District or other Government agencies as the President may determine."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 9 of act Aug. 1, 1946, ch. 724, 60 Stat. 765, which was classified to section 1809 of this title, prior to the complete amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2015a. Cold standby

The Secretary is authorized to expend such funds as may be necessary for the purposes of maintaining enrichment capability at the Portsmouth, Ohio, facility.

(Aug. 1, 1946, ch. 724, title I, §242, as added Pub. L. 107–222, §1(d)(1), Aug. 21, 2002, 116 Stat. 1336.)

§2015b. Scholarship and fellowship program

(a) Scholarship program

To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

(1) [1] award scholarships to undergraduate students who—

(A) are United States citizens; and

(B) enter into an agreement under subsection (c) to be employed by the Commission in the area of study for which the scholarship is awarded.

(b) Fellowship program

To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by an institution of higher education in the United States, the Commission may carry out a program to—

(1) [1] award fellowships to graduate students who—

(A) are United States citizens; and

(B) enter into an agreement under subsection (c) to be employed by the Commission in the area of study for which the fellowship is awarded.

(c) Requirements

(1) In general

As a condition of receiving a scholarship or fellowship under subsection (a) or (b), a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance;

(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Commission for a period specified by the Commission, that shall be not less than 1 time and not more than 3 times the period for which the assistance was provided; and

(D) if the recipient fails to meet the requirements of subparagraph (A), (B), or (C), reimburse the United States Government for—

(i) the entire amount of the assistance provided the recipient under the scholarship or fellowship; and

(ii) interest at a rate determined by the Commission.

(2) Waiver or suspension

The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

(d) Competitive process

Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 1885a or 1885b of this title.

(e) Direct appointment

The Commission may appoint directly, with no further competition, public notice, or consideration of any other potential candidate, an individual who has—

(1) received a scholarship or fellowship awarded by the Commission under this section; and

(2) completed the academic program for which the scholarship or fellowship was awarded.

(Aug. 1, 1946, ch. 724, title I, §243, as added Pub. L. 109–58, title VI, §622(a), Aug. 8, 2005, 119 Stat. 782.)

[1] *So in original. No par. (2) has been enacted.*

§2015c. Partnership program with institutions of higher education

(a) Definitions

In this section:

(1) Hispanic-serving institution

The term "Hispanic-serving institution" has the meaning given the term in section 1101a(a) of title 20.

(2) Historically Black college and university

The term "historically Black college or university" has the meaning given the term "part B institution" in section 1061 of title 20.

(3) Tribal college

The term "Tribal college" has the meaning given the term "tribally controlled college or university" in section 1801(a) of title 25.

(b) Partnership program

The Commission may establish and participate in activities relating to research, mentoring, instruction, and training with institutions of higher education, including Hispanic-serving institutions, historically Black colleges or universities, and Tribal colleges, to strengthen the capacity of the institutions—

(1) to educate and train students (including present or potential employees of the Commission); and

(2) to conduct research in the field of science, engineering, or law, or any other field that the Commission determines is important to the work of the Commission.

(Aug. 1, 1946, ch. 724, title I, §244, as added Pub. L. 109–58, title VI, §651(c)(4)(A), Aug. 8, 2005, 119 Stat. 802; amended Pub. L. 110–315, title IX, §941(k)(2)(L), Aug. 14, 2008, 122 Stat. 3467.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–315 made technical amendment to reference in original act which appears in text as reference to section 1801(a) of title 25.

§2016. Repealed. Pub. L. 105–85, div. C, title XXXI, §3152(a)(1), Nov. 18, 1997, 111 Stat. 2042

Section, act Aug. 1, 1946, ch. 724, title I, §251, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; amended June 11, 1959, Pub. L. 86–43, 73 Stat. 73; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, §902(a)(8), 106 Stat. 2944, required Commission to submit to Congress annual report on its activities.

§2017. Authorization of appropriations

(a) Congressional authorization

No appropriation shall be made to the Commission, nor shall the Commission waive charges for the use of materials under the Cooperative Power Reactor Demonstration Program, unless previously

authorized by legislation enacted by the Congress.

(b) Accounting

Any Act appropriating funds to the Commission may appropriate specified portions thereof to be accounted for upon the certification of the Commission only.

(c) Restoration or replacement of facilities

Notwithstanding the provisions of subsection (a), funds are hereby authorized to be appropriated for the restoration or replacement of any plant or facility destroyed or otherwise seriously damaged, and the Commission is authorized to use available funds for such purposes.

(d) Substituted construction projects

Funds authorized to be appropriated for any construction project to be used in connection with the development or production of special nuclear material or atomic weapons may be used to start another construction project not otherwise authorized if the substituted construction project is within the limit of cost of the construction project for which substitution is to be made, and the Commission certifies that—

(1) the substituted project is essential to the common defense and security;

(2) the substituted project is required by changes in weapon characteristics or weapon logistic operations; and

(3) the Commission is unable to enter into a contract with any person on terms satisfactory to it to furnish from a privately owned plant or facility the product or services to be provided by the new project.

(Aug. 1, 1946, ch. 724, title I, §261, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; amended Pub. L. 85–79, §1, July 3, 1957, 71 Stat. 274; Pub. L. 87–615, §8, Aug. 29, 1962, 76 Stat. 411; Pub. L. 88–72, §107, July 22, 1963, 77 Stat. 88; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 19 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which was classified to section 1819 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1963—Subsec. (a). Pub. L. 88–72 required legislative authorization of appropriations to the Commission and waiver of charges for use of materials under the Cooperative Power Reactor Demonstration Program. Former provisions of subsec. (a) authorized appropriations necessary and appropriate to carry out the provisions and purposes of this chapter, excepting in par. (1) sums necessary for acquisition of real property or facility acquisition, construction or expansion (and deeming under certain conditions a nonmilitary experimental reactor to be a facility) and in par. (2) sums necessary to carry out cooperative programs for development and construction of reactors for demonstration of their use in production of electrical power or process heat, or for propulsion, or for commercial provision of byproduct material, irradiation or other special service, for civilian use, by arrangements providing for payment of funds, rendering of services and undertaking of research and development without full reimbursement, the waiver of charges accompanying such arrangement or the provision of other financial assistance pursuant to such arrangement or the acquisition of real property or facility acquisition, construction or expansion undertaken by the Commission as part of such arrangement.

Subsec. (b). Pub. L. 88–72 substituted "Any act appropriating funds to the Commission" for "The acts appropriating such sums."

Subsec. (c). Pub. L. 88–72 struck out authorization of funds provision for advance planning, construction design and architectural services in connection with any plant or facility and inserted "Notwithstanding" phrase.

Subsec. (d). Pub. L. 88–72 struck out "hereafter" after "Funds" and inserted "construction" before "project" wherever appearing.

1962—Subsecs. (c), (d). Pub. L. 87–615 added subsecs. (c) and (d).

1957—Pub. L. 85–79 designated first sentence as introductory clause of subsec. (a) and as (a)(1), inserted proviso to (a)(1), added (a)(2), by designating second sentence as subsec. (b), and struck out former sentence which provided that "Funds appropriated to the Commission shall, if obligated by contract during the fiscal year for which appropriated, remain available for expenditure for four years following the expiration of the fiscal year for which appropriated."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1963 AMENDMENT

Pub. L. 88–72, §107, July 22, 1963, 77 Stat. 88, provided that the amendment made by that section is effective Jan. 1, 1964.

§2017a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Sept. 26, 1962, Pub. L. 87–701, §103, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission for advance planning, construction design, and architectural services in connection with certain projects, was from an Act authorizing appropriations for the Atomic Energy Commission, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 2017a–1 of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Sept. 26, 1961, Pub. L. 87–315, §103, 75 Stat. 678.

May 13, 1960, Pub. L. 86–457, §103, 74 Stat. 121.

June 23, 1959, Pub. L. 86–50, §103, 73 Stat. 83.

Aug. 4, 1958, Pub. L. 85–590, §103, 72 Stat. 493.

Aug. 21, 1957, Pub. L. 85–162, title I, §103, 71 Stat. 406.

May 3, 1956, ch. 233, §103, 70 Stat. 129.

July 11, 1955, ch. 304, §103, 69 Stat. 293.

§2017a–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 95–39, title III, §304, June 3, 1977, 91 Stat. 189, which authorized the Administrator of the Energy Research and Development Administration to perform construction design services for any Administration construction project whenever the Administrator made certain determinations, was from an Act authorizing appropriations for fiscal year 1977 to the Energy Research and Development Administration, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 5821(g) of this title.

Similar provisions were contained in the following prior appropriation authorization acts:

Pub. L. 94–187, title III, §301, Dec. 31, 1975, 89 Stat. 1073.

Pub. L. 93–276, title I, §103, May 10, 1974, 88 Stat. 118.

Pub. L. 93–60, §103, July 6, 1973, 87 Stat. 144.

Pub. L. 92–314, title I, §103, June 16, 1972, 86 Stat. 225.

Pub. L. 92–84, title I, §103, Aug. 11, 1971, 85 Stat. 306.

Pub. L. 91–273, §103, June 2, 1970, 84 Stat. 300.

Pub. L. 91–44, §103, July 11, 1969, 83 Stat. 47.

Pub. L. 90–289, §103, Apr. 19, 1968, 82 Stat. 97.

Pub. L. 90–56, §103, July 26, 1967, 81 Stat. 125.

Pub. L. 89–428, §103, May 21, 1966, 80 Stat. 163.
Pub. L. 89–32, §103, June 2, 1965, 79 Stat. 122.
Pub. L. 88–332, §104, June 30, 1964, 78 Stat. 229.

§2017b. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Sept. 26, 1962, Pub. L. 87–701, §104, 76 Stat. 601, which authorized appropriations for the Atomic Energy Commission for restoration or replacement of facilities, was from an Act authorizing appropriations for the Atomic Energy Commission, and was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter. See section 2017(c) of this title.

Similar provisions were contained in the following prior appropriation authorization acts:
Sept. 26, 1961, Pub. L. 87–315, §104, 75 Stat. 678.
May 13, 1960, Pub. L. 86–457, §104, 74 Stat. 122.
June 23, 1959, Pub. L. 86–50, §104, 73 Stat. 83.
Aug. 4, 1958, Pub. L. 85–590, 72 Stat. 493.
Aug. 21, 1957, Pub. L. 85–162, title I, §104, 71 Stat. 406.
May 3, 1956, ch. 233, §104, 70 Stat. 129.
July 11, 1955, ch. 304, §104, 69 Stat. 293.

§2018. Agency jurisdiction

Nothing in this chapter shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.

(Aug. 1, 1946, ch. 724, title I, §271, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; amended Pub. L. 89–135, Aug. 24, 1965, 79 Stat. 551; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1965—Pub. L. 89–135 inserted "produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission."

§2019. Applicability of Federal Power Act

Every licensee under this chapter who holds a license from the Commission for a utilization or production facility for the generation of commercial electric energy under section 2133 of this title

and who transmits such electric energy in interstate commerce or sells it at wholesale in interstate commerce shall be subject to the regulatory provisions of the Federal Power Act [16 U.S.C. 791a et seq.].

(Aug. 1, 1946, ch. 724, title I, §272, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

§2020. Licensing of Government agencies

Nothing in this chapter shall preclude any Government agency now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 2133 of this title, if qualified under the provisions of said section, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption.

(Aug. 1, 1946, ch. 724, title I, §273, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

§2021. Cooperation with States

(a) Purpose

It is the purpose of this section—

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

(b) Agreements with States

Except as provided in subsection (c), the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this division, and section 2201 of this title, with respect to any one or more of the following materials within the State:

(1) Byproduct materials (as defined in section 2014(e) of this title).

(2) Source materials.

(3) Special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities

No agreement entered into pursuant to subsection (b) shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—

(1) the construction and operation of any production or utilization facility or any uranium enrichment facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 2014(e)(2) of this title. Notwithstanding any agreement between the Commission and any State pursuant to subsection (b), the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

(d) Conditions

The Commission shall enter into an agreement under subsection (b) of this section with any State if—

(1) The [1] Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection (o) and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons

(1) Before any agreement under subsection (b) is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection (f) shall be published once

each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory, and miscellaneous functions of Administrator of Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b).

(j) Reserve power to terminate or suspend agreements; emergency situations; State nonaction on causes of danger; authority exercisable only during emergency and commensurate with danger

(1) The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.

(k) State regulation of activities for certain purposes

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(l) Commission regulated activities; notice of filing; hearing

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c), the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

(m) Limitation of agreements and exemptions

No agreement entered into under subsection (b), and no exemption granted pursuant to subsection (f), shall affect the authority of the Commission under section 2201(b) or (i) of this title to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) "State" and "agreement" defined

As used in this section, the term "State" means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term "agreement" includes any amendment to any agreement.

(o) State compliance requirements: compliance with section 2113(b) of this title and health and environmental protection standards; procedures for licenses, rulemaking, and license impact analysis; amendment of agreements for transfer of State collected funds; proceedings duplication restriction; alternative requirements

In the licensing and regulation of byproduct material, as defined in section 2014(e)(2) of this title, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection (b), a State shall require—

(1) compliance with the requirements of subsection (b) of section 2113 of this title (respecting ownership of byproduct material and land), and

(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 2113, 2114, and 2022 of this title, and

(3) procedures which—

(A) in the case of licenses, provide procedures under State law which include—

(i) an opportunity, after public notice, for written comments and a public hearing, with a

transcript,

(ii) an opportunity for cross examination, and

(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 2014(e)(2) of this title; and

(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 2113(b) of this title, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 2201(x) of this title. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission. In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

(Aug. 1, 1946, ch. 724, title I, §274, as added Pub. L. 86–373, §1, Sept. 23, 1959, 73 Stat. 688; amended 1970 Reorg. Plan No. 3, §§2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086; Pub. L. 95–604, title II, §204(a)–(e)(1), (f), Nov. 8, 1978, 92 Stat. 3036–3038; Pub. L. 96–295, title

II, §205, June 30, 1980, 94 Stat. 787; Pub. L. 97–415, §19(a), Jan. 4, 1983, 96 Stat. 2078; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(6), (8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §651(e)(2), Aug. 8, 2005, 119 Stat. 807.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (i), (j)(1), and (m), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

For definition of Canal Zone, referred to in subsec. (n), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (h) of this section, provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council pursuant to Reorg. Plan No. 3 of 1970, §§2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 substituted "State:" for "State—" in introductory provisions, added pars. (1) to (3), and struck out former pars. (1) to (4) which read as follows:

"(1) byproduct materials as defined in section 2014(e)(1) of this title;

"(2) byproduct materials as defined in section 2014(e)(2) of this title;

"(3) source materials;

"(4) special nuclear materials in quantities not sufficient to form a critical mass."

1992—Subsec. (c)(1). Pub. L. 102–486, §902(a)(6), inserted before semicolon at end "or any uranium enrichment facility".

1983—Subsec. (o). Pub. L. 97–415 inserted provisions relating to the adoption of equivalent alternative requirements by the States.

1980—Subsec. (j). Pub. L. 96–295 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (b). Pub. L. 95–604, §204(a), inserted in par. (1) "as defined in section 2014(e)(1) of this title" after "byproduct materials", added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (c). Pub. L. 95–604, §204(f), required the Commission to retain authority under the agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 2014(e)(2) of this title.

Subsec. (d)(2). Pub. L. 95–604, §204(b), inserted "in accordance with the requirements of subsection (o) and in all other respects" before "compatible".

Subsec. (j). Pub. L. 95–604, §204(d), inserted "all or part of" after "suspend", designated provision requiring termination or suspension be necessary to protect the public health and safety as cl. (1), added cl. (2), and inserted provision requiring the Commission to periodically review the agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

Subsec. (n). Pub. L. 95–604, §204(c), inserted definition of "agreement".

Subsec. (o). Pub. L. 95–604, §204(e)(1), added subsec. (o).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Section 204(e)(2) of Pub. L. 95–604, as added by Pub. L. 96–106, §22(d), Nov. 9, 1979, 93 Stat. 800, provided that: "The provisions of the amendment made by paragraph (1) of this subsection (which adds a new

subsection o. to section 274 of the Atomic Energy Act of 1954 [this section]) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978]."

Amendment by Pub. L. 95–604 effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as a note under section 2014 of this title.

STATE AUTHORITIES AND AGREEMENTS RESPECTING BYPRODUCT MATERIAL; ENTRY AND EFFECTIVE DATES OF AGREEMENTS

Pub. L. 95–604, title II, §204(g), (h), Nov. 8, 1978, 92 Stat. 3038, as amended by Pub. L. 96–106, §22(a), (b), Nov. 9, 1979, 93 Stat. 799; Pub. L. 97–415, §19(b), Jan. 4, 1983, 96 Stat. 2079, provided that:

"(g) Nothing in any amendment made by this section [amending this section] shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 [this chapter] respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

"(h)(1) During the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978], notwithstanding any other provision of this title [See Effective Date of 1978 Amendment note set out under section 2014 of this title], any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954 [this section]) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title], or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act) [subsec. (o) of this section]. The Commission shall have the authority to ensure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 [section 2022 of this title] as may be necessary to implement title I of this Act [section 7911 et seq. of this title].

"(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 [this section] with respect to byproduct material as defined in section 11 e. (2) of such Act. [section 2014(e)(2) of this title], may be entered into at any time after the date of the enactment of this Act [Nov. 8, 1978] but no such agreement may take effect before the date three years after the date of the enactment of this Act.

"(3) Notwithstanding any other provision of this title [See Effective Date of 1978 Amendment note set out under section 2014 of this title], where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954 [subsec. (b) of this section], authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act [section 2014(e)(2) of this title], the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act [Nov. 8, 1978], have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material: *Provided, however*, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954 [this section], the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274j. of the Atomic Energy Act of 1954 [subsec. (j) of this section]."

EXECUTIVE DOCUMENTS

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

EXECUTIVE ORDER NO. 12192

Ex. Ord. No. 12192, Feb. 12, 1980, 45 F.R. 9727, which established the State Planning Council on Radioactive Waste Management and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §13, Aug. 17, 1982, 47 F.R. 36099, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

[1] *So in original. Probably should not be capitalized.*

§2021a. Storage or disposal facility planning

(a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

(Pub. L. 95–601, §14, Nov. 6, 1978, 92 Stat. 2953.)

EDITORIAL NOTES

REFERENCES IN TEXT

Commission, referred to in text, probably means the Nuclear Regulatory Commission in view of the fact that this section was enacted as part of the act authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1979.

CODIFICATION

Section was enacted as part of an act authorizing appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PLAN FOR PERMANENT DISPOSAL OF WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES; SUBMISSION OF PLAN TO CONGRESS NOT LATER THAN JUNE 30, 1983

Pub. L. 97–90, title II, §213, Dec. 4, 1981, 95 Stat. 1171, directed President to submit to Committees on Armed Services of Senate and of House of Representatives not later than June 30, 1983, a report setting forth his plans for permanent disposal of high-level and transuranic wastes resulting from atomic energy defense activities, such report to include, but not be limited to, for each State in which such wastes are stored in interim storage facilities on Dec. 4, 1981, specific estimates of amounts planned for expenditure in each of the next five fiscal years to achieve the permanent disposal of such wastes and general estimates of amounts planned for expenditure in fiscal years thereafter to achieve such purpose, and a thorough and detailed program management plan for the disposal of such wastes.

WEST VALLEY DEMONSTRATION PROJECT; RADIOACTIVE WASTE MANAGEMENT; PROJECT ACTIVITIES; PUBLIC HEARINGS; REVIEW OF PROJECT AND CONSULTATIONS; AUTHORIZATION OF APPROPRIATIONS; REPORT TO CONGRESS

Pub. L. 107–66, title III, Nov. 12, 2001, 115 Stat. 503, provided in part: "That funding for the West Valley Demonstration Project shall be reduced in subsequent fiscal years to the minimum necessary to maintain the

project in a safe and stable condition, unless, not later than September 30, 2002, the Secretary: (1) provides written notification to the Committees on Appropriations of the House of Representatives and the Senate that agreement has been reached with the State of New York on the final scope of Federal activities at the West Valley site and on the respective Federal and State cost shares for those activities; (2) submits a written copy of that agreement to the Committees on Appropriations of the House of Representatives and the Senate; and (3) provides a written certification that the Federal actions proposed in the agreement will be in full compliance with all relevant Federal statutes and are in the best interest of the Federal Government."

Pub. L. 96–368, Oct. 1, 1980, 94 Stat. 1347, as amended by Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 116–95, §1(a), Dec. 20, 2019, 133 Stat. 3249, provided that:

"SECTION 1. This Act may be cited as the 'West Valley Demonstration Project Act'.

"SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

"(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

"(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

"(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

"(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

"(5) The Secretary shall decontaminate and decommission—

"(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

"(B) the facilities used in the solidification of the waste, and

"(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

"(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

"(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

"(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

"(3) The Secretary shall—

"(A) undertake detailed engineering and cost estimates for the project,

"(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

"(C) conduct appropriate safety analyses of the project, and

"(D) prepare required environmental impact analyses of the project.

"(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 [see section 6301 et seq. of Title 31, Money and Finance] under which the State will carry out the following:

"(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

"(B) The Secretary shall provide technical assistance in securing required license amendments.

"(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

"(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission

providing for the demonstration.

"(c) Within one year from the date of the enactment of this Act [Oct. 1, 1980], the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: *Provided*, That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended [this chapter], the Energy Reorganization Act of 1974, as amended [section 5801 et seq. of this title], or any other law. The agreement shall provide for the following:

"(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secretary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

"(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

"(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project.

"(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

"(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the United States Geological Survey, and the commercial operator of the Center.

"SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than $75,000,000 for each of fiscal years 2020 through 2026.

"(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

"(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof.

"SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 [this chapter] or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974 [section 5801 et seq. of this title]. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government.

"(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

"SEC. 6. For purposes of this Act:

"(1) The term 'Secretary' means the Secretary of Energy.

"(2) The term 'Commission' means the Nuclear Regulatory Commission.

"(3) The term 'State' means the State of New York.

"(4) The term 'high level radioactive waste' means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes

which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

"(5) The term 'transuranic waste' means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

"(6) The term 'low level radioactive waste' means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 [section 2014(e)(2) of this title].

"(7) The term 'project' means the project prescribed by section 2(a).

"(8) The term 'Center' means the Western New York Service Center in West Valley, New York."

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under section 4 of Pub. L. 96–368, set out above, is listed in item 1 on page 84), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.]

§2021b. Definitions

For purposes of sections 2021b to 2021j of this title:

(1) Agreement State

The term "agreement State" means a State that—

(A) has entered into an agreement with the Nuclear Regulatory Commission under section 2021 of this title; and

(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

(2) Allocation

The term "allocation" means the assignment of a specific amount of low-level radioactive waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under sections 2021b to 2021j of this title.

(3) Commercial nuclear power reactor

The term "commercial nuclear power reactor" means any unit of a civilian light-water moderated utilization facility required to be licensed under section 2133 or 2134(b) of this title.

(4) Compact

The term "compact" means a compact entered into by two or more States pursuant to sections 2021b to 2021j of this title.

(5) Compact commission

The term "compact commission" means the regional commission, committee, or board established in a compact to administer such compact.

(6) Compact region

The term "compact region" means the area consisting of all States that are members of a compact.

(7) Disposal

The term "disposal" means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

(8) Generate

The term "generate", when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(9) Low-level radioactive waste

(A) In general

The term "low-level radioactive waste" means radioactive material that—

(i) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 2014(e)(2) of this title); and

(ii) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

(B) Exclusion

The term "low-level radioactive waste" does not include byproduct material (as defined in paragraphs (3) and (4) of section 2014(e) of this title).

(10) Non-sited compact region

The term "non-sited compact region" means any compact region that is not a sited compact region.

(11) Regional disposal facility

The term "regional disposal facility" means a non-Federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

(12) Secretary

The term "Secretary" means the Secretary of Energy.

(13) Sited compact region

The term "sited compact region" means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

(14) State

The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 96–573, §2, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1842; amended Pub. L. 109–58, title VI, §651(e)(3)(B), Aug. 8, 2005, 119 Stat. 808.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

CONSTITUTIONALITY

For information regarding the constitutionality of certain provisions of Low-Level Radioactive Waste Policy Act (sections 2021b to 2021j of this title), see the Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court on the Constitution Annotated website, constitution.congress.gov.

PRIOR PROVISIONS

A prior section 2021b, Pub. L. 96–573, §2, Dec. 22, 1980, 94 Stat. 3347, related to definitions respecting low-level radioactive waste policy as used in former sections 2021b to 2021d of this title, prior to repeal by Pub. L. 99–240, §102.

AMENDMENTS

2005—Par. (9). Pub. L. 109–58 designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–240, title I, §101, Jan. 15, 1986, 99 Stat. 1842, provided that: "This Title [enacting this section and sections 2021c to 2021j of this title, repealing former sections 2021b to 2021d of this title, and enacting and repealing a provision set out as a note under this section] may be cited as the 'Low-Level Radioactive Waste Policy Amendments Act of 1985'."

SHORT TITLE

Pub. L. 96–573, §1, as added by Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1842, provided that: "This Act [enacting sections 2021b to 2021j of this title] may be cited as the 'Low-Level Radioactive Waste Policy Act'."

A prior section 1 of Pub. L. 96–573, which provided that Pub. L. 96–573 [enacting former sections 2021b to 2021d of this title] could be cited as the "Low-Level Radioactive Waste Policy Act", was repealed by Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1842.

§2021c. Responsibilities for disposal of low-level radioactive waste

(a)(1) Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

(A) low-level radioactive waste generated within the State (other than by the Federal Government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

(B) low-level radioactive waste described in subparagraph (A) that is generated by the Federal Government except such waste that is—

(i) owned or generated by the Department of Energy;

(ii) owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy; or

(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections [1] 2021e or 2021f of this title.

(2) No regional disposal facility may be required to accept for disposal any material—

(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraph (A) or (B).

(b)(1) The Federal Government shall be responsible for the disposal of—

(A) low-level radioactive waste owned or generated by the Department of Energy;

(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

(C) low-level radioactive waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon; and

(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

(2) All radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D)

that results from activities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

(3) Not later than 12 months after January 15, 1986, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

(B) an identification of the Federal and non-Federal options for disposal of such radioactive waste;

(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

(D) a description of the projected costs of undertaking such actions;

(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

(F) an identification of any statutory authority required for disposal of such waste.

(4) The Secretary may not dispose of any radioactive waste designated a Federal responsibility pursuant to paragraph (b)(1)(D) that becomes a Federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress.

(Pub. L. 96–573, §3, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1843.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

January 15, 1986, referred to in subsec. (b)(3), was in the original "the date of enactment of this Act" and was translated as meaning the date of enactment of Pub. L. 99–240 to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021c, Pub. L. 96–573, §3, Dec. 22, 1980, 94 Stat. 3347, related to the applicability of low-level radioactive waste compacts, prior to repeal by Pub. L. 99–240, §102. See section 2021d of this title.

[1] *So in original. Probably should be "section".*

§2021d. Regional compacts for disposal of low-level radioactive waste

(a) In general

(1) Federal policy

It is the policy of the Federal Government that the responsibilities of the States under section 2021c of this title for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

(2) Interstate compacts

To carry out the policy set forth in paragraph (1), the States may enter into such compacts as

may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

(b) Applicability to Federal activities

(1) In general

(A) Activities of the Secretary

Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 2021c(a)(1)(B)(i)–(iii) of this title.

(B) Federal low-level radioactive waste disposed of at non-Federal facilities

Low-level radioactive waste owned or generated by the Federal Government that is disposed of at a regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal Government.

(2) Federal low-level radioactive waste disposal facilities

Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the Federal Government shall not be subject to any compact or any action taken under a compact.

(3) Effect of compacts on Federal law

Nothing contained in sections 2021b to 2021j of this title or any compact may be construed to confer any new authority on any compact commission or State—

(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation;

(B) to regulate health, safety, or environmental hazards from source material, byproduct material, or special nuclear material;

(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the Federal Government, or to inspect classified information related to such areas or operations; or

(E) to require indemnification pursuant to the provisions of chapter 171 of title 28 (commonly referred to as the Federal Tort Claims Act), or section 2210 of this title, whichever is applicable.

(4) Federal authority

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title or any compact may be construed to limit the applicability of any Federal law or to diminish or otherwise impair the jurisdiction of any Federal agency, or to alter, amend, or otherwise affect any Federal law governing the judicial review of any action taken pursuant to any compact.

(5) State authority preserved

Except as expressly provided in sections 2021b to 2021j of this title, nothing contained in sections 2021b to 2021j of this title expands, diminishes, or otherwise affects State law.

(c) Restricted use of regional disposal facilities

Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

(1) January 1, 1986; and

(2) the Congress by law consents to the compact.

(d) Congressional review

Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

(Pub. L. 96–573, §4, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1845.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

PRIOR PROVISIONS

A prior section 2021d, Pub. L. 96–573, §4, Dec. 22, 1980, 94 Stat. 3348, related to policy of Federal Government concerning low-level radioactive waste disposal, implementation of that policy, and a report to Congress and the States to assist in carrying out the policy, prior to repeal by Pub. L. 99–240, §102.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Pub. L. 105–236, Sept. 20, 1998, 112 Stat. 1542, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Texas Low-Level Radioactive Waste Disposal Compact Consent Act'.

"SEC. 2. CONGRESSIONAL FINDING.

"The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

"SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

"The consent of the Congress to the compact set forth in section 5—

"(1) shall become effective on the date of the enactment of this Act [Sept. 20, 1998];

"(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

"(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

"SEC. 4. CONGRESSIONAL REVIEW.

"The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act [Sept. 20, 1998], and at such intervals thereafter as may be provided in such compact.

"SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"(a) CONSENT OF CONGRESS.—In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into the compact set forth in subsection (b).

"(b) TEXT OF COMPACT.—The compact reads substantially as follows: [Text of compact appears at 112 Stat. 1543]".

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Pub. L. 100–712, Nov. 23, 1988, 102 Stat. 4773, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act'[.]

"SEC. 2. CONGRESSIONAL FINDING.

"The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive

Waste Policy Act [42 U.S.C. 2021b–2021j].

"SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

"The consent of the Congress to the compact set forth in section 5—

"(1) shall become effective on the date of the enactment of this Act [Nov. 23, 1988];

"(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j]; and

"(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

"SEC. 4. CONGRESSIONAL REVIEW.

"The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act [Nov. 23, 1988], and at such intervals thereafter as may be provided in such compact.

"SEC. 5. SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows: [Text of compact appears at 102 Stat. 4773]".

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT CONSENT ACT

Pub. L. 100–319, May 19, 1988, 102 Stat. 471, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Appalachian States Low-Level Radioactive Waste Compact Consent Act'.

"SEC. 2. CONGRESSIONAL FINDING.

"The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

"SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

"The consent of the Congress to the compact set forth in section 5—

"(1) shall become effective on the date of the enactment of this Act [May 19, 1988],

"(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j], and

"(3) is granted only for so long as the Appalachian States Low-Level Radioactive Waste Commission, advisory committees, and regional boards established in the compact comply with all the provisions of such Act.

"SEC. 4. CONGRESSIONAL REVIEW.

"The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act [May 19, 1988], and at such intervals thereafter as may be provided for in such compact.

"SEC. 5. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(A)(2) [42 U.S.C. 2021d(a)(2)]), the consent of Congress is given to the States of Pennsylvania, West Virginia, and any eligible States as defined in Article 5(A) of the Appalachian States Low-Level Radioactive Waste Compact to enter into such compact. Such compact is substantially as follows: [Text of compact appears at 102 Stat. 471]".

OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

Pub. L. 99–240, title II, Jan. 15, 1986, 99 Stat. 1859, provided that:

"SEC. 201. SHORT TITLE.

"This Title may be cited as the 'Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act'.

"SUBTITLE A—GENERAL PROVISIONS

"SEC. 211. CONGRESSIONAL FINDING.

"The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b–2021j].

"SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

"The consent of the Congress to each of the compacts set forth in subtitle B—

"(1) shall become effective on the date of the enactment of this Act [Jan. 15, 1986];

"(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended [42 U.S.C. 2021b–2021j]; and

"(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

"SEC. 213. CONGRESSIONAL REVIEW.

"The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act [Jan. 15, 1986], and at such intervals thereafter as may be provided in such compact.

"SUBTITLE B—CONGRESSIONAL CONSENT TO COMPACTS

"SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

"The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows: [Text of compact appears at 99 Stat. 1860.]

"SEC. 222. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low-Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows: [Text of compact appears at 99 Stat. 1863.]

"SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1871; 103 Stat. 1289.]

"SEC. 224. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1880; 108 Stat. 4607.]

"SEC. 225. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

"The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-level Radioactive Waste Management. Such compact is as follows: [Text of compact appears at 99 Stat. 1892.]

"SEC. 226. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1902.]

"SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021d(a)(2)], the consent of the Congress is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows: [Text of compact appears at 99 Stat. 1910.]."

§2021e. Limited availability of certain regional disposal facilities during transition and licensing periods

(a) Availability of disposal capacity

(1) Pressurized water and boiling water reactors

During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by pressurized water and boiling water commercial nuclear power reactors in accordance with the allocations established in subsection (c).

(2) Other sources of low-level radioactive waste

During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by any source not referred to in paragraph (1).

(3) Allocation of disposal capacity

(A) During the seven-year period beginning January 1, 1986 and ending December 31, 1992, low-level radioactive waste generated within a sited compact region shall be accorded priority under this section in the allocation of available disposal capacity at a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) and located in the sited compact region in which such waste is generated.

(B) Any State in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located may, subject to the provisions of its compact, prohibit the disposal at such facility of low-level radioactive waste generated outside of the compact region if the disposal of such waste in any given calendar year, together with all other low-level radioactive waste disposed of at such facility within that same calendar year, would result in that facility disposing of a total annual volume of low-level radioactive waste in excess of 100 per centum of the average annual volume for such facility designated in subsection (b): *Provided, however*, That in the event that all three States in which regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) act to prohibit the disposal of low-level radioactive waste pursuant to this subparagraph, each such State shall, in accordance with any applicable procedures of its compact, permit, as necessary, the disposal of additional quantities of such waste in increments of 10 per centum of the average annual volume for each such facility designated in subsection (b).

(C) Nothing in this paragraph shall require any disposal facility or State referred to in paragraphs (1) through (3) of subsection (b) to accept for disposal low-level radioactive waste in excess of the total amounts designated in subsection (b).

(4) Cessation of operation of low-level radioactive waste disposal facility

No provision of this section shall be construed to obligate any State referred to in paragraphs (1) through (3) of subsection (b) to accept low-level radioactive waste from any source in the event that the regional disposal facility located in such State ceases operations.

(b) Limitations

The availability of disposal capacity for low-level radioactive waste from any source shall be subject to the following limitations:

(1) Barnwell, South Carolina

The State of South Carolina, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Barnwell, South Carolina to a total of 8,400,000 cubic feet of low-level radioactive

waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

(2) Richland, Washington

The State of Washington, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Richland, Washington to a total of 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

(3) Beatty, Nevada

The State of Nevada, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Beatty, Nevada to a total of 1,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

(c) Commercial nuclear power reactor allocations

(1) Amount

Subject to the provisions of subsections (a) through (g) each commercial nuclear power reactor shall upon request receive an allocation of low-level radioactive waste disposal capacity (in cubic feet) at the facilities referred to in subsection (b) during the 4-year transition period beginning January 1, 1986, and ending December 31, 1989, and during the 3-year licensing period beginning January 1, 1990, and ending December 31, 1992, in an amount calculated by multiplying the appropriate number from the following table by the number of months remaining in the applicable period as determined under paragraph (2).

Reactor Type	4-year Transition Period		3-year Licensing Period	
	In Sited Region	All Other Locations	In Sited Region	All Other Locations
PWR	1027	871	934	685
BWR	2300	1951	2091	1533

(2) Method of calculation

For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor under this subsection, the number of months shall be computed beginning with the first month of the applicable period, or the sixteenth month after receipt of a full power operating license, whichever occurs later.

(3) Unused allocations

Any unused allocation under paragraph (1) received by a reactor during the transition period or the licensing period may be used at any time after such reactor receives its full power license or after the beginning of the pertinent period, whichever is later, but not in any event after December 31, 1992, or after commencement of operation of a regional disposal facility in the compact region or State in which such reactor is located, whichever occurs first.

(4) Transferability

Any commercial nuclear power reactor in a State or compact region that is in compliance with the requirements of subsection (e) may assign any disposal capacity allocated to it under this subsection to any other person in each State or compact region. Such assignment may be for valuable consideration and shall be in writing, copies of which shall be filed at the affected compact commissions and States, along with the assignor's unconditional written waiver of the disposal capacity being assigned.

(5) Unusual volumes

(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period.

(6) Limitation

During the seven-year interim access period referred to in subsection (a), the disposal facilities referred to in subsection (b) shall not be required to accept more than 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors.

(d) Use of surcharge funds for milestone incentives; consequences of failure to meet disposal deadline

(1) Surcharges

The disposal of any low-level radioactive waste under this section (other than low-level radioactive waste generated in a sited compact region) may be charged a surcharge by the State in which the applicable regional disposal facility is located, in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2), such surcharges shall not exceed—

(A) in 1986 and 1987, $10 per cubic foot of low-level radioactive waste;

(B) in 1988 and 1989, $20 per cubic foot of low-level radioactive waste; and

(C) in 1990, 1991, and 1992, $40 per cubic foot of low-level radioactive waste.

(2) Milestone incentives

(A) Escrow account

Twenty-five per centum of all surcharge fees received by a State pursuant to paragraph (1) during the seven-year period referred to in subsection (a) shall be transferred on a monthly basis to an escrow account held by the Secretary. The Secretary shall deposit all funds received in a special escrow account. The funds so deposited shall not be the property of the United States. The Secretary shall act as trustee for such funds and shall invest them in interest-bearing United States Government Securities with the highest available yield. Such funds shall be held by the Secretary until—

(i) paid or repaid in accordance with subparagraph (B) or (C); or

(ii) paid to the State collecting such fees in accordance with subparagraph (F).

(B) Payments

(i) JULY 1, 1986.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on January 15, 1986, and ending June 30, 1986, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(A) is met by the State in which such waste originated.

(ii) JANUARY 1, 1988.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 1, 1986 and ending December 31, 1987, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(B) is met by the State in which such waste originated (or its compact region, where applicable).

(iii) JANUARY 1, 1990.—The twenty-five per centum of any amount collected by a State

under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1988 and ending December 31, 1989, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(C) is met by the State in which such waste originated (or its compact region, where applicable).

(iv) The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992, and transferred to the Secretary under subparagrah [1] (A), shall be paid by the Secretary in accordance with subparagraph (D) if, by January 1, 1993, the State in which such waste originated (or its compact region, where applicable) is able to provide for the disposal of all low-level radioactive waste generated within such State or compact region.

(C) Failure to meet January 1, 1993 deadline

If, by January 1, 1993, a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region—

(i) each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, shall be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1993 as the generator or owner notifies the State that the waste is available for shipment; or

(ii) if such State elects not to take title to, take possession of, and assume liability for such waste, pursuant to clause (i), twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992 shall be repaid, with interest, to each generator from whom such surcharge was collected. Repayments made pursuant to this clause shall be made on a monthly basis, with the first such repayment beginning on February 1, 1993, in an amount equal to one thirty-sixth of the total amount required to be repaid pursuant to this clause, and shall continue until the State (or, where applicable, compact region) in which such low-level radioactive waste is generated is able to provide for the disposal of all such waste generated within such State or compact region or until January 1, 1996, whichever is earlier.

If a State in which low-level radioactive waste is generated elects to take title to, take possession of, and assume liability for such waste pursuant to clause (i), such State shall be paid such amounts as are designated in subparagraph (B)(iv). If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated provides for the disposal of such waste at any time after January 1, 1993 and prior to January 1, 1996, such State (or, where applicable, compact region) shall be paid in accordance with subparagraph (D) a lump sum amount equal to twenty-five per centum of any amount collected by a State under paragraph (1): *Provided, however*, That such payment shall be adjusted to reflect the remaining number of months between January 1, 1993 and January 1, 1996 for which such State (or, where applicable, compact region) provides for the disposal of such waste. If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region by January 1, 1996, each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment.

(D) Recipients of payments

The payments described in subparagraphs (B) and (C) shall be paid within thirty days after the applicable date—

(i) if the State in which such waste originated is not a member of a compact region, to such State;

(ii) if the State in which such waste originated is a member of the compact region, to the compact commission serving such State.

(E) Uses of payments

(i) Limitations

Any amount paid under subparagraphs (B) or (C) may only be used to—

(I) establish low-level radioactive waste disposal facilities;

(II) mitigate the impact of low-level radioactive waste disposal facilities on the host State;

(III) regulate low-level radioactive waste disposal facilities; or

(IV) ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

(ii) Reports

(I) Recipient

Any State or compact commission receiving a payment under subparagraphs (B) or (C) shall, on December 31 of each year in which any such funds are expended, submit a report to the Department of Energy itemizing any such expenditures.

(II) Department of Energy

Not later than six months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i).

(F) Payment to States

Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid to a State or compact commission under subparagraphs (B) and (C) or not repaid to a generator under subparagraph (C) shall be paid from such escrow account to such State collecting such payment under paragraph (1). Such payment shall be made not later than 30 days after a determination of ineligibility for a refund is made.

(G) Penalty surcharges

No rebate shall be made under this subsection of any surcharge or penalty surcharge paid during a period of noncompliance with subsection (e)(1).

(e) Requirements for access to regional disposal facilities

(1) Requirements for non-sited compact regions and non-member States

Each non-sited compact region, or State that is not a member of a compact region that does not have an operating disposal facility, shall comply with the following requirements:

(A) By July 1, 1986, each such non-member State shall ratify compact legislation or, by the enactment of legislation or the certification of the Governor, indicate its intent to develop a site for the location of a low-level radioactive waste disposal facility within such State.

(B) By January 1, 1988

(i) each non-sited compact region shall identify the State in which its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan;

(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan; and

(iii) The siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in sections 2021b to 2021j of this title. Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State.

(C) By January 1, 1990

(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State; or

(ii) the Governor (or, for any State without a Governor, the chief executive officer) of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will be capable of providing for, and will provide for, the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that such capacity exists.

(D) By January 1, 1992, a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State.

(E) The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (C) to the Congress and publish any such certification in the Federal Register.

(F) Any State may, subject to all applicable provisions, if any, of any applicable compact, enter into an agreement with the compact commission of a region in which a regional disposal facility is located to provide for the disposal of all low-level radioactive waste generated within such State, and, by virtue of such agreement, may, with the approval of the State in which the regional disposal facility is located, be deemed to be in compliance with subparagraphs (A), (B), (C), and (D).

(2) Penalties for failure to comply

(A) By July 1, 1986

If any State fails to comply with subparagraph (1)(A)—

(i) any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning July 1, 1986, and ending December 31, 1986, be charged 2 times the surcharge otherwise applicable under subsection (d); and

(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

(B) By January 1, 1988

If any non-sited compact region or non-member State fails to comply with paragraph

(1)(B)—

(i) any generator of low-level radioactive waste within such region or non-member State shall—

(I) for the period beginning January 1, 1988, and ending June 30, 1988, be charged 2 times the surcharge otherwise applicable under subsection (d); and

(II) for the period beginning July 1, 1988, and ending December 31, 1988, be charged 4 times the surcharge otherwise applicable under subsection (d); and

(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

(C) By January 1, 1990

If any non-sited compact region or non-member State fails to comply with paragraph (1)(C), any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

(D) By January 1, 1992

If any non-sited compact region or non-member State fails to comply with paragraph (1)(D), any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning January 1, 1992 and ending upon the filing of the application described in paragraph (1)(D), be charged 3 times the surcharge otherwise applicable under subsection (d).

(3) Denial of access

No denial or suspension of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

(4) Restoration of suspended access; penalties for failure to comply

Any access to a regional disposal facility that is suspended under paragraph (2) shall be restored after the non-sited compact region or non-member State involved complies with such requirement. Any payment of surcharge penalties pursuant to paragraph (2) for failure to comply with the requirements of this subsection shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

(f) Monitoring of compliance and denial of access to non-Federal facilities for noncompliance; information requirements of certain States; proprietary information

(1) Administration

Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located shall have authority—

(A) to monitor compliance with the limitations, allocations, and requirements established in this section; and

(B) to deny access to any non-Federal low-level radioactive waste disposal facilities within its borders to any low-level radioactive waste that—

(i) is in excess of the limitations or allocations established in this section; or

(ii) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1).

(2) Availability of information during interim access period

(A) The States of South Carolina, Washington, and Nevada may require information from disposal facility operators, generators, intermediate handlers, and the Department of Energy that is reasonably necessary to monitor the availability of disposal capacity, the use and assignment of allocations and the applicability of surcharges.

(B) The States of South Carolina, Washington, and Nevada may, after written notice followed by a period of at least 30 days, deny access to disposal capacity to any generator or intermediate

handler who fails to provide information under subparagraph (A).

(C) PROPRIETARY INFORMATION.—

(i) Trade secrets, proprietary and other confidential information shall be made available to a State under this subsection upon request only if such State—

(I) consents in writing to restrict the dissemination of the information to those who are directly involved in monitoring under subparagraph (A) and who have a need to know;

(II) accepts liability for wrongful disclosure; and

(III) demonstrates that such information is essential to such monitoring.

(ii) The United States shall not be liable for the wrongful disclosure by any individual or State of any information provided to such individual or State under this subsection.

(iii) Whenever any individual or State has obtained possession of information under this subsection, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under sections 2021b to 2021j of this title may be required to disclose such information under State law.

(g) Nondiscrimination

Except as provided in subsections (b) through (e), low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

(Pub. L. 96–573, §5, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1846.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

CONSTITUTIONALITY

For constitutionality of section 102 of Pub. L. 99–240, see note under section 2021b of this title.

[1] So in original. Probably should be "subparagraph".

§2021f. Emergency access

(a) In general

The Nuclear Regulatory Commission may grant emergency access to any regional disposal facility or non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The procedure for granting emergency access shall be as provided in this section.

(b) Request for emergency access

Any generator of low-level radioactive waste, or any Governor (or, for any State without a Governor, the chief executive officer of the State) on behalf of any generator or generators located in his or her State, may request that the Nuclear Regulatory Commission grant emergency access to a

regional disposal facility or a non-Federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

(c) Determination of Nuclear Regulatory Commission

(1) Required determination

Not later than 45 days after receiving a request under subsection (b), the Nuclear Regulatory Commission shall determine whether—

(A) emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security; and

(B) the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of low-level radioactive waste at the site of generation or in a storage facility obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment pursuant to section 2021e(c) of this title or ceasing activities that generate low-level radioactive waste.

(2) Required notification

If the Nuclear Regulatory Commission makes the determinations required in paragraph (1) in the affirmative, it shall designate an appropriate non-Federal disposal facility or facilities, and notify the Governor (or chief executive officer) of the State in which such facility is located and the appropriate compact commission that emergency access is required. Such notification shall specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration, not exceeding 180 days, necessary to alleviate the immediate threat to public health and safety or the common defense and security. The Nuclear Regulatory Commission shall also notify the Governor (or chief executive officer) of the State in which the low-level radioactive waste requiring emergency access was generated that emergency access has been granted and that, pursuant to subsection (e), no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

(d) Temporary emergency access

Upon determining that emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security, the Nuclear Regulatory Commission may at its discretion grant temporary emergency access, pending its determination whether the threat could be mitigated by any alternative consistent with the public health and safety. In granting access under this subsection, the Nuclear Regulatory Commission shall provide the same notification and information required under subsection (c). Absent a determination that no alternative consistent with the public health and safety would mitigate the threat, access granted under this subsection shall expire 45 days after the granting of temporary emergency access under this subsection.

(e) Extension of emergency access

The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c), if it determines that emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security that cannot be mitigated by any alternative consistent with the public health and safety, and that the generator of low-level radioactive waste granted emergency access and the State in which such low-level radioactive waste was generated have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access. Any extension granted under this subsection shall be for the minimum volume and duration the Nuclear Regulatory Commission finds necessary to eliminate the immediate threat to public health and safety or the common defense and security, and shall not in any event exceed 180 days.

(f) Reciprocal access

Any compact region or State not a member of a compact that provides emergency access to non-Federal disposal facilities within its borders shall be entitled to reciprocal access to any

subsequently operating non-Federal disposal facility that serves the State or compact region in which low-level radioactive waste granted emergency access was generated. The compact commission or State having authority to approve importation of low-level radioactive waste to the disposal facility to which emergency access was granted shall designate for reciprocal access an equal volume of low-level radioactive waste having similar characteristics to that provided emergency access.

(g) Approval by compact commission

Any grant of access under this section shall be submitted to the compact commission for the region in which the designated disposal facility is located for such approval as may be required under the terms of its compact. Any such compact commission shall act to approve emergency access not later than 15 days after receiving notification from the Nuclear Regulatory Commission, or reciprocal access not later than 15 days after receiving notification from the appropriate authority under subsection (f).

(h) Limitations

No State shall be required to provide emergency or reciprocal access to any regional disposal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency or reciprocal access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year.

(i) Volume reduction and surcharges

Any low-level radioactive waste delivered for disposal under this section shall be reduced in volume to the maximum extent practicable and shall be subject to surcharges established in sections 2021b to 2021j of this title.

(j) Deduction from allocation

Any volume of low-level radioactive waste granted emergency or reciprocal access under this section, if generated by any commercial nuclear power reactor, shall be deducted from the low-level radioactive waste volume allocable under section 2021e(c) of this title.

(k) Agreement States

Any agreement under section 2021 of this title shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section.

(Pub. L. 96–573, §6, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1855.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2021g. Responsibilities of Department of Energy

(a) Financial and technical assistance

The Secretary shall, to the extent provided in appropriations Act, provide to those compact regions, host States, and nonmember States detemined [1] by the Secretary to require assistance for purposes of carrying out sections 2021b to 2021j of this title—

(1) continuing technical assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title. Such technical assistance shall include, but not be limited to, technical guidelines for site selection, alternative technologies for low-level radioactive waste

disposal, volume reduction options, management techniques to reduce low-level waste generation, transportation practices for shipment of low-level wastes, health and safety considerations in the storage, shipment and disposal of low-level radioactive wastes, and establishment of a computerized data-base to monitor the management of low-level radioactive wastes; and

(2) through the end of fiscal year 1993, financial assistance to assist them in fulfilling their responsibilities under sections 2021b to 2021j of this title.

(b) Omitted

(Pub. L. 96–573, §7, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1858.)

EDITORIAL NOTES

CODIFICATION

Subsec. (b) of this section, which required the Secretary to prepare and submit to Congress on an annual basis a report on low-level waste disposal, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 2 on page 84 of House Document No. 103–7.

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

[1] *So in original. Probably should be "determined".*

§2021h. Alternative disposal methods

(a) Not later than 12 months after January 15, 1986, the Nuclear Regulatory Commission shall, in consultation with the States and other interested persons, identify methods for the disposal of low-level radioactive waste other than shallow land burial, and establish and publish technical guidance regarding licensing of facilities that use such methods.

(b) Not later than 24 months after January 15, 1986, the Commission shall, in consultation with the States and other interested persons, identify and publish all relevant technical information regarding the methods identified pursuant to subsection (a) that a State or compact must provide to the Commission in order to pursue such methods, together with the technical requirements that such facilities must meet, in the judgment of the Commission, if pursued as an alternative to shallow land burial. Such technical information and requirements shall include, but need not be limited to, site suitability, site design, facility operation, disposal site closure, and environmental monitoring, as necessary to meet the performance objectives established by the Commission for a licensed low-level radioactive waste disposal facility. The Commission shall specify and publish such requirements in a manner and form deemed appropriate by the Commission.

(Pub. L. 96–573, §8, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1858.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2021i. Licensing review and approval

In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, agreement States, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission and the agreement state [1] shall—

(1) not later than 12 months after January 15, 1986, establish procedures and develop the technical capability for processing applications for such licenses;

(2) to the extent practicable, complete all activities associated with the review and processing of any application for such a license (except for public hearings) no later than 15 months after the date of receipt of such application; and

(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

(Pub. L. 96–573, §9, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1859.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

[1] *So in original. Probably should be "States".*

§2021j. Radioactive waste below regulatory concern

(a) Not later than 6 months after January 15, 1986, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

(b) The standards and procedures established by the Commission pursuant to subsection (a) shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission.

(Pub. L. 96–573, §10, as added Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1859.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Low-Level Radioactive Waste Policy Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2022. Health and environmental standards for uranium mill tailings

(a) Promulgation and revision of rules for protection from hazards at inactive or depository

sites

As soon as practicable, but not later than October 1, 1982, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the "Administrator") shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7914(h)]) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7911]) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978 [42 U.S.C. 7911 et seq.]. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.]. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate. The Administrator may periodically revise any standard promulgated pursuant to this subsection. After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.

(b) Promulgation and revision of rules for protection from hazards at processing or disposal sites

(1) As soon as practicable, but not later than October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form, standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 2014(e)(2) of this title, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material. If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this chapter without regard to any provision of this chapter requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this chapter. Requirements established by the Commission under this chapter with respect to byproduct material as defined in section 2014(e)(2) of this title shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection (f)(3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 2014(e)(2) of this title pending promulgation by the Commission of any such standard of general application. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended [42 U.S.C. 6921 et seq.], which are applicable to such hazards: *Provided, however,* That no permit issued by the Administrator is required under this chapter or the Solid Waste Disposal Act, as

amended [42 U.S.C. 6901 et seq.], for the processing, possession, transfer, or disposal of byproduct material, as defined in section 2014(e)(2) of this title. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 2021(b)(2) of this title shall apply such revised standard in the case of any license for byproduct material as defined in section 2014(e)(2) of this title or any revision thereof.

(c) Publication in Federal Register; notice and hearing; consultations; judicial review; time for petition; venue; copy to Administrator; record; administrative jurisdiction; review by Supreme Court; effective date of rule

(1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. The judgement of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

(d) Federal and State implementation and enforcement

Implementation and enforcement of the standards promulgated pursuant to subsection (b) of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this chapter. States exercising authority pursuant to section 2021(b)(2) of this title shall implement and enforce such standards in accordance with subsection (o) of such section.

(e) Other authorities of Administrator unaffected

Nothing in this chapter applicable to byproduct material, as defined in section 2014(e)(2) of this title, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended [42 U.S.C. 7401 et seq.], or the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.].

(f) Implementation or enforcement of Uranium Mill Licensing Requirements

(1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the "October 3 regulations"). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

(2) Following the proposal by the Administrator of standards under subsection (b), the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the

Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection (b). During the period of such suspension, the Commission shall continue to regulate byproduct material (as defined in section 2014(e)(2) of this title) under this chapter on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection (b) of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 2114 of this title to promulgate regulations to protect the public health and safety and the environment.

(Aug. 1, 1946, ch. 724, title I, §275, as added Pub. L. 95–604, title II, §206(a), Nov. 8, 1978, 92 Stat. 3039; amended Pub. L. 97–415, §§18(a), 22(b), Jan. 4, 1983, 96 Stat. 2077, 2080; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Uranium Mill Tailings Radiation Control Act of 1978, referred to in subsec. (a), is Pub. L. 95–604, Nov. 8, 1978, 92 Stat. 3021. Title I of such act is classified generally to subchapter I (§7911 et seq.) of chapter 88 of this title. For complete classification of this act to the Code, see Short Title note set out under section 7901 of this title and Tables.

The Solid Waste Disposal Act, as amended, referred to in subsecs. (a) and (b)(2), is title II of Pub. L. 89–272, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. Subtitle C of the Solid Waste Disposal Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

This chapter, referred to in subsecs. (b), (d), (e), and (f)(2), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Clean Air Act of 1970, as amended, referred to in subsec. (e), probably means the Clean Air Act, which is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Federal Water Pollution Control Act, as amended, referred to in subsec. (e), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–415, §§18(a)(1), 22(b)(1), substituted "October 1, 1982" for "one year after November 8, 1978" inserted provisions relating to the application of the Administrator's proposed standards to actions by the Secretary of Energy in the event the Administrator fails to promulgate standards in final form after Oct. 1, 1982, and inserted provisions that in establishing standards, the Administrator shall consider risk to public health, safety, and the environment, environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

Subsec. (b)(1). Pub. L. 97–415, §§18(a)(2), (3), 22(b)(2), substituted "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form," for "eighteen months after November 8, 1978, the Administrator shall, by rule, promulgate" inserted provisions relating to the consequences of failure by the Administrator to promulgate standards in final form by Oct. 1, 1983, and inserted provisions that in establishing standards, the Administrator shall consider risk to public health, safety, and the environment, environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.

Subsec. (f). Pub. L. 97–415, §18(a)(4), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title.

§2023. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission

(a) In general

No provision of this chapter, or of the Low-Level Radioactive Waste Policy Act [42 U.S.C. 2021b et seq.], may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal or off-site incineration of low-level radioactive waste, if the Nuclear Regulatory Commission, after October 24, 1992, exempts such waste from regulation.

(b) Relation to other State authority

This section may not be construed to imply preemption of existing State authority. Except as expressly provided in subsection (a), this section may not be construed to confer on any State any additional authority to regulate activities licensed by the Nuclear Regulatory Commission.

(c) Definitions

For purposes of this section:

(1) The term "low-level radioactive waste" means radioactive material classified by the Nuclear Regulatory Commission as low-level radioactive waste on October 24, 1992.

(2) The term "off-site incineration" means any incineration of radioactive materials at a facility that is located off the site where such materials were generated.

(3) The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Aug. 1, 1946, ch. 724, title I, §276, as added Pub. L. 102–486, title XXIX, §2901(a), Oct. 24, 1992, 106 Stat. 3122.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Low-Level Radioactive Waste Policy Act, referred to in subsec. (a), is Pub. L. 96–573, as amended generally by Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1842, which is classified generally to section 2021b et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2021b of this title and Tables.

SUBCHAPTER II—ORGANIZATION

§§2031, 2032. Repealed. Pub. L. 93–438, title I, §104(a), Oct. 11, 1974, 88 Stat. 1237

Section 2031, act Aug. 1, 1946, ch. 724, §21, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 924; amended Aug. 9, 1955, ch. 697, §3, 69 Stat. 630, provided for establishment of Atomic Energy Commission, its composition, Chairman, acting Chairman, quorum, official spokesman, and seal.

Provisions similar to section 2031 were contained in section 1802(a)(1) of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Another prior section 21 of act Aug. 1, 1946, ch. 724, 60 Stat. 775, which provided that act Aug. 1, 1946, could be cited as the Atomic Energy Act of 1946, was set out as a note under section 1801 of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2032, act Aug. 1, 1946, ch. 724, §22, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 924; amended Sept. 4, 1957, Pub. L. 85–287, §1, 71 Stat. 612; Aug. 14, 1964, Pub. L. 88–426, title III, §305(10)(A), 78 Stat. 423, provided for appointment of members of Commission, terms of office, and prohibition from engaging in any other vocation, business, or employment, by the members.

Provisions similar to section 2032 were contained in section 1802(a)(2) of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, see section 312(a) of Pub. L. 93–438, set out as a note under section 5801 of this title.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 9816. TRANSFER OF PROPERTY AND PERSONNEL TO THE ATOMIC ENERGY COMMISSION

Ex. Ord. No. 9816, eff. Dec. 31, 1946, 12 F.R. 37, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946 [this chapter], and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.

(b) All facilities, equipment, and materials, devoted primarily to atomic energy research and development.

2. There also are transferred to the Atomic Energy Commission all property, real or personal, tangible or intangible, including records, owned by or in the possession, custody or control of the Manhattan Engineer District, War Department, in addition to the property described in paragraph 1 above. Specific items of such property, including records, may be excepted from transfer to the Commission in the following manner:

(a) The Secretary of War shall notify the Commission in writing as to the specific items of property or records he wishes to except; and

(b) If after full examination of the facts by the Commission, it concurs in the exception, those specific items of property or records shall be excepted from transfer to the Commission; or

(c) If after full examination of the facts by the Commission, it does not concur in the exception, the matter shall be referred to the President for decision.

3. The Atomic Energy Commission shall exercise full jurisdiction over all interests and property transferred to the Commission in paragraphs 1 and 2 above, in accordance with the provisions of the Atomic Energy Act

of 1946 [this chapter].

4. Any Government agency is authorized to transfer to the Atomic Energy Commission, at the request of the Commission, any property, real or personal, tangible or intangible, acquired or used by such Government agency in connection with any of the property or interests transferred to the Commission by paragraphs 1 and 2 above.

5. Each Government agency shall supply the Atomic Energy Commission with a report on, and an accounting and inventory of, all interests and property, described in paragraphs 1, 2 and 4 above, owned by or in the possession, custody, or control of such Government agency, the form and detail of such report, accounting and inventory, to be determined by mutual agreement, or, in case of nonagreement, by the Director of the Bureau of the Budget.

6. (a) There also are transferred to the Atomic Energy Commission, all civilian officers and employees of the Manhattan Engineer District, War Department, except that the Commission and the Secretary of War may by mutual agreement exclude any of such personnel from transfer to the Commission.

(b) The military and naval personnel heretofore assigned or detailed to the Manhattan Engineer District. War Department, shall continue to be made available to the Commission, for military and naval duty, in similar manner, without prejudice, to the military or naval status of such personnel, for such periods of time as may be agreed mutually by the Commission and the Secretary of War or the Secretary of the Navy.

7. The assistance and the services, personal or other, including the use of property, heretofore made available by any Government agency to the Manhattan Engineer District, War Department, shall be made available to the Atomic Energy Commission for the same purposes as heretofore and under the arrangements now existing until terminated after 30 days notice given by the Commission or by the Government agency concerned in each case.

8. The Commission is authorized to exercise all of the powers and functions vested in the Secretary of War by Executive Order No. 9001, of December 27, 1941, as amended, in so far as they relate to contracts heretofore made by or hereby transferred to the Commission.

9. Such further measures and dispositions as may be determined by the Atomic Energy Commission and any Government agency concerned to be necessary to effectuate the transfers authorized or directed by this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

10. This order shall be effective as of midnight, December 31, 1946.

Ex. Ord. No. 9816, was amended by Ex. Ord. No. 10657, Feb. 15, 1956, 21 F.R. 1063, and Ex. Ord. No. 11105, Apr. 19, 1963, 28 F.R. 3909, formerly set out as notes under section 2313 of this title, to the extent that it may be inconsistent with such Executive orders.

EX. ORD. NO. 9829. EXTENSION OF EXECUTIVE ORDER NO. 9177 TO ATOMIC ENERGY COMMITTEE

Ex. Ord. No. 9829, eff. Feb. 21, 1947, 12 F.R. 1259, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, and particularly by Title I of the First War Powers Act, 1941, approved December 18, 1941 (55 Stat. 838), and in the interest of the internal management of the Government, I hereby extend the provisions of Executive Order No. 9177 of May 30, 1942 (7 F.R. 4195), to the United States Atomic Energy Commission; and, subject to the limitations contained in that order, I hereby authorize the United States Atomic Energy Commission to perform and exercise all of the functions and powers vested in and granted to the Secretary of War, the Secretary of the Treasury, the Secretary of Agriculture, and the Reconstruction Finance Corporation by that order.

This order shall be applicable to articles entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 1947.

§2033. Principal office

The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia.

(Aug. 1, 1946, ch. 724, title I, §23, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 925; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXPENSES FOR MOVE TO NEW PRINCIPAL OFFICE

Pub. L. 85–162, title I, §109, Aug. 21, 1957, 71 Stat. 407, as amended by Pub. L. 85–590, §108, Aug. 4, 1958, 72 Stat. 493, authorized the Commission to use its funds for the payment for travel and transportation expenses in connection with the relocation of residence of employees in order to facilitate retention and relocation of Commission headquarter employees.

§2034. General Manager, Deputy and Assistant General Managers

There is established within the Commission—

(a) General Manager; chief executive officer; duties; appointment; removal

a General Manager, who shall be the chief executive officer of the Commission, and who shall discharge such of the administrative and executive functions of the Commission as the Commission may direct. The General Manager shall be appointed by the Commission, shall serve at the pleasure of the Commission and shall be removable by the Commission.

(b) Deputy General Manager; duties; appointment; removal

a Deputy General Manager, who shall act in the stead of the General Manager during his absence when so directed by the General Manager, and who shall perform such other administrative and executive functions as the General Manager shall direct. The Deputy General Manager shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(c) Assistant General Managers; duties; appointment; removal

Assistant General Managers, or their equivalents (not to exceed a total of three positions), who shall perform such administrative and executive functions as the General Manager shall direct. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(Aug. 1, 1946, ch. 724, title I, §24, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 925; amended Pub. L. 85–287, §2, Sept. 4, 1957, 71 Stat. 612; Pub. L. 88–426, title III, §306(f)(1)–(3), Aug. 14, 1964, 78 Stat. 429; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(4)(A) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–426, §306(f)(1), struck out provisions which prescribed the compensation of the General Manager. Such compensation is now prescribed by section 5315 of Title 5, Government Organization and Employees.

Subsec. (b). Pub. L. 88–426, §306(f)(2), struck out provisions which prescribed the compensation of the Deputy General Manager. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

Subsec. (c). Pub. L. 88–426, §306(f)(3), struck out provisions which prescribed the compensation of the

Assistant General Managers. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

1957—Subsec. (a). Pub. L. 85–287 designated existing provisions as subsec. (a), designated the General Manager as the chief executive officer of the Commission, and increased his compensation from $20,000 to $22,000 per annum.

Subsecs. (b), (c). Pub. L. 85–287 added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426, title V, Aug. 14, 1964, 78 Stat. 435.

§2035. Divisions, offices, and positions

There is established within the Commission—

(a) Program divisions; appointment and powers of Assistant General Manager and Division Directors

a Division of Military Application and such other program divisions (not to exceed ten in number) as the Commission may determine to the necessary to the discharge of its responsibilities, including a division or divisions the primary responsibilities of which include the development and application of civilian uses of atomic energy. The Division of Military Application shall be under the direction of an Assistant General Manager for Military Application, who shall be appointed by the Commission and shall be an active commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate. Each other program division shall be under the direction of a Director who shall be appointed by the Commission. The Commission shall require each such division to exercise such of the Commission's administrative and executive powers as the Commission may determine;

(b) General Counsel

an Office of the General Counsel under the direction of the General Counsel who shall be appointed by the Commission; and

(c) Inspection Division; duties

an Inspection Division under the direction of a Director who shall be appointed by the Commission. The Inspection Division shall be responsible for gathering information to show whether or not the contractors, licensees, and officers and employees of the Commission are complying with the provisions of this chapter (except those provisions for which the Federal Bureau of Investigation is responsible) and the appropriate rules and regulations of the Commission.

(d) Executive management positions; appointment; removal

such other executive management positions (not to exceed six in number) as the Commission may determine to be necessary to the discharge of its responsibilities. Such positions shall be established by the General Manager with the approval of the Commission. They shall be appointed by the General Manager with the approval of the Commission, shall serve at the pleasure of the General Manager, and shall be removable by the General Manager.

(Aug. 1, 1946, ch. 724, title I, §25, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 925; amended Pub. L. 85–287, §3, Sept. 4, 1957, 71 Stat. 612; Pub. L. 88–426, title III, §306(f)(4)–(7), Aug. 14, 1964, 78 Stat. 429, 430; Pub. L. 90–190, §5, Dec. 14, 1967, 81 Stat. 577; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(a)(4)(B) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–190 substituted an Assistant General Manager for Military Application, who would be appointed by the Commission, for the Director of the Division of Military Application as the head of the Division of Military Application, inserted requirement that the Assistant General Manager be a commissioned officer of the Armed Forces serving in general or flag officer rank or grade, as appropriate, and substituted "other program division" for "such division".

1964—Subsec. (a). Pub. L. 88–426, §306(f)(4), struck out provisions which prescribed the compensation of directors of program divisions.

Subsec. (b). Pub. L. 88–426, §306(f)(5), struck out provisions which prescribed compensation of General Counsel. Such compensation is now prescribed by section 5316 of Title 5, Government Organization and Employees.

Subsec. (c). Pub. L. 88–426, §306(f)(6), struck out provisions which prescribed compensation of Director of Inspection Division.

Subsec. (d). Pub. L. 88–426, §306(f)(7), struck out provisions which prescribed compensation of executive management positions.

1957—Pub. L. 85–287 substituted "Divisions, offices, and positions" for "Divisions and offices" in section catchline.

Subsec. (a). Pub. L. 85–287 increased compensation of Director from $16,000 to $19,000 per annum.

Subsec. (b). Pub. L. 85–287 increased compensation of General Counsel from $16,000 to $19,500 per annum.

Subsec. (c). Pub. L. 85–287 increased compensation of Director from $16,000 to $19,000 per annum.

Subsec. (d). Pub. L. 85–287 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426, title V, Aug. 14, 1964, 78 Stat. 435.

TRANSFER OF FUNCTIONS

Divisions of Military Application and Naval Reactors, both established under this section, transferred to Department of Energy by section 7158 of this title, with such organizational units to be deemed organizational units established by chapter 84 (§7101 et seq.) of this title. Energy Research and Development Administration terminated pursuant to sections 7151(a) and 7293 of this title.

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. Divisions of Military Application and Naval Reactors established under this section transferred to Energy Research and Development Administration and functions of Atomic Energy Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See also Transfer of Functions notes set out under sections 5814 and 5841 of this title.

§2036. Repealed. Pub. L. 95–91, title VII, §709(c)(1), Aug. 4, 1977, 91 Stat. 608

Section, act Aug. 1, 1946, ch. 724, §26, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 926, established a General Advisory Committee to advise the Atomic Energy Commission on scientific and technical matters

relating to materials, production, and research and development.

Provisions similar to this section were contained in section 1802(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2037. Repealed. Pub. L. 99–661, div. C, title I, §3137(c), Nov. 14, 1986, 100 Stat. 4066

Section, act Aug. 1, 1946, ch. 724, §27, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 926; amended Aug. 14, 1964, Pub. L. 88–426, title III, §305(10)(B), 78 Stat. 423, related to Military Liaison Committee, its composition and duties, and authority of Defense Department to make recommendations to Committee.

§2038. Appointment of Army, Navy, or Air Force officer as Assistant General Manager for Military Application; Chairman of Military Liaison Committee; compensation

Notwithstanding the provisions of any other law, the officer of the Army, Navy, or Air Force serving as Assistant General Manager for Military Application shall serve without prejudice to his commissioned status as such officer. Any such officer serving as Assistant General Manager for Military Application shall receive in addition to his pay and allowances, including special and incentive pays, for which pay and allowances the Commission shall reimburse his service, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation established for this position. Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Military Liaison Committee without prejudice to his active or retired status as such officer. Any such active officer serving as Chairman of the Military Liaison Committee shall receive, in addition to his pay and allowances, including special and incentive pays, an amount equal to the difference between such pay and allowances, including special and incentive pays, and the compensation fixed for such Chairman. Any such retired officer serving as Chairman of the Military Liaison Committee shall receive the compensation fixed for such Chairman and his retired pay.

(Aug. 1, 1946, ch. 724, title I, §28, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 926; amended Pub. L. 88–426, title III, §306(f)(8), Aug. 14, 1964, 78 Stat. 430; Pub. L. 88–448, title IV, §401(f), Aug. 19, 1964, 78 Stat. 490; Pub. L. 90–190, §6, Dec. 14, 1967, 81 Stat. 577; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 107–107, div. A, title X, §1048(i)(11), Dec. 28, 2001, 115 Stat. 1230.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1802(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2001—Pub. L. 107–107 struck out ", subject to section 201 of the Dual Compensation Act" before period at end.

1967—Pub. L. 90–190 substituted "the officer of the Army, Navy, or Air Force serving" for "any active officer of the Army, Navy, or Air Force may serve" and "Assistant General Manager for Military Application" for "Director of the Division of Military Application" wherever appearing, provided for reimbursement by the Commission to the service of the Assistant General Manager for the pay and allowances received by him from his service while he is serving as Assistant General Manager, and struck out references to sections 2211 and 2213 of former title 5.

1964—Pub. L. 88–448 substituted provisions permitting a retired officer serving as Chairman of the Military Liaison Committee to receive the compensation fixed for such Chairman and his retired pay, subject to section 3102 of former title 5, for provisions which permitted a retired officer serving as Chairman to

receive in addition to his retired pay, an amount equal to the difference between his retired pay and the compensation prescribed for the Chairman.

Pub. L. 88–426 substituted "and the compensation established for this position pursuant to section 2211 or 2213 of title 5" for "and the compensation prescribed in section 2035 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426, title V, Aug. 14, 1964, 78 Stat. 435.

§2039. Advisory Committee on Reactor Safeguards; composition; tenure; duties; compensation

There is established an Advisory Committee on Reactor Safeguards consisting of a maximum of fifteen members appointed by the Commission for terms of four years each. The Committee shall review safety studies and facility license applications referred to it and shall make reports thereon, shall advise the Commission with regard to the hazards of proposed or existing reactor facilities and the adequacy of proposed reactor safety standards, and shall perform such other duties as the Commission may request. One member shall be designated by the Committee as its Chairman. The members of the Committee shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Committee, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Committee. The provisions of section 2203 of this title shall be applicable to the Committee.

(Aug. 1, 1946, ch. 724, title I, §29, as added Pub. L. 85–256, §5, Sept. 2, 1957, 71 Stat. 579; amended Pub. L. 95–209, §5, Dec. 13, 1977, 91 Stat. 1483; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–362, title XII, §1201(a), Nov. 10, 1998, 112 Stat. 3292.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–362 struck out at end "In addition to its other duties under this section, the committee, making use of all available sources, shall undertake a study of reactor safety research and prepare and submit annually to the Congress a report containing the results of such study. The first such report shall be submitted to the Congress not later than December 31, 1977."

1977—Pub. L. 95–209 inserted provisions which called for a study of reactor safety research and an annual report on results of study.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

§2040. Fellowship program of Advisory Committee on Reactor Safeguards;

selection of fellowships

To assist the Advisory Committee on Reactor Safeguards in carrying out its function, the committee shall establish a fellowship program under which persons having appropriate engineering or scientific expertise are assigned particular tasks relating to the functions of the committee. Such fellowship shall be for 2-year periods and the recipients of such fellowships shall be selected pursuant to such criteria as may be established by the committee.

(Pub. L. 95–209, §6, Dec. 13, 1977, 91 Stat. 1483.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954.

SUBCHAPTER III—RESEARCH

§2051. Research and development assistance

(a) Contracts and loans for research activities

The Commission is directed to exercise its powers in such manner as to insure the continued conduct of research and development and training activities in the fields specified below, by private or public institutions or persons, and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To this end the Commission is authorized and directed to make arrangements (including contracts, agreements, and loans) for the conduct of research and development activities relating to—

(1) nuclear processes;

(2) the theory and production of atomic energy, including processes, materials, and devices related to such production;

(3) utilization of special nuclear material and radioactive material for medical, biological, agricultural, health, or military purposes;

(4) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial or commercial uses, the generation of usable energy, and the demonstration of advances in the commercial or industrial application of atomic energy;

(5) the protection of health and the promotion of safety during research and production activities; and

(6) the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs.

(b) Grants and contributions

The Commission is authorized—

(1) to make grants and contributions to the cost of construction and operation of reactors and other facilities and other equipment to colleges, universities, hospitals, and eleemosynary or charitable institutions for the conduct of educational and training activities relating to the fields in subsection (a); and

(2) to provide grants, loans, cooperative agreements, contracts, and equipment to institutions of higher education (as defined in section 1002 of title 20) to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the Commission determines to be critical to the regulatory mission of the Commission.

(c) Purchase of supplies without advertising

The Commission may (1) make arrangements pursuant to this section, without regard to the provisions of section 6101 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable; (2) make partial and advance payments under such arrangements; and (3) make available for use in connection therewith such of its equipment and facilities as it may deem desirable.

(d) Prevention of dissemination of information prohibited; other conditions of agreements

The arrangements made pursuant to this section shall contain such provisions (1) to protect health, (2) to minimize danger to life or property, and (3) to require the reporting and to permit the inspection of work performed thereunder, as the Commission may determine. No such arrangement shall contain any provisions or conditions which prevent the dissemination of scientific or technical information, except to the extent such dissemination is prohibited by law.

(Aug. 1, 1946, ch. 724, title I, §31, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 927; amended Aug. 6, 1956, ch. 1015, §§2, 3, 70 Stat. 1069; Pub. L. 91–560, §1, Dec. 19, 1970, 84 Stat. 1472; Pub. L. 92–84, title II, §201(a), Aug. 11, 1971, 85 Stat. 307; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §651(c)(1), Aug. 8, 2005, 119 Stat. 801.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c)(1), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1803(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 inserted heading, inserted par. (1) designation before "to make grants", in introductory provisions substituted "authorized—" for "further authorized", and added par. (2).

1971—Subsec. (a)(6). Pub. L. 92–84 added par. (6).

1970—Subsec. (a)(4). Pub. L. 91–560 inserted commercial uses as an additional purpose and substituted "demonstration of advances in the commercial or industrial application of atomic energy" for "demonstration of the practical value of utilization or production facilities for industrial or commercial purposes".

1956—Subsec. (a). Act Aug. 6, 1956, §2, inserted "and training" after "development" in first sentence.

Subsecs. (b) to (d). Act Aug. 6, 1956, §3, added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

THREE MILE ISLAND NUCLEAR STATION, PA.; FEASIBILITY OF EPIDEMIOLOGICAL RESEARCH ON HEALTH EFFECTS OF LOW-LEVEL RADIATION; REPORT TO CONGRESS

Pub. L. 96–295, title III, §308(a), June 30, 1980, 94 Stat. 792, provided that in the conduct of the study required by Pub. L. 95–601, §5(d), Nov. 6, 1978, 92 Stat. 2949, on options for Federal epidemiological research on the health effects of low-level ionizing radiation, set out below, the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, evaluate the feasibility of epidemiological research on the health effects of low-level ionizing radiation exposure to licensee, contractor, and subcontractor employees as a result of the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania, the efforts to stabilize such facility or reduce or prevent radioactive unplanned offsite releases in excess of allowable limits for

normal operation established by the Commission, or efforts to decontaminate, decommission, or repair such facility, with the report required by such section 5(d) of Pub. L. 95–601 to include the results of this evaluation.

STUDY ON HEALTH EFFECTS OF LOW-LEVEL RADIATION; REPORT TO CONGRESS

Pub. L. 95–601, §5, Nov. 6, 1978, 92 Stat. 2949, as amended by Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96–295, title III, §308(b), June 30, 1980, 94 Stat. 792, provided that the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation, within thirty days after Nov. 6, 1978, the Commission and the Environmental Protection Agency submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the planning studies, on or before Apr. 1, 1979, the Commission and the Environmental Protection Agency submit a report to the Congress containing an assessment of the capabilities and research needs of such agencies in the area of health effects of low-level ionizing radiation, and on or before Sept. 30, 1980, the Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, submit a report to the Congress which includes a study of options for Federal epidemiological research on the health effects of low-level ionizing radiation with evaluations of the feasibility of such options.

§2052. Research by Commission

The Commission is authorized and directed to conduct, through its own facilities, activities and studies of the types specified in section 2051 of this title.

(Aug. 1, 1946, ch. 724, title I, §32, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 928; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1803(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2053. Research for others; charges

In this section, with respect to international research projects, the term "private facilities or laboratories" means facilities or laboratories located in the United States. Where the Commission finds private facilities or laboratories are inadequate for the purpose, it is authorized to conduct for other persons, through its own facilities, such of those activities and studies of the types specified in section 2051 of this title as it deems appropriate to the development of energy. To the extent the Commission determines that private facilities or laboratories are inadequate for the purpose, and that the Commission's facilities, or scientific or technical resources have the potential of lending significant assistance to other persons in the fields of protection of public health and safety, the Commission may also assist other persons in these fields by conducting for such persons, through the Commission's own facilities, research and development or training activities and studies. The Commission is authorized to determine and make such charges as in its discretion may be desirable for the conduct of the activities and studies referred to in this section.

(Aug. 1, 1946, ch. 724, title I, §33, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 928; amended Pub. L. 90–190, §7, Dec. 14, 1967, 81 Stat. 577; Pub. L. 92–84, title II, §201(b), Aug. 11, 1971, 85 Stat. 307; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 115–246, title III, §307(g), formerly §307(f), Sept. 28, 2018, 132 Stat. 3149, renumbered §307(g), Pub. L. 116–260, div. Z, title II, §2008(a)(1), Dec. 27, 2020, 134 Stat. 2474.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–246 inserted "In this section, with respect to international research projects, the term 'private facilities or laboratories' means facilities or laboratories located in the United States." before "Where the Commission".

1971—Pub. L. 92–84 substituted provisions authorizing the Commission to conduct research for other persons for the development of energy, for provisions authorizing the Commission to conduct research for other persons for the development of atomic energy.

1967—Pub. L. 90–190 inserted provision which authorized the Commission, to the extent the Commission made certain determinations, to assist other persons on the fields of protection of public health and safety by conducting for such persons, through the facilities of the Commission, research and development or training activities and studies, and substituted "the activities and studies referred to in this section" for "such activities and studies".

SUBCHAPTER IV—PRODUCTION OF SPECIAL NUCLEAR MATERIAL

§2061. Production facilities

(a) Ownership

The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 2051 of this title, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; (2) are licensed by the Commission under this division; or (3) are owned by the United States Enrichment Corporation.

(b) Operation of Commission's facilities

The Commission is authorized and directed to produce or to provide for the production of special nuclear material in its own production facilities. To the extent deemed necessary, the Commission is authorized to make, or to continue in effect, contracts with persons obligating them to produce special nuclear material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce special nuclear material in facilities owned by the Commission to the extent that the production of such special nuclear material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (1) prohibiting the contractor from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission; and (2) obligating the contractor (A) to make such reports pertaining to activities under the contract to the Commission as the Commission may require, (B) to submit to inspection by employees of the Commission of all such activities, and (C) to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 6101 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under such contracts.

(c) Operation of other facilities

Special nuclear material may be produced in the facilities which under this section are not required to be owned by the Commission.

(Aug. 1, 1946, ch. 724, title I, §41, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 928; amended Pub. L. 90–190, §8, Dec. 14, 1967, 81 Stat. 577; Pub. L. 101–575, §5(c), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(2), (8), Oct. 24, 1992, 106 Stat.

2943, 2944.)

EDITORIAL NOTES

CODIFICATION

In subsec. (b), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–486, §902(a)(2), substituted "under this division" for "pursuant to under this chapter" in cl. (2) and added cl. (3).

1990—Subsec. (a)(2). Pub. L. 101–575 substituted "under this chapter" for "section 2133 or 2134 of this title".

1967—Subsec. (b). Pub. L. 90–190 struck out provision requiring the President to determine in writing at least once each year the quantities of special nuclear material to be produced under this section, and to specify in such determination the quantities of special nuclear material to be available for distribution by the Commission pursuant to sections 2073 and 2074 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Pub. L. 103–316, title III, Aug. 26, 1994, 108 Stat. 1715, provided in part: "That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts [see below] into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: *Provided further*, That the authority to use these amounts appropriated is effective from the date of enactment of this Act [Aug. 26, 1994]: *Provided further*, That fees set by the Secretary for the sale of isotopes and related services shall hereafter be determined without regard to the provisions of Energy and Water Development Appropriations Act (Public Law 101–101) [see below]: *Provided further*, That amounts provided for isotope production and distribution in previous Energy and Water Development Appropriations Acts shall be treated as direct appropriations and shall be merged with funds appropriated under this head [ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES]."

Pub. L. 102–377, title III, Oct. 2, 1992, 106 Stat. 1334, provided in part that: "Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101–101 [set out below] shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $5,000,000 to remain available until expended."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–104, title III, Aug. 17, 1991, 105 Stat. 528.

Pub. L. 101–514, title III, Nov. 5, 1990, 104 Stat. 2090.

Pub. L. 101–101, title III, Sept. 29, 1989, 103 Stat. 659, provided in part that: "For necessary expenses of activities related to the production, distribution, and sale of isotopes and related services, $16,243,000, to remain available until expended: *Provided*, That this amount and, notwithstanding 31 U.S.C. 3302, revenues

received from the disposition of isotopes and related services shall be credited to this account to be available for carrying out these purposes without further appropriation: *Provided further,* That all unexpended balances of previous appropriations made for the purpose of carrying out activities related to the production, distribution, and sale of isotopes and related services may be transferred to this fund and merged with other balances in the fund and be available under the same conditions and for the same period of time: *Provided further,* That fees shall be set by the Secretary of Energy in such a manner as to provide full cost recovery, including administrative expenses, depreciation of equipment, accrued leave, and probable losses: *Provided further,* That all expenses of this activity shall be paid only from funds available in this fund: *Provided further* , That at any time the Secretary of Energy determines that moneys in the fund exceed the anticipated requirements of the fund, such excess shall be transferred to the general fund of the Treasury."

§2062. Irradiation of materials

The Commission and persons lawfully producing or utilizing special nuclear material are authorized to expose materials of any kind to the radiation incident to the processes of producing or utilizing special nuclear material.

(Aug. 1, 1946, ch. 724, title I, §42, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 4 of act Aug. 1, 1946, ch. 724, 60 Stat. 759, which was classified to section 1804 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2063. Acquisition of production facilities

The Commission is authorized to purchase any interest in facilities for the production of special nuclear materials, or in real property on which such facilities are located, without regard to the provisions of section 6101 of title 41 upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. The Commission is further authorized to requisition, condemn, or otherwise acquire any interest in such production facilities, or to condemn or otherwise acquire such real property, and just compensation shall be made therefor.

(Aug. 1, 1946, ch. 724, title I, §43, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

CODIFICATION

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 5 of act Aug. 1, 1946, ch. 724, 60 Stat. 760, which was classified to section 1805 of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2064. Disposition of energy; regulation on sale

If energy is produced at production facilities of the Commission or is produced in experimental utilization facilities of the Commission, such energy may be used by the Commission, or transferred to other Government agencies, or sold to publicly, cooperatively, or privately owned utilities or users at reasonable and nondiscriminatory prices. If the energy produced is electric energy, the price shall be subject to regulation by the appropriate agency having jurisdiction. In contracting for the disposal of such energy, the Commission shall give preference and priority to public bodies and cooperatives or to privately owned utilities providing electric utility services to high cost areas not being served by public bodies or cooperatives. Nothing in this chapter shall be construed to authorize the Commission to engage in the sale or distribution of energy for commercial use except such energy as may be produced by the Commission incident to the operation of research and development facilities of the Commission, or of production facilities of the Commission.

(Aug. 1, 1946, ch. 724, title I, §44, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 7(d) of act Aug. 1, 1946, ch. 724, 60 Stat. 764, which was classified to section 1807(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2065. Improving the reliability of domestic medical isotope supply

(a) Medical isotope development projects

(1) In general

The Secretary shall carry out a technology-neutral program—

(A) to evaluate and support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses;

(B) to be carried out in cooperation with non-Federal entities; and

(C) the costs of which shall be shared in accordance with section 16352 of this title.

(2) Criteria

Projects shall be evaluated against the following primary criteria:

(A) The length of time necessary for the proposed project to begin production of molybdenum-99 for medical uses within the United States.

(B) The capability of the proposed project to produce a significant percentage of United States demand for molybdenum-99 for medical uses.

(C) The capability of the proposed project to produce molybdenum-99 in a cost-effective manner.

(D) The cost of the proposed project.

(3) Exemption

An existing reactor in the United States fueled with highly enriched uranium shall not be disqualified from the program if the Secretary determines that—

(A) there is no alternative nuclear reactor fuel, enriched in the isotope U–235 to less than 20 percent, that can be used in that reactor;

(B) the reactor operator has provided assurances that, whenever an alternative nuclear reactor

fuel, enriched in the isotope U–235 to less than 20 percent, can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(C) the reactor operator has provided a current report on the status of its efforts to convert the reactor to an alternative nuclear reactor fuel enriched in the isotope U–235 to less than 20 percent, and an anticipated schedule for completion of conversion.

(4) Public participation and review

The Secretary shall—

(A) develop a program plan and annually update the program plan through public workshops; and

(B) use the Nuclear Science Advisory Committee to conduct triennial reviews of the progress made in achieving the program goals and make recommendations to improve program effectiveness.

(b) Development assistance

The Secretary shall carry out a program to provide assistance for—

(1) the development of fuels, targets, and processes for domestic molybdenum-99 production that do not use highly enriched uranium; and

(2) commercial operations using the fuels, targets, and processes described in paragraph (1).

(c) Uranium lease and take-back

(1) In general

The Secretary shall establish a program to make low enriched uranium available, through lease contracts, for irradiation for the production of molybdenum-99 for medical uses.

(2) Title

The lease contracts shall provide for the producers of the molybdenum-99 to take title to and be responsible for the molybdenum-99 created by the irradiation, processing, or purification of uranium leased under this section.

(3) Duties

(A) Secretary

The lease contracts shall require the Secretary—

(i) to retain responsibility for the final disposition of spent nuclear fuel created by the irradiation, processing, or purification of uranium leased under this section for the production of medical isotopes; and

(ii) to take title to and be responsible for the final disposition of radioactive waste created by the irradiation, processing, or purification of uranium leased under this section for which the Secretary determines the producer does not have access to a disposal path.

(B) Producer

The producer of the spent nuclear fuel and radioactive waste shall accurately characterize, appropriately package, and transport the spent nuclear fuel and radioactive waste prior to acceptance by the Department.

(4) Compensation

(A) In general

Subject to subparagraph (B), the lease contracts shall provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for—

(i) the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); and

(ii) other costs associated with carrying out the uranium lease and take-back program authorized by this subsection.

(B) Discount rate

The discount rate used to determine the net present value of costs described in subparagraph (A)(ii) shall be not greater than the average interest rate on marketable Treasury securities.

(5) Authorized use of funds

Subject to the availability of appropriations, the Secretary may obligate and expend funds received under leases entered into under this subsection, which shall remain available until expended, for the purpose of carrying out the activities authorized by this subtitle, including activities related to the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3).

(6) Exchange of uranium for services

The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for—

(A) services related to the final disposition of the spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); or

(B) any other services associated with carrying out the uranium lease and take-back program authorized by this subsection.

(d) Coordination of environmental reviews

The Department and the Nuclear Regulatory Commission shall ensure to the maximum extent practicable that environmental reviews for the production of the medical isotopes shall complement and not duplicate each review.

(e) Operational date

The Secretary shall establish a program as described in subsection (c)(3) not later than 3 years after January 2, 2013.

(f) Radioactive waste

Notwithstanding section 10101 of this title, radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly and for which there is no further use shall be considered low-level radioactive waste if the material is acceptable under Federal requirements for disposal as low-level radioactive waste.

(Pub. L. 112–239, div. C, title XXXI, §3173, Jan. 2, 2013, 126 Stat. 2211; Pub. L. 117–81, div. C, title XXXI, §3131(c), Dec. 27, 2021, 135 Stat. 2230.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in subsec. (c)(5), is subtitle F (§§3171–3178) of title XXXI of div. C of Pub. L. 112–239. For complete classification of this subtitle to the Code, see Short Title of 2013 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the American Medical Isotopes Production Act of 2012 and also as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2021—Subsec. (a)(4)(B). Pub. L. 117–81 substituted "triennial reviews" for "annual reviews".

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 112–239, div. C, title XXXI, §3172, Jan. 2, 2013, 126 Stat. 2211, provided that: "In this subtitle [subtitle F (§§3171–3178), see Short Title of 2013 Amendment note set out under section 2011 of this title

and Tables]:

"(1) DEPARTMENT.—The term 'Department' means the Department of Energy.

"(2) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' means uranium enriched to 20 percent or greater in the isotope U–235.

"(3) LOW ENRICHED URANIUM.—The term 'low enriched uranium' means uranium enriched to less than 20 percent in the isotope U–235.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Energy."

SUBCHAPTER V—SPECIAL NUCLEAR MATERIAL

§2071. Determination of other material as special nuclear material; Presidential assent; effective date

The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Energy Committees, after having received such determination, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, §51, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 929; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(2), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(1) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Energy Committees" for "Joint Committee" in two places.

§2072. Repealed. Pub. L. 88–489, §4, Aug. 26, 1964, 78 Stat. 603

Section, act Aug. 1, 1946, ch. 724, §52, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 929, related to Government ownership of all special nuclear material and provided for compensation of private owners of such material.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXTINGUISHMENT OF RIGHTS, TITLE AND INTEREST IN SPECIAL NUCLEAR MATERIAL

Pub. L. 88–489, §4, Aug. 26, 1964, 78 Stat. 603, provided in part that: "All rights, title, and interest in and to any special nuclear material vested in the United States solely by virtue of the provisions of the first sentence of such section 52 [this section], and not by any other transaction authorized by the Atomic Energy Act of 1954, as amended [this chapter], or other applicable law, are hereby extinguished."

§2073. Domestic distribution of special nuclear material

(a) Licenses

The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this chapter.

(b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of special nuclear material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

(c) Manner of distribution; charges for material sold; agreements; charges for material leased

(1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, or grant: *Provided, however*, That unless otherwise authorized by law, the Commission shall not after December 31, 1970, distribute special nuclear material except by sale to any person who possesses or operates a utilization facility under a license issued pursuant to section 2133 or 2134(b) of this title for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

(2) The Commission shall establish reasonable sales prices for the special nuclear material licensed and distributed by sale under this section. Such sales prices shall be established on a nondiscriminatory basis which, in the opinion of the Commission, will provide reasonable compensation to the Government for such special nuclear material.

(3) The Commission is authorized to enter into agreements with licensees for such period of time as the Commission may deem necessary or desirable to distribute to such licensees such quantities of special nuclear material as may be necessary for the conduct of the licensed activity. In such agreements, the Commission may agree to repurchase any special nuclear material licensed and distributed by sale which is not consumed in the course of the licensed activity, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission.

(4) The Commission may make a reasonable charge, determined pursuant to this section, for the use of special nuclear material licensed and distributed by lease under subsection (a)(1), (2) or (4) and shall make a reasonable charge determined pursuant to this section for the use of special nuclear material licensed and distributed by lease under subsection (a)(3). The Commission shall establish criteria in writing for the determination of whether special nuclear material will be distributed by grant and for the determination of whether a charge will be made for the use of special nuclear

material licensed and distributed by lease under subsection (a)(1), (2) or (4), considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the special nuclear material will be used.

(d) Determination of charges

In determining the reasonable charge to be made by the Commission for the use of special nuclear material distributed by lease to licensees of utilization or production facilities licensed pursuant to section 2133 or 2134 of this title, in addition to consideration of the cost thereof, the Commission shall take into consideration—

(1) the use to be made of the special nuclear material;

(2) the extent to which the use of the special nuclear material will advance the development of the peaceful uses of atomic energy;

(3) the energy value of the special nuclear material in the particular use for which the license is issued;

(4) whether the special nuclear material is to be used in facilities licensed pursuant to section 2133 or 2134 of this title. In this respect, the Commission shall, insofar as practicable, make uniform, nondiscriminatory charges for the use of special nuclear material distributed to facilities licensed pursuant to section 2133 of this title; and

(5) with respect to special nuclear material consumed in a facility licensed pursuant to section 2133 of this title, the Commission shall make a further charge equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2), and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title.

(e) License conditions

Each license issued pursuant to this section shall contain and be subject to the following conditions—

(1) Repealed. Pub. L. 88–489, §8, Aug. 26, 1964, 78 Stat. 604.

(2) no right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter;

(4) all special nuclear material shall be subject to the right of recapture or control reserved by section 2138 of this title and to all other provisions of this chapter;

(5) no special nuclear material may be used in any utilization or production facility except in accordance with the provisions of this chapter;

(6) special nuclear material shall be distributed only on terms, as may be established by rule of the Commission, such that no user will be permitted to construct an atomic weapon;

(7) special nuclear material shall be distributed only pursuant to such safety standards as may be established by rule of the Commission to protect health and to minimize danger to life or property; and

(8) except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply, the licensee will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee.

(f) Distribution for independent research and development activities

The Commission is directed to distribute within the United States sufficient special nuclear material to permit the conduct of widespread independent research and development activities to the maximum extent practicable. In the event that applications for special nuclear material exceed the amount available for distribution, preference shall be given to those activities which are most likely, in the opinion of the Commission, to contribute to basic research, to the development of peacetime uses of atomic energy, or to the economic and military strength of the Nation.

(Aug. 1, 1946, ch. 724, title I, §53, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 930; amended Pub. L. 85–256, §2, Sept. 2, 1957, 71 Stat. 576; Pub. L. 85–681, §§1, 2, Aug. 19, 1958, 72 Stat. 632; Pub.

L. 88–489, §§5–8, Aug. 26, 1964, 78 Stat. 603, 604; Pub. L. 90–190, §§9, 10, Dec. 14, 1967, 81 Stat. 577; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(3), (8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4) and (e)(3) to (5), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(4) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Subsec. (c)(1). Pub. L. 102–486, §902(a)(3), substituted "or grant" for "grant," and struck out "or through the provision of production or enrichment services" before ": *Provided, however*" and before "to any person".

1967—Subsec. (c)(1). Pub. L. 90–190, §10, inserted "or through the provision of production or enrichment services" wherever appearing.

Subsec. (f). Pub. L. 90–190, §9, struck out reference to the limitations on the distribution of special nuclear materials set by the President in determinations made pursuant to section 2061 of this title.

1964—Subsec. (a). Pub. L. 88–489, §5, substituted "(i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, special nuclear material, (ii) to make special nuclear material available for the period of the license, and, (iii)" for "to issue licenses for the possession of, to make available for the period of the license, and".

Subsec. (c). Pub. L. 88–489, §6, designated existing provisions as par. (4), inserted "by lease" wherever appearing and "special nuclear material will be distributed by grant and for the determination of whether", and added pars. (1) to (3).

Subsec. (d). Pub. L. 88–489, §7, inserted "by lease" in introductory provisions, and in ch. (5) substituted "equivalent to the sale price for similar special nuclear material established by the Commission in accordance with subsection (c)(2), and the Commission may make such a charge with respect to such material consumed in a facility licensed pursuant to section 2134 of this title" for "based on the cost to the Commission, as estimated by the Commission, or the average fair price paid for the production of such special nuclear material as determined by section 2076 of this title, whichever is lower".

Subsec. (e)(1). Pub. L. 88–489, §8, struck out par. (1) which provided that title to all special nuclear material shall at all times be in the United States.

1958—Subsec. (a)(4). Pub. L. 85–681, §1, added par. (4).

Subsec. (c). Pub. L. 85–681, §2, substituted "subsections (a)(1), (2) or (4)" for "subsection (a)(1) or (a) (2)".

1957—Subsec. (e)(8). Pub. L. 85–256 inserted "except to the extent that the indemnification and limitation of liability provisions of section 2210 of this title apply,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

DENIAL OF CERTAIN DOMESTIC LICENSES FOR NATIONAL SECURITY PURPOSES

Pub. L. 118–67, div. B, title I, §102, July 9, 2024, 138 Stat. 1451, provided that:

"(a) DEFINITION OF COVERED FUEL.—In this section, the term 'covered fuel' means enriched uranium that is fabricated outside the United States into fuel assemblies for commercial nuclear power reactors by an entity that—

"(1) is owned or controlled by the Government of the Russian Federation or the Government of the People's Republic of China; or

"(2) is organized under the laws of, or otherwise subject to the jurisdiction of, the Russian Federation or the People's Republic of China.

"(b) PROHIBITION ON UNLICENSED POSSESSION OR OWNERSHIP OF COVERED FUEL

.—Unless specifically authorized by the [Nuclear Regulatory] Commission in a license issued under section 53 of the Atomic Energy Act of 1954 (42 U.S.C. 2073) and part 70 of title 10, Code of Federal Regulations (or successor regulations), no person subject to the jurisdiction of the Commission may possess or own covered fuel.

"(c) LICENSE TO POSSESS OR OWN COVERED FUEL.—

"(1) CONSULTATION REQUIRED PRIOR TO ISSUANCE.—The Commission shall not issue a license to possess or own covered fuel under section 53 of the Atomic Energy Act of 1954 (42 U.S.C. 2073) and part 70 of title 10, Code of Federal Regulations (or successor regulations), unless the Commission has first consulted with the Secretary of Energy and the Secretary of State before issuing the license.

"(2) PROHIBITION ON ISSUANCE OF LICENSE.—

"(A) IN GENERAL.—Subject to subparagraph (C), a license to possess or own covered fuel shall not be issued if the Secretary of Energy and the Secretary of State make the determination described in subparagraph (B)(i)(I).

"(B) DETERMINATION.—

"(i) IN GENERAL.—The determination referred to in subparagraph (A) is a determination that possession or ownership, as applicable, of covered fuel—

"(I) poses a threat to the national security of the United States, including because of an adverse impact on the physical and economic security of the United States; or

"(II) does not pose a threat to the national security of the United States.

"(ii) JOINT DETERMINATION.—A determination described in clause (i) shall be jointly made by the Secretary of Energy and the Secretary of State.

"(iii) TIMELINE.—

"(I) NOTICE OF APPLICATION.—Not later than 30 days after the date on which the Commission receives an application for a license to possess or own covered fuel, the Commission shall notify the Secretary of Energy and the Secretary of State of the application.

"(II) DETERMINATION.—The Secretary of Energy and the Secretary of State shall have a period of 180 days, beginning on the date on which the Commission notifies the Secretary of Energy and the Secretary of State under subclause (I) of an application for a license to possess or own covered fuel, in which to make the determination described in clause (i).

"(III) COMMISSION NOTIFICATION.—On making the determination described in clause (i), the Secretary of Energy and the Secretary of State shall immediately notify the Commission.

"(IV) CONGRESSIONAL NOTIFICATION.—Not later than 30 days after the date on which the Secretary of Energy and the Secretary of State notify the Commission under subclause (III), the Commission shall notify the appropriate committees of Congress [Committee on Energy and Commerce of the House of Representatives and Committee on Environment and Public Works of the Senate], the Committee on Foreign Relations of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the determination.

"(V) PUBLIC NOTICE.—Not later than 15 days after the date on which the Commission notifies Congress under subclause (IV) of a determination made under clause (i), the Commission shall make that determination publicly available.

"(C) EFFECT OF NO DETERMINATION.—The Commission shall not issue a license if the Secretary of Energy and the Secretary of State have not made a determination described in subparagraph (B).

"(d) SAVINGS CLAUSE.—Nothing in this section alters any treaty or international agreement in effect on the date of enactment of this Act [July 9, 2024] or that enters into force after the date of enactment of this Act."

§2074. Foreign distribution of special nuclear material

(a) Compensation; distribution to International Atomic Energy Agency; procedure for distribution; repurchase of unconsumed materials; price; purchase of materials produced outside United States; price

The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in

accordance with section 2153 of this title. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however*, That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 2153 of this title, to distribute to the Agency five thousand kilograms of contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however*, That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Energy Committees and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further*, That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further*, That prior to the elapse of the first thirty days of any such sixty-day period the Energy Committees shall submit to their respective houses reports of their views and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 2134 of this title, established by the Commission pursuant to section 2076 of this title, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

(b) Distribution to persons outside United States of plutonium and other special nuclear material exempted under section 2077(d) of this title; compensation; reports

Notwithstanding the provisions of sections 2153 and 2154 of this title and section 125 of the Atomic Energy Act of 1954, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 2077(d) of this title, exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this subchapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by

weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

(c) Licensing or granting permission to others to distribute special nuclear material; conditions

The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

(d) Laboratory samples; medical devices; monitoring or other instruments; emergencies

The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

(1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or

(2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.

(e) Arrangements for storage or disposition of irradiated fuel elements

The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 2160(a)(2)(E) of this title shall be subject to the requirements of section 2160 of this title.

(Aug. 1, 1946, ch. 724, title I, §54, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 931; amended Pub. L. 85–177, §7, Aug. 28, 1957, 71 Stat. 455; Pub. L. 87–206, §4, Sept. 6, 1961, 75 Stat. 476; Pub. L. 88–489, §9, Aug. 26, 1964, 78 Stat. 604; Pub. L. 93–377, §2, Aug. 17, 1974, 88 Stat. 473; Pub. L. 95–242, title III, §§301(a), 303(b)(1), Mar. 10, 1978, 92 Stat. 125, 131; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, §15(f)(3), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 125 of the Atomic Energy Act of 1954, referred to in subsec. (b), is section 125 of act Aug. 1, 1946, ch. 724, as added by Pub. L. 85–14, Apr. 12, 1957, 71 Stat. 11, and is set out as a note under section 2153 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted "Energy Committees and a period" for "Joint Committee and a period" and "Energy Committees shall submit to their respective houses reports of their views" for "Joint Committee shall submit a report to the Congress of its views".

1978—Subsec. (d). Pub. L. 95–242, §301(a), added subsec. (d).

Subsec. (e). Pub. L. 95–242, §303(b)(1), added subsec. (e).

1974—Pub. L. 93–377 designated existing provisions as subsec. (a), designated initial proviso as cl. (i), added cl. (ii) and references to groups of nations, and substituted references to this subsection for references to this section, and added subsecs. (b) and (c).

1964—Pub. L. 88–489 authorized repurchase of unconsumed special nuclear materials, or any uranium remaining after irradiation of such materials, at a price not exceeding Commission's sale price for comparable material in effect at time of delivery to Commission, and purchase of special nuclear material produced outside United States through use of material leased or sold under this section, during any period when there is a guaranteed purchase price for same material as produced under section 2134 of this title, for such price as established by the Commission.

1961—Pub. L. 87–206 inserted "five hundred grams of uranium 233 and three kilograms of plutonium" after "five thousand kilograms of contained uranium 235".

1957—Pub. L. 85–177 inserted provisions requiring compensation at domestic charges for materials distributed abroad except for peaceful or medical therapy uses, and required Commission to obtain authorization of Congress for materials to be contributed to Agency beyond amount made available by all other members of Agency to July 1, 1960.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

§2075. Acquisition of special nuclear material; payments; just compensation

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to purchase without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 6101 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section: *Providing*, That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 2160(a)(2)(E) of this title shall be subject to the requirements of section 2160 of this title.

(Aug. 1, 1946, ch. 724, title I, §55, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 931; amended Pub. L. 88–489, §10, Aug. 26, 1964, 78 Stat. 604; Pub. L. 95–242, title III, §303(b)(2), Mar. 10, 1978, 92 Stat. 131; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(5) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1978—Pub. L. 95–424 provided that the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 2160(a)(2)(E) of this title shall be subject to the requirement of section 2160 of this title.

1964—Pub. L. 88–489 limited the authorization to the extent necessary to effectuate the chapter, inserted "without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn," and "Any contract of purchase made under this section may be made", provided for just compensation for any right, property, or interest taken,

requisitioned, or condemned under this section, and struck out "outside the United States" after "any interest therein".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

§2076. Guaranteed purchase prices

The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 2134 of this title and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary, but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 2133 or section 2134 and delivered to the Commission within the period of the guarantee. Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided*, That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to section 2073 of this title.

(Aug. 1, 1946, ch. 724, title I, §56, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 931; amended Pub. L. 88–489, §11, Aug. 26, 1964, 78 Stat. 605; Pub. L. 91–560, §2, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1970—Pub. L. 91–560 extended the power of the Commission to establish guaranteed purchase prices for uranium produced by persons licensed under section 2133 of this title.

1964—Pub. L. 88–489 substituted provisions which directed the Commission to establish guaranteed purchase prices for plutonium produced by a person licensed under section 2134 of this title and delivered to the Commission prior to Jan. 1, 1971, and for uranium enriched in the isotope 233, for such periods of time as it deems necessary, but not exceeding ten years as to any such period, if produced by a person licensed under said section 2134, and delivered within the period of the guarantee, provided that guaranteed prices established under this section shall not exceed the Commission's estimated value of enriched plutonium or uranium as fuel in reactors, and shall be on a nondiscriminatory basis, and authorized such guaranteed prices only for such enriched plutonium or uranium as is produced through use of material leased or sold pursuant to section 2073 of this title, for provisions requiring the Commission to determine the fair price of special nuclear material by considering the value of the material for its intended use by the United States, and by giving such weight to the cost of production as it found to be equitable, providing that such price was to apply to all licensed producers of the same material, and permitting the Commission to establish guaranteed fair prices for all such material delivered to the Commission for such time as it deemed necessary, but not exceeding seven years.

§2077. Unauthorized dealings in special nuclear material

(a) Handling by persons

Unless authorized by a general or specific license issued by the Commission, which the

Commission is authorized to issue pursuant to section 2073 of this title, no person may transfer or receive in interstate commerce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

(b) Engagement or participation in development or production

It shall be unlawful for any person to directly or indirectly engage or participate in the development or production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 2153 of this title, including a specific authorization in a subsequent arrangement under section 2160 of this title, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce, and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this subsection. The processing of any request proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further*, That the export of component parts as defined in section 2014(v)(2) or (cc)(2) of this title shall be governed by sections 2139 and 2155 of this title: *Provided further*, That notwithstanding section 7172(d) of this title, the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 2074(d), section 2094, or section 2141(b) of this title.

(c) Distribution by Commission

The Commission shall not—

(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 2074 of this title; or

(2) distribute any special nuclear material or issue a license pursuant to section 2073 of this title to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

(d) Establishment of classes of special nuclear material; exemption of materials, kinds of uses and users from requirement of license

The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the

requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

(e) Transfer, etc., of special nuclear material

Special nuclear material, as defined in section 2014 of this title, produced in facilities licensed under section 2133 or 2134 of this title may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.

(Aug. 1, 1946, ch. 724, title I, §57, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 932; amended Pub. L. 88–489, §12, Aug. 26, 1964, 78 Stat. 605; Pub. L. 93–377, §3, Aug. 17, 1974, 88 Stat. 475; Pub. L. 95–242, title III, §302, Mar. 10, 1978, 92 Stat. 126; Pub. L. 97–415, §14, Jan. 4, 1983, 96 Stat. 2075; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–277, div. G, title XII, §1225(d)(1), Oct. 21, 1998, 112 Stat. 2681–774; Pub. L. 108–458, title VI, §6803(a), Dec. 17, 2004, 118 Stat. 3768.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(a)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458 substituted "or participate in the development or production of any special nuclear material" for "in the production of any special nuclear material".

1998—Subsec. (b). Pub. L. 105–277 struck out "the Arms Control and Disarmament Agency," after "after consultation with" in first sentence and "the Director of the Arms Control and Disarmament Agency," after "Defense, and Commerce," in second sentence.

1983—Subsec. (e). Pub. L. 97–415 added subsec. (e).

1978—Subsec. (b). Pub. L. 95–242 substituted "except (1) as specifically authorized under an agreement for cooperation made pursuant to section 2153 of this title, including a specific authorization in a subsequent arrangement under section 2160 of this title, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States" for "except (1) under an agreement for cooperation made pursuant to section 2153 of this title, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States" in existing provisions and inserted provisos relating to determinations by the Secretary of Energy, the procedures to be followed in processing authorization requests, the export of component parts, and the jurisdiction of the Secretary of Energy.

1974—Subsec. (d). Pub. L. 93–377 added subsec. (d).

1964—Pub. L. 88–489 amended section generally, and among other changes, included all special nuclear materials within the section, struck out condition that such material be "the property of the United States", included delivery, acquisition, ownership and receiving possession of or title to any special nuclear material within the acts prohibited to persons, prohibited the Commission from issuing a license pursuant to section 2073 of this title if the Commission finds that the issuance would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public, and extended the power of the Commission to refuse to distribute any special nuclear material if it finds that the distribution would constitute an unreasonable risk to the health and safety of the public.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

PROCESS FOR REVIEW AND AMENDMENT OF PART 810 GENERALLY AUTHORIZED DESTINATIONS

Pub. L. 118–67, div. B, title I, §105, July 9, 2024, 138 Stat. 1454, provided that:

"(a) IDENTIFICATION AND EVALUATION OF FACTORS.—Not later than 90 days after the date of enactment of this Act [July 9, 2024], the Secretary of Energy, with the concurrence of the Secretary of State, shall identify and evaluate factors, other than agreements for cooperation entered into in accordance with section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), that may be used to determine a country's generally authorized destination status under part 810 of title 10, Code of Federal Regulations, and to list such country as a generally authorized destination in Appendix A to part 810 of title 10, Code of Federal Regulations.

"(b) PROCESS UPDATE.—The Secretary of Energy shall review and, as appropriate, update the Department of Energy's process for determining a country's generally authorized destination status under part 810 of title 10, Code of Federal Regulations, and for listing such country as a generally authorized destination in Appendix A to part 810 of title 10, Code of Federal Regulations, taking into consideration and, as appropriate, incorporating factors identified and evaluated under subsection (a).

"(c) REVISIONS TO LIST.—Not later than one year after the date of enactment of this Act, and at least once every 5 years thereafter, the Secretary of Energy shall, in accordance with any process updated pursuant to this section, review the list in Appendix A to part 810 of title 10, Code of Federal Regulations, and amend such list as appropriate."

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2077a. Interagency review of applications for the transfer of United States civil nuclear technology

(a) Annual reports on transfers to covered foreign countries

At the same time as the President submits to Congress the annual budget request under section 1105 of title 31 for a fiscal year, the Secretary of Energy shall submit to the appropriate congressional committees a report that includes—

(1) a description of the authorizations under section 2077(b) of this title to transfer United States civil nuclear technology to a covered foreign country during the preceding year; and

(2) a statement of whether any agency required to be consulted under that section or pursuant to regulation objected to or sought conditions on each such transfer.

(b) Determination of technologies to be protected

(1) In general

Not later than 90 days after November 25, 2015, and every five years thereafter, the Secretary of Energy shall—

(A) in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of Defense, the Director of National Intelligence, and the Nuclear Regulatory Commission,

determine the critical United States civil nuclear technologies that should be protected from diversion to a military program of a covered foreign country, including with respect to a naval propulsion or weapons program; and

(B) notify the appropriate congressional committees with respect to the determination and the technologies covered by the determination.

(2) Notification

(A) In general

Except as provided in subparagraph (B), not later than 14 days before making an authorization under section 2077(b) of this title for the transfer of a technology covered by a determination under paragraph (1) to a covered foreign country, the Secretary of Energy shall submit to the appropriate congressional committees a report that includes—

(i) a notification of the intention of the Secretary to make the authorization for the transfer of such technology; and

(ii) a statement of whether any agency required to be consulted under such section 2077(b) of this title or pursuant to regulation objected to or sought conditions on the transfer.

(B) Waiver of deadline

The Secretary may waive the requirement under subparagraph (A) to submit the report required by that subparagraph not later than 14 days before making an authorization for the transfer of a technology covered by a determination under paragraph (1) to a covered foreign country if the Secretary—

(i) determines that an imminent radiological hazard exists; and

(ii) not later than 7 days after determining that such hazard exists, submits to the appropriate congressional committees—

(I) a certification that the hazard exists;

(II) a justification for the waiver; and

(III) the notification required by clause (i) of subparagraph (A) and the statement required by clause (ii) of that subparagraph.

(c) Consultations with intelligence community

(1) In general

The Secretary of Energy shall expeditiously revise part 810 of title 10, Code of Federal Regulations, to ensure that the Director of National Intelligence—

(A) is consulted with respect to the views of the intelligence community (as defined in section 3003(4) of title 50) with respect to each authorization issued under section 2077(b) of this title for the transfer of United States civil nuclear technology to a covered foreign country before the determination to approve or disapprove the request for the authorization; and

(B) is provided with an opportunity to present the views of the Director and the intelligence community on the national security risks of the transfer, if any.

(2) Submission to Congress

The Secretary of Energy, jointly with the Director of National Intelligence, shall include the results of consultations conducted under paragraph (1) in each report under subsection (a) and each notification under subsection (b)(2).

(d) Report on compliance of covered foreign countries and end-users

Not less frequently than annually, the Secretary of Energy shall submit to the appropriate congressional committees a report that includes—

(1) an assessment of whether each covered foreign country is in compliance with its obligations under any authorization for the transfer of United States civil nuclear technology under section 2077(b) of this title;

(2) with respect to any covered foreign country that is not in compliance with such obligations—

(A) a description the efforts of the United States to bring the country into compliance;

(B) an evaluation of the result of such efforts; and

(C) an assessment of the options available to the Secretary as a result of the country not being in compliance;

(3) an assessment of whether each end-user to which United States civil nuclear technology is transferred pursuant to an authorization under such section 2077(b) of this title is in compliance with the obligations of the end-user under that authorization; and

(4) a description of any consequences for the end-user or the exporter of the technology if the end-user is not in compliance with such obligations.

(e) Report on transfers to all foreign countries

(1) In general

Concurrent with the submission to Congress of the budget of the President for a fiscal year under section 1105(a) of title 31, the Secretary of Energy shall submit to the appropriate congressional committees a report on the activities of the Department of Energy associated with the review of applications for authorization under section 2077(b) of this title to transfer United States civil nuclear technology to any foreign country.

(2) Elements

The report required by paragraph (1) shall include—

(A) the number of applications for authorization under section 2077(b) of this title to transfer United States civil nuclear technology to a foreign country submitted during the year preceding the submission of the report;

(B) the length of time each such application was under review;

(C) for each such application, an identification of any officer to which the authorization under such section 2077(b) of this title was delegated pursuant to section 2201(n) of this title;

(D) the number of such applications that were granted; and

(E) a description of efforts to streamline the review of such applications, taking into account the proliferation and diversion potential of end-users in the country to which United States civil nuclear technology would be transferred pursuant to such applications.

(f) Notifications of potential diversions

The Director of National Intelligence shall notify the Department of Energy and the appropriate congressional committees not later than 30 days after the date on which the Director determines that there is credible intelligence that United States civil nuclear technology is being or has been diverted—

(1) to a military program in a foreign country to which the transfer of the technology was authorized under section 2077(b) of this title; or

(2) to a foreign country to which the transfer of the technology was not so authorized.

(g) Guidelines

Not later than 60 days after November 25, 2015, the Secretary of Energy shall issue guidance with respect to the use of the clear and intended authority of the Secretary under section 2282 of this title to impose civil penalties, including fines and debarment, and to make referrals to the Attorney General for prosecution, for violations of the terms of authorizations for the transfer of United States civil nuclear technology issued under section 2077(b) of this title.

(h) Report on transfer of sensitive items

(1) In general

Not later than 180 days after November 25, 2015, and annually thereafter, the President shall submit to the appropriate congressional committees a report—

(A) describing the efforts of covered foreign countries to prevent the transfer of sensitive items, including efforts to improve the prevention of the transfer of such items; and

(B) assessing the adequacy of such efforts.

(2) Sensitive items defined

In this subsection, the term "sensitive items" means goods, services, and technologies described in section 2(a) of the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note).

(i) Combination of reports

The Secretary of Energy may submit the annual reports required by subsections (a), (d), and (e) as a single annual report, including by providing portions of the information so required as an annex to the single annual report.

(j) Definitions

In this section:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the congressional defense committees;

(B) the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(C) the Committee on Energy and Commerce, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) Covered foreign country

The term "covered foreign country" means a foreign country that is a nuclear-weapon state, as defined by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow July 1, 1968, but does not include the United States, the United Kingdom, or France.

(Pub. L. 114–92, div. C, title XXXI, §3136, Nov. 25, 2015, 129 Stat. 1209; Pub. L. 115–232, div. C, title XXXI, §3116(c), Aug. 13, 2018, 132 Stat. 2291; Pub. L. 117–81, div. C, title XXXI, §3131(b), Dec. 27, 2021, 135 Stat. 2230; Pub. L. 117–263, div. C, title XXXI, §3131(b), Dec. 23, 2022, 136 Stat. 3059.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2016, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2022—Subsecs. (i), (j). Pub. L. 117–263 added subsec. (i) and redesignated former subsec. (i) as (j).

2021—Subsec. (a). Pub. L. 117–81 substituted "Annual reports" for "Report" in heading, "At the same time as the President submits to Congress the annual budget request under section 1105 of title 31 for a fiscal year," for "Not less frequently than every 90 days," in introductory provisions, and "the preceding year" for "the preceding 90 days" in par. (1).

2018—Subsec. (e)(2)(C) to (E). Pub. L. 115–232 added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

"CONGRESSIONAL DEFENSE COMMITTEES" DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 114–92, 129 Stat. 745. See note under section 101 of Title 10, Armed Forces.

EXECUTIVE DOCUMENTS

DELEGATION OF AUTHORITY PURSUANT TO SECTION 3136(H) OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

Memorandum of President of the United States, May 10, 2016, 81 F.R. 31161, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate functions and authorities vested in the President by section 3136(h) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92) (the "Act") to the Secretary of State.

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§2078. Congressional review of guaranteed purchase price, guaranteed purchase price period, and criteria for waiver of charges

Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 2076 of this title, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 2073 of this title, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Energy Committees and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however*, That the Energy Committees, after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Aug. 1, 1946, ch. 724, title I, §58, as added Pub. L. 85–79, §2, July 3, 1957, 71 Stat. 275; amended Pub. L. 88–489, §13, Aug. 26, 1964, 78 Stat. 605; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, §15(f)(4), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–437 substituted "Energy Committees" for "Joint Committee" in two places.

1964—Pub. L. 88–489 substituted "guaranteed purchase" and "purchase" for "fair" wherever appearing, "licensed and distributed" for "licensed or distributed", and provided that the Joint Committee resolution waiving the conditions of the forty-five-day period must be in writing.

SUBCHAPTER VI—SOURCE MATERIAL

§2091. Determination of source material

The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be

submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Energy Committees, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, §61, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 932; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(4), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(1) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Energy Committees" for "Joint Committee" in two places.

§2092. License requirements for transfers

Unless authorized by a general or specific license issued by the Commission which the Commission is authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

(Aug. 1, 1946, ch. 724, title I, §62, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 932; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2093. Domestic distribution of source material

(a) License

The Commission is authorized to issue licenses for and to distribute source material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 2051 of this title;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 2134 of this title;

(3) for use under a license issued pursuant to section 2133 of this title; or

(4) for any other use approved by the Commission as an aid to science or industry.

(b) Minimum criteria for licenses

The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distribution of source material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the source material to be distributed;

(2) the quantities of source material to be distributed; and
(3) the intended use of the source material to be distributed.

(c) Determination of charges

The Commission may make a reasonable charge determined pursuant to section 2201(m) of this title for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4) and shall make a reasonable charge determined pursuant to section 2201(m) of this title, for the source material licensed and distributed under subsection (a)(3). The Commission shall establish criteria in writing for the determination of whether a charge will be made for the source material licensed and distributed under subsection (a)(1), (a)(2), or (a)(4), considering, among other things, whether the licensee is a nonprofit or eleemosynary institution and the purposes for which the source material will be used.

(Aug. 1, 1946, ch. 724, title I, §63, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 933; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2094. Foreign distribution of source material

The Commission is authorized to cooperate with any nation by distributing source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 2153 of this title. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that such activity will not be inimical to the interests of the United States. The authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.

(Aug. 1, 1946, ch. 724, title I, §64, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 933; amended Pub. L. 95–242, title III, §301(b), Mar. 10, 1978, 92 Stat. 125; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1978—Pub. L. 95–242 provided that the authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978,

Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2095. Reports

The Commission is authorized to issue such rules, regulations, or orders requiring reports of ownership, possession, extraction, refining, shipment, or other handling of source material as it may deem necessary, except that such reports shall not be required with respect to (a) any source material prior to removal from its place of deposit in nature, or (b) quantities of source material which in the opinion of the Commission are unimportant or the reporting of which will discourage independent prospecting for new deposits.

(Aug. 1, 1946, ch. 724, title I, §65, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 933; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(4) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2096. Acquisition of source material; payments

The Commission is authorized and directed, to the extent it deems necessary to effectuate the provisions of this chapter—

(a) to purchase, take, requisition, condemn, or otherwise acquire supplies of source material;

(b) to purchase, condemn, or otherwise acquire any interest in real property containing deposits of source material; and

(c) to purchase, condemn, or otherwise acquire rights to enter upon any real property deemed by the Commission to have possibilities of containing deposits of source material in order to conduct prospecting and exploratory operations for such deposits.

Any purchase made under this section may be made without regard to the provisions of section 6101 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advanced payments may be made under contracts for such purposes. The Commission may establish guaranteed prices for all source material delivered to it within a specified time. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, condemned, or otherwise acquired under this section.

(Aug. 1, 1946, ch. 724, title I, §66, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 933; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on

authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(5) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2097. Operations on lands belonging to United States

The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to issue leases or permits for prospecting for, exploration for, mining of, or removal of deposits of source material in lands belonging to the United States: *Provided, however*, That notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President by Executive Order declares that the requirements of the common defense and security make such action necessary.

(Aug. 1, 1946, ch. 724, title I, §67, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 934; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

§2098. Public and acquired lands

(a) Conditions on location, entry, and settlement

No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of such uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to August 30, 1954, made such location, entry, or settlement or caused the same to be made for his, or its, or their benefit.

(b) Reservation of mineral rights; release

Any reservation of radioactive mineral substances, fissionable materials, or source material, together with the right to enter upon the land and prospect for, mine, and remove the same, inserted pursuant to Executive Order 9613 of September 13, 1945, Executive Order 9701 of March 4, 1946, the Atomic Energy Act of 1946, or Executive Order 9908 of December 5, 1947, in any patent, conveyance, lease, permit, or other authorization or instrument disposing of any interest in public or acquired lands of the United States, is released, remised, and quitclaimed to the person or persons entitled upon August 19, 1958 under the grant from the United States or successive grants to the ownership, occupancy, or use of the land under the applicable Federal or State laws: *Provided, however*, That in cases where any such reservation on acquired lands of the United States has been heretofore released, remised, or quitclaimed subsequent to August 12, 1954, in reliance upon authority deemed to have been contained in the Atomic Energy Act of 1946, as amended, or the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as heretofore amended, the same shall be valid

and effective in all respects to the same extent as if public lands and not acquired lands had been involved. The foregoing release shall be subject to any rights which may have been granted by the United States pursuant to any such reservation, but the releases shall be subrogated to the rights of the United States.

(c) Prior locations

Notwithstanding the provisions of the Atomic Energy Act of 1946, as amended, and particularly section 5(b)(7) thereof, or the provisions of sections 501 to 505 of title 30, and particularly section 503 of title 30, any mining claim, heretofore located under the mining laws of the United States, for or based upon a discovery of a mineral deposit which is a source material and which, except for the possible contrary construction of said Atomic Energy Act, would have been locatable under such mining laws, shall, insofar as adversely affected by such possible contrary construction, be valid and effective, in all respects to the same extent as if said mineral deposit were a locatable mineral deposit other than a source material.

(Aug. 1, 1946, ch. 724, title I, §68, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 934; amended Pub. L. 85–681, §3, Aug. 19, 1958, 72 Stat. 632; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1946, referred to in subsecs. (b) and (c), is act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified generally to chapter 14 (§1801 et seq.) of this title prior to the general amendment by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919. The act of Aug. 1, 1946, ch. 724, is now known as the Atomic Energy Act of 1954, and is classified principally to this chapter.

Section 5(b)(7) thereof, referred to in subsec. (c), means section 5(b)(7) of act Aug. 1, 1946, ch. 724, 60 Stat. 762, which was classified to section 1805(b)(7) of this title and was omitted in the general amendment of the Atomic Energy Act of 1946 by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

The Atomic Energy Act of 1954, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Ex. Ord. No. 9908, eff. Dec. 5, 1947, 12 F.R. 8223; Ex. Ord. No. 9701 eff. Mar. 7, 1946, 11 F.R. 2369, and Ex. Ord. No. 9613, eff. Sept. 13, 1945, 10 F.R. 11789, referred to in subsec. (b), related to reservation of source material in certain lands owned by the United States; reservation of rights to fissionable materials in lands owned by the United States; and withdrawal and reservation for the use of the United States lands containing radio-active mineral substances. Ex. Ord. No. 10596, eff. Feb. 15, 1955, 20 F.R. 1007, revoked Ex. Ord. No. 9908, which had revoked Ex. Ord. No. 9701, which had earlier revoked Ex. Ord. No. 9613.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(b)(7) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1958—Pub. L. 85–681, which directed the general amendment of this section and set out a new section catchline and text of subsec. (b), was executed by substituting "Public and acquired lands" for "Public lands" in section catchline and amending only subsec. (b) generally. Prior to amendment, subsec. (b) related to reissuance of patent, conveyance, lease, permit, or other authorization without reservation to the United States of source materials and certain rights, subject to conditions.

§2099. Prohibitions against issuance of license

The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public.

(Aug. 1, 1946, ch. 724, title I, §69, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 934; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(d)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SUBCHAPTER VII—BYPRODUCT MATERIALS

§2111. Domestic distribution

(a) In general

No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 2112 or section 2114 of this title. The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to qualified applicants with or without charge: *Provided, however*, That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

(b) Requirements

(1) In general

Except as provided in paragraph (2), byproduct material, as defined in paragraphs (3) and (4) of section 2014(e) of this title, may only be transferred to and disposed of in a disposal facility that—

(A) is adequate to protect public health and safety; and

(B)(i) is licensed by the Commission; or

(ii) is licensed by a State that has entered into an agreement with the Commission under section 2021(b) of this title, if the licensing requirements of the State are compatible with the licensing requirements of the Commission.

(2) Effect of subsection

Nothing in this subsection affects the authority of any entity to dispose of byproduct material, as defined in paragraphs (3) and (4) of section 2014(e) of this title, at a disposal facility in

accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(c) Treatment as low-level radioactive waste

Byproduct material, as defined in paragraphs (3) and (4) of section 2014(e) of this title, disposed of under this section shall not be considered to be low-level radioactive waste for the purposes of—

(1) section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

(2) carrying out a compact that is—

(A) entered into in accordance with that Act (42 U.S.C. 2021b et seq.); and

(B) approved by Congress.

(Aug. 1, 1946, ch. 724, title I, §81, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 935; amended Pub. L. 93–377, §4, Aug. 17, 1974, 88 Stat. 475; Pub. L. 95–604, title II, §205(b), Nov. 8, 1978, 92 Stat. 3039; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §651(e)(3)(A), Aug. 8, 2005, 119 Stat. 807.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b)(2), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Low-Level Radioactive Waste Policy Act, referred to in subsec. (c)(2)(A), is Pub. L. 96–573, as amended generally by Pub. L. 99–240, title I, §102, Jan. 15, 1986, 99 Stat. 1842, which is classified generally to section 2021b et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2021b of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1805(c)(2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Pub. L. 109–58 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1978—Pub. L. 95–604 inserted reference to section 2114 of this title.

1974—Pub. L. 93–377 substituted "qualified applicants with or without charge" for "licensees with or without charge", and struck out "Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material" before "The Commission shall not".

§2112. Foreign distribution of byproduct material

(a) Cooperation with other Nations

The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party and which is made in accordance with section 2153 of this title.

(b) Distribution to individuals

The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such material as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

(c) Distributor's license

The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

(Aug. 1, 1946, ch. 724, title I, §82, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 935; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2113. Ownership and custody of certain byproduct material and disposal sites

(a) Specific assurances in license for pretermination actions

Any license issued or renewed after the effective date of this section under section 2092 or section 2111 of this title for any activity which results in the production of any byproduct material, as defined in section 2014(e)(2) of this title, shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

(2) ownership of any byproduct material, as defined in section 2014(e)(2) of this title, which resulted from such licensed activity shall be transferred to (A) the United States or (B) in the State in which such activity occurred if such State exercises the option under subsection (b)(1) to acquire land used for the disposal of byproduct material.

Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.

(b) Transfer of title; health and environmental protection through maintenance of property and materials; use of surface or subsurface estates: first refusal rights of transferor; maintenance, monitoring, and emergency measures and other authorized action; licensee-transferor liability for fraud or negligence; administrative and legal costs limitation; government retransfers under section 7914(h) of this title

(1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 2014(e)(2) of this title, pursuant to such license shall be transferred to—

(i) the United States, or

(ii) the State in which such land is located, at the option of such State,

unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 2231 of this title. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 2111 of this title in such manner as will protect the public health, safety, and the environment.

(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection (c), assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection (d), assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

(4) In the case of any such license under section 2092 of this title, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interests therein (as described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

(5) The Commission may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 2114 of this title. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after November 8, 1978.

(6) The transfer of title to land or byproduct materials, as defined in section 2014(e)(2) of this title, to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 7914(h) of this title.

(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 2014(e)(2) of this title, the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

(c) Compliance with applicable standards and license requirements; determination upon termination of license

Upon termination on [1] any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.

(Aug. 1, 1946, ch. 724, title I, §83, as added Pub. L. 95–604, title II, §202(a), Nov. 8, 1978, 92 Stat. 3033; amended Pub. L. 96–106, §22(c), (e), Nov. 9, 1979, 93 Stat. 800; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

Effective date of this section, referred to in subsecs. (a) and (b)(1)(A), (4), is three years after Nov. 8, 1978, see section 202(b) of Pub. L. 95–604, set out as an Effective Date note below.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–106, §22(c), substituted "Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination" for "Any license in effect on November 8, 1978, shall either contain such terms and conditions on renewal thereof after the effective date of this section, or comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs".

Subsec. (b)(1)(A). Pub. L. 96–106, §22(e), among other changes, substituted reference to section 2111 of this title for reference to section 2114(b) of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 95–604, title II, §202(b), Nov. 8, 1978, 92 Stat. 3036, provided that: "This section [enacting this section] shall be effective three years after the enactment of this Act [Nov. 8, 1978]."

CONSOLIDATION OF LICENSES AND PROCEDURES

Pub. L. 95–604, title II, §209, Nov. 8, 1978, 92 Stat. 3041, provided that: "The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title [see Effective Date of 1978 Amendment note set out under section 2014 of this title] with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954 [this chapter]."

[Provision effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title].

[1] *So in original. Probably should be "of".*

§2114. Authorities of Commission respecting certain byproduct material

(a) Management function

The Commission shall insure that the management of any byproduct material, as defined in section 2014(e)(2) of this title, is carried out in such manner as—

(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and non-radiological hazards associated with the processing and with the possession and transfer of such material, taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,,[1]

(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 2022 of this title, and

(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended [42 U.S.C. 6901 et seq.].

(b) Rules, regulations, or orders for certain activities; civil penalty

In carrying out its authority under this section, the Commission is authorized to—

(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from

licensing under section 2111 of this title to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 2113 of this title shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 2282 of this title. Nothing in this section affects any authority of the Commission under any other provision of this chapter.

(c) Alternative requirements or proposals

In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this chapter. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title.

(Aug. 1, 1946, ch. 724, title I, §84, as added Pub. L. 95–604, title II, §205(a), Nov. 8, 1978, 92 Stat. 3039; amended Pub. L. 97–415, §§20, 22(a), Jan. 4, 1983, 96 Stat. 2079, 2080; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Solid Waste Disposal Act, as amended, referred to in subsec. (a)(3), is title II of Pub. L. 89–272, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 97–415, §22(a), inserted provision that the Commission is to take into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate.

Subsec. (c). Pub. L. 97–415, §20, added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 8, 1978, see section 208 of Pub. L. 95–604, set out as an Effective Date of 1978 Amendment note under section 2014 of this title.

[1] *So in original.*

SUBCHAPTER VIII—MILITARY APPLICATION OF ATOMIC ENERGY

§2121. Authority of Commission

(a) Research and development; weapons production; hazardous wastes; transfers of technologies

The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy;

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year;

(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons; and

(5) under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.

(b) Material for Department of Defense use

The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however*, That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

(c) Sale, lease, or loan to other Nations of materials for military applications

The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 2077, 2092, or 2111 of this title, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however*, That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further*, That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title: *And provided further*, That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

(Aug. 1, 1946, ch. 724, title I, §91, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Pub. L. 85–479, §1, July 2, 1958, 72 Stat. 276; Pub. L. 101–189, div. C, title XXXI, §3157, Nov. 29, 1989, 103 Stat. 1684; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1989—Subsec. (a)(3) to (5). Pub. L. 101–189 added pars. (3) to (5).
1958—Subsec. (c). Pub. L. 85–479 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FORM OF CERTIFICATIONS REGARDING SAFETY OR RELIABILITY OF NUCLEAR WEAPONS STOCKPILE

Pub. L. 106–398, §1 [div. C, title XXXI, §3194], Oct. 30, 2000, 114 Stat. 1654, 1654A–481, which was formerly set out as a note under this section, was renumbered section 4206 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(7), Nov. 24, 2003, 117 Stat. 1759, and classified to section 2526 of Title 50, War and National Defense, and was repealed and restated as section 6118 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1356, 1458.

AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO DEPARTMENT OF ENERGY AND CONTRACTOR EMPLOYEES FOR EXEMPLARY SERVICE IN STOCKPILE STEWARDSHIP AND SECURITY

Pub. L. 106–398, §1 [div. C, title XXXI, §3195], Oct. 30, 2000, 114 Stat. 1654, 1654A–481, which was formerly set out as a note under this section, was renumbered section 4605 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(i)(6), Nov. 24, 2003, 117 Stat. 1778, and classified to section 2705 of Title 50, War and National Defense, and was repealed and restated as section 6244 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1417, 1458.

NUCLEAR WEAPONS STOCKPILE LIFE EXTENSION PROGRAM

Pub. L. 106–65, div. C, title XXXI, §3133, Oct. 5, 1999, 113 Stat. 926, which was formerly set out as a note under this section, was renumbered section 4204 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(5)(A)–(C), Nov. 24, 2003, 117 Stat. 1758, and classified to section 2524 of Title 50, War and National Defense, and was repealed and restated as section 6116 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1352, 1458.

REPORT ON STOCKPILE STEWARDSHIP CRITERIA

Pub. L. 105–261, div. C, title XXXI, §3158, Oct. 17, 1998, 112 Stat. 2257, as amended by Pub. L. 106–65,

div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, which was formerly set out as a note under this section, was renumbered section 4202 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(3), Nov. 24, 2003, 117 Stat. 1758, and classified to section 2522 of Title 50, War and National Defense, and was repealed and restated as section 6113 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1345, 1458.

PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE

Pub. L. 105–261, div. C, title XXXI, §3159, Oct. 17, 1998, 112 Stat. 2258, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. C, title XXXI, §3156, Dec. 28, 2001, 115 Stat. 1379; Pub. L. 107–314, div. C, title XXXI, §3175, Dec. 2, 2002, 116 Stat. 2745, provided that:

"(a) REQUIREMENT FOR PANEL.—The Secretary of Defense, in consultation with the Secretary of Energy, shall enter into a contract with a federally funded research and development center to establish a panel for the assessment of the certification process for the reliability, safety, and security of the United States nuclear stockpile.

"(b) COMPOSITION AND ADMINISTRATION OF PANEL.—(1) The panel shall consist of private citizens of the United States with knowledge and expertise in the technical aspects of design, manufacture, and maintenance of nuclear weapons.

"(2) The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including selection of a panel chairman.

"(c) DUTIES OF PANEL.—Each year the panel shall review and assess the following:

"(1) The annual certification process, including the conclusions and recommendations resulting from the process, for the safety, security, and reliability of the nuclear weapons stockpile of the United States, as carried out by the directors of the national weapons laboratories.

"(2) The long-term adequacy of the process of certifying the safety, security, and reliability of the nuclear weapons stockpile of the United States.

"(3) The adequacy of the criteria established by the Secretary of Energy pursuant to section 3158 [formerly set out as a note above] for achieving the purposes for which those criteria are established.

"(d) REPORT.—Not later than October 1 of 1999 and 2000, and not later than February 1, 2002, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth its findings and conclusions resulting from the review and assessment carried out for the year covered by the report. The report shall be submitted in classified and unclassified form.

"(e) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the panel considers necessary to carry out its duties.

"(2) For carrying out its duties, the panel shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y–12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the chairman of the panel determines as having information described in paragraph (1).

"(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the panel.

"(f) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the panel to carry out its duties. Funds available for the Department of Energy for the National Nuclear Security Administration shall be available for the Department of Energy contribution.

"(g) TERMINATION OF PANEL.—The panel shall terminate April 1, 2003.

"(h) INITIAL IMPLEMENTATION.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998]. The panel shall convene its first meeting not later than 30 days after the date as of which all members of the panel have been appointed.

"(i) FOLLOW-UP REPORT.—Not later than February 1, 2003, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a

follow-up report assessing progress toward meeting the expectations set forth by the panel for the United States stockpile stewardship program, and making recommendations for corrective legislative action where progress has been unsatisfactory."

PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE

Pub. L. 105–85, div. C, title XXXI, §3151, Nov. 18, 1997, 111 Stat. 2041, which was formerly set out as a note under this section, was renumbered section 4203 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(4), Nov. 24, 2003, 117 Stat. 1758, and classified to section 2523 of Title 50, War and National Defense, and was repealed and restated as section 6114 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1346, 1458.

COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE

Pub. L. 104–201, div. C, title XXXI, §3162, Sept. 23, 1996, 110 Stat. 2843, as amended by Pub. L. 105–85, div. C, title XXXI, §3163, Nov. 18, 1997, 111 Stat. 2049, established the Commission on Maintaining United States Nuclear Weapons Expertise to develop a plan to attract qualified personnel to the nuclear weapons complex and directed the Commission to submit a report to the Secretary of Energy and to Congress by Mar. 15, 1999, 30 days after which the Commission would terminate.

TRITIUM PRODUCTION PROGRAM

Pub. L. 104–106, div. C, title XXXI, §3133, Feb. 10, 1996, 110 Stat. 618, which was formerly set out as a note under this section, was renumbered section 4231 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(16)(A)–(C), Nov. 24, 2003, 117 Stat. 1761, and classified to section 2541 of Title 50, War and National Defense, and was repealed and restated as section 6141 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1372, 1458.

MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE

Pub. L. 104–106, div. C, title XXXI, §3137, Feb. 10, 1996, 110 Stat. 620, as amended by Pub. L. 104–201, div. C, title XXXI, §3132(a), (b), Sept. 23, 1996, 110 Stat. 2829, which was formerly set out as a note under this section, was renumbered section 4212 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(13)(A)–(C), Nov. 24, 2003, 117 Stat. 1760, and classified to section 2532 of Title 50, War and National Defense, and was repealed and restated as section 6122 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1358, 1458.

FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX

Pub. L. 104–106, div. C, title XXXI, §3140, Feb. 10, 1996, 110 Stat. 621, as amended by Pub. L. 106–65, div. C, title XXXI, §3162(a)–(d), Oct. 5, 1999, 113 Stat. 943, which was formerly set out as a note under this section, was renumbered section 4623 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(i)(10), Nov. 24, 2003, 117 Stat. 1779, and classified to section 2723 of Title 50, War and National Defense, and was repealed and restated as section 6253 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1418, 1458.

STUDY ON NUCLEAR TEST READINESS POSTURES

Pub. L. 104–106, div. C, title XXXI, §3152, Feb. 10, 1996, 110 Stat. 623, as amended by Pub. L. 106–398, §1 [div. C, title XXXI, §3192], Oct. 30, 2000, 114 Stat. 1654, 1654A–480, which was formerly set out as a note under this section, was renumbered section 4208 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(9), Nov. 24, 2003, 117 Stat. 1759, and was classified to section 2528 of Title 50, War and National Defense, prior to repeal by Pub. L. 112–239, div. C, title XXXI, §3133(e)(1)(A), (2), Jan. 2, 2013, 126 Stat. 2192, 2193.

REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE

Pub. L. 103–337, div. C, title XXXI, §3154, Oct. 5, 1994, 108 Stat. 3091, directed Secretary of Energy, not later than Mar. 31, 1996, to submit to Congress report containing description of all waste streams generated before 1992 during each step of complete cycle of production and disposition of nuclear weapon components

by Department of Energy, with description for each such step to be based on unit of analysis appropriate for that step, and to include estimate of volume of waste generated per unit of analysis and analysis of characteristics of each waste stream.

PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS

Pub. L. 103–160, div. C, title XXXI, §3136, Nov. 30, 1993, 107 Stat. 1946, expressed policy of United States with respect to research and development of low-yield nuclear weapons, prior to repeal by Pub. L. 108–136, div. C, title XXXI, §3116(a), Nov. 24, 2003, 117 Stat. 1746.

[Pub. L. 108–136, div. C, title XXXI, §3116(b), Nov. 24, 2003, 117 Stat. 1746, provided that: "Nothing in the repeal made by subsection (a) [repealing section 3136 of Pub. L. 103–160, formerly set out as a note above] shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon."]

STOCKPILE STEWARDSHIP PROGRAM

Pub. L. 105–85, div. C, title XXXI, §3156, Nov. 18, 1997, 111 Stat. 2045, expressed findings of Congress and policy of United States about the direction and conduct of the stockpile stewardship program, prior to repeal by Pub. L. 105–261, div. C, title XXXI, §3157, Oct. 17, 1998, 112 Stat. 2257.

Pub. L. 103–160, div. C, title XXXI, §3138, Nov. 30, 1993, 107 Stat. 1946, as amended by Pub. L. 105–85, div. C, title XXXI, §3152(e), Nov. 18, 1997, 111 Stat. 2042, which was formerly set out as a note under this section, was renumbered section 4201 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(2), Nov. 24, 2003, 117 Stat. 1758, and classified to section 2521 of Title 50, War and National Defense, and was repealed and restated as section 6111 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1344, 1458.

LIMITATIONS ON UNITED STATES NUCLEAR WEAPONS TESTING

Pub. L. 103–160, div. A, title II, §261, Nov. 30, 1993, 107 Stat. 1608, provided that:

"(a) LIMITATION ON OBLIGATION OF FUNDS.—The Secretary of Defense may not obligate funds in preparation for any activity of the Department of Defense, including the so-called 'Mighty Uncle' test, to study the effects of a nuclear weapon explosion through underground nuclear weapons testing unless that test is permitted in accordance with the provisions of section 507 of Public Law 102–377 [set out below] (106 Stat. 1343).

"(b) CERTAIN ACTIONS NOT PROHIBITED.—Subsection (a) does not preclude the Secretary of Defense, acting through the Director of the Defense Nuclear Agency, from—

"(1) proceeding with underground nuclear test tunnel deactivation and environmental cleanup; or

"(2) expending funds for infrastructure activities not covered by the limitation in subsection (a).

"(c) FUNDING.—Of the funds authorized to be appropriated pursuant to section 201 [107 Stat. 1583] for Defense-wide activities, not more than $38,000,000 may be used for activities described in subsection (b)."

Pub. L. 103–160, div. C, title XXXI, §3137, Nov. 30, 1993, 107 Stat. 1946, which was formerly set out as a note under this section, was renumbered section 4211 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(12)(A)–(C), Nov. 24, 2003, 117 Stat. 1760, and was classified to section 2531 of Title 50, War and National Defense, prior to repeal by Pub. L. 112–239, div. C, title XXXI, §3131(d)(3), Jan. 2, 2013, 126 Stat. 2181.

Pub. L. 102–377, title V, §507, Oct. 2, 1992, 106 Stat. 1343, as amended by Pub. L. 108–136, div. C, title XXXI, §3141(e)(11), Nov. 24, 2003, 117 Stat. 1760, provided that:

"(a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

"(b) No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

"(c) On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

"(1) only if—

"(A) the President has submitted the annual report required under subsection (d);

"(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

"(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

"(2) only if the test is conducted during the period covered by the report.

"(d)(1) Not later than March 1, of each year beginning after 1992, the President shall submit to the

Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

"(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

"(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

"(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

"(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

"(i) will not be in the United States stockpile of active nuclear weapons;

"(ii) will remain under the control of the Department of Defense; and

"(iii) will not be transferred to the Department of Energy for dismantlement.

"(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

"(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

"(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

"(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

"(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

"(3) For the purposes of paragraph (1), 'joint resolution' means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: 'The Congress disapproves the report of the President on nuclear weapons testing, dated .' (the blank space being appropriately filled in).

"(4) No report is required under this subsection after 1996.

"(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

"(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

"(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

"(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

"(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

"(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

"(B) For the purposes of subparagraph (A), 'joint resolution' means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: 'The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated .' (the blank space being appropriately filled in).

"(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

"(f) [Transferred to former section 2530 of Title 50, War and National Defense. See section 6121 of Title 10, Armed Forces.]

"(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

"(h) In this section, the term 'modern safety feature' means any of the following features:

"(1) An insensitive high explosive (IHE).
"(2) Fire resistant pits (FRP).
"(3) An enhanced detonation safety (ENDS) system."

NUCLEAR TEST BAN READINESS PROGRAM

Pub. L. 100–456, div. A, title XIV, §1436, Sept. 29, 1988, 102 Stat. 2075, as amended by Pub. L. 105–85, div. C, title XXXI, §3152(i), Nov. 18, 1997, 111 Stat. 2042, which was formerly set out as a note under this section, was renumbered section 4207 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(e)(8)(A)–(C), Nov. 24, 2003, 117 Stat. 1759, and classified to section 2527 of Title 50, War and National Defense, and was repealed and restated as section 6119 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1356, 1458.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Authority vested in President by subsec. (c) of this section delegated to Secretary of Defense and Secretary of Energy, see section 2(a)(1) of Ex. Ord. No. 10841, as amended, set out as a note under section 2153 of this title.

§2122. Prohibitions governing atomic weapons

(a) It shall be unlawful, except as provided in section 2121 of this title, for any person, inside or outside of the United States, to knowingly participate in the development of, manufacture, produce, transfer, acquire, receive, possess, import, export, or use, or possess and threaten to use, any atomic weapon. Nothing in this section shall be deemed to modify the provisions of section 2051(a) or 2131 of this title.

(b) Whoever knowingly and willfully impedes the passage of a vehicle of a nuclear materials courier (as defined in section 8331 of title 5) engaged in the transport of any atomic weapon, special nuclear material, atomic weapon component, or Restricted Data shall be subject to arrest and imposition of a criminal fine of not more than $1,000.

(c) Conduct prohibited by subsections [1] (a) or (b) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

(2) the offense is committed against a national of the United States while the national is outside the United States;

(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(d) The Attorney General shall have primary investigative authority for any violation of this section.

(Aug. 1, 1946, ch. 724, title I, §92, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Pub. L. 85–479, §2, July 2, 1958, 72 Stat. 277; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108–458, title VI, §§6803(b), 6904(a), Dec. 17, 2004, 118 Stat. 3768, 3771; Pub. L. 118–31, div. C, title XXXI, §3115, Dec. 22, 2023, 137 Stat. 790.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1806(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2023—Subsecs. (b) to (d). Pub. L. 118–31 added subsecs. (b) and (d), redesignated former subsec. (b) as (c), and, in subsec. (c), substituted "prohibited by subsections (a) or (b)" for "prohibited by subsection (a)" in introductory provisions.

2004—Pub. L. 108–458, §6904(a)(1), designated existing provisions as subsec. (a).

Pub. L. 108–458, §6803(b)(2), inserted "participate in the development of," after "interstate or foreign commerce,".

Pub. L. 108–458, §6803(b)(1), inserted ", inside or outside of the United States," after "for any person".

Subsec. (a). Pub. L. 108–458, §6904(a)(4), which directed amendment by striking out "transfer or receive in interstate or foreign commerce," before "manufacture", was executed by striking out such phrase before "participate in the development of, manufacture" to reflect the probable intent of Congress and the intervening amendment by Pub. L. 108–458, §6803(b)(2). See above.

Pub. L. 108–458, §6904(a)(3), (5), (6), inserted "receive," after "acquire,", struck out "or" before "export", and inserted ", or use, or possess and threaten to use," before "any atomic weapon".

Pub. L. 108–458, §6904(a)(2), which directed amendment by inserting "knowingly" after "for any person to", was executed by making the insertion after "for any person, inside or outside of the United States, to" to reflect the probable intent of Congress and the amendment by Pub. L. 108–458, §6803(b)(1). See above.

Subsec. (b). Pub. L. 108–458, §6904(a)(7), added subsec. (b).

1958—Pub. L. 85–479 included transfers or receipts in foreign commerce.

[1] *So in original. Probably should be "subsection".*

§2122a. Repealed. Pub. L. 106–65, div. C, title XXXII, §3294(e)(1)(A), Oct. 5, 1999, 113 Stat. 970

Section, act Aug. 1, 1946, ch. 724, title I, §93, as added Pub. L. 103–160, div. C, title XXXI, §3156(a), Nov. 30, 1993, 107 Stat. 1953, related to congressional oversight of special access programs. See section 2426 of Title 50, War and National Defense.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

§2123. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 102–190, div. C, title XXXI, §3136, Dec. 5, 1991, 105 Stat. 1577; Pub. L. 103–35, title II, §203(b)(3), May 31, 1993, 107 Stat. 102, which related to critical technology partnerships between laboratories of the Department of Energy and other entities, was renumbered section 4813 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(k)(8), Nov. 24, 2003, 117 Stat. 1785, and transferred to former section 2794 of Title 50, War and National Defense. See section 6337 of Title 10, Armed Forces.

SUBCHAPTER IX—ATOMIC ENERGY LICENSES

§2131. License required

It shall be unlawful, except as provided in section 2121 of this title, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 2133 or 2134 of this title.

(Aug. 1, 1946, ch. 724, title I, §101, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, §11, 70 Stat. 1071; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1956—Act Aug. 6, 1956, inserted "use," after "possess,".

§2132. Utilization and production facilities for industrial or commercial purposes

(a) Issuance of licenses

Except as provided in subsections (b) and (c), or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 2133 of this title.

(b) Facilities constructed or operated under section 2134(b)

Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to section 2134(b) of this title prior to enactment into law of this subsection, shall be issued under section 2134(b) of this title.

(c) Cooperative Power Reactor Demonstration facilities

Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under section 2134(b) of this title.

(Aug. 1, 1946, ch. 724, title I, §102, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Pub. L. 91–560, §3, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1970—Pub. L. 91–560 substituted provisions authorizing Commission to issue licenses for a utilization or production facility for industrial or commercial purposes under section 2133, except that license may be issued under section 2134(b), for such utilization or production facility, construction or operation of which was licensed under section 2134(b) before December 19, 1970 or constructed or operated under an arrangement with Commission entered into under Cooperative Power Reactor Demonstration Program, for provisions authorizing Commission to issue licenses pursuant to section 2133 of this title on a determination that such utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes.

§2133. Commercial licenses

(a) Conditions

The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, utilization or production facilities for industrial or commercial purposes. Such licenses shall be issued in accordance with the provisions of subchapter XV and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this chapter.

(b) Nonexclusive basis

The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

(c) License period

Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years from the authorization to commence operations, and may be renewed upon the expiration of such period.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title, or except under the provisions of section 2139 of this title. No license may be issued to an alien or any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(f) [1] Accident notification condition; license revocation; license amendment to include condition

Each license issued for a utilization facility under this section or section 2134(b) of this title shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 2237 of this title, the Commission shall promptly amend each license for a utilization facility issued under this section or section 2134(b) of this title which is in effect on June 30, 1980, to include the provisions required under this subsection.

(Aug. 1, 1946, ch. 724, title I, §103, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, §§12, 13, 70 Stat. 1071; Pub. L. 91–560, §4, Dec. 19, 1970, 84 Stat. 1472; Pub. L. 96–295, title II, §201, June 30, 1980, 94 Stat. 786; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §621, Aug. 8, 2005, 119 Stat. 782; Pub. L. 118–67, div. B, title III, §301(c), July 9, 2024, 138 Stat. 1466.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–67 substituted "any corporation" for "any any corporation".

2005—Subsec. (c). Pub. L. 109–58 inserted "from the authorization to commence operations" after "forty years".

1980—Subsec. (f). Pub. L. 96–295 added subsec. (f).

1970—Subsec. (a). Pub. L. 91–560 struck out requirement of a finding of practical value under section 2132 and substituted "utilization and production facilities for industrial or commercial purposes" for "such type of utilization or production facility".

1956—Subsec. (a). Act Aug. 6, 1956, §12, inserted "use," after "possess,".

Subsec. (d). Act Aug. 6, 1956, §13, inserted "an alien or any" after "issued to".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATORY ISSUES FOR NUCLEAR FACILITIES AT BROWNFIELD SITES

Pub. L. 118–67, div. B, title II, §206, July 9, 2024, 138 Stat. 1462, provided that:

"(a) DEFINITIONS.—In this section:

"(1) BROWNFIELD SITE.—The term 'brownfield site' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(2) COVERED SITE.—The term 'covered site' means a brownfield site, a retired fossil fuel site, or a site that is both a retired fossil fuel site and a brownfield site.

"(3) PRODUCTION FACILITY.—The term 'production facility' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"(4) RETIRED FOSSIL FUEL SITE.—The term 'retired fossil fuel site' means the site of 1 or more fossil fuel electric generation facilities that are retired or scheduled to retire, including multi-unit facilities that are partially shut down.

"(5) UTILIZATION FACILITY.—The term 'utilization facility' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"(b) IDENTIFICATION OF REGULATORY ISSUES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 9, 2024], the [Nuclear Regulatory] Commission shall evaluate the extent to which modification of regulations, guidance, or policy is needed to enable efficient, timely, and predictable licensing reviews for, and to support the oversight of, production facilities or utilization facilities at covered sites.

"(2) REQUIREMENT.—In carrying out paragraph (1), the Commission shall consider how licensing reviews for production facilities or utilization facilities at covered sites may be expedited by considering matters relating to siting and operating a production facility or a utilization facility at or near a covered site to support—

"(A) the reuse of existing site infrastructure, including—

"(i) electric switchyard components and transmission infrastructure;

"(ii) heat-sink components;

"(iii) steam cycle components;

"(iv) roads;

"(v) railroad access; and

"(vi) water availability;

"(B) the use of early site permits;

"(C) the utilization of plant parameter envelopes or similar standardized site parameters on a portion of a larger site; and

"(D) the use of a standardized application for similar sites.

"(3) REPORT.—Not later than 14 months after the date of enactment of this Act, the Commission shall submit to the appropriate committees of Congress [Committee on Energy and Commerce of the House of Representatives and Committee on Environment and Public Works of the Senate] a report describing any

regulations, guidance, and policies identified under paragraph (1).

"(c) LICENSING.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Commission shall—

"(A) develop and implement strategies to enable efficient, timely, and predictable licensing reviews for, and to support the oversight of, production facilities or utilization facilities at covered sites; or

"(B) initiate a rulemaking to enable efficient, timely, and predictable licensing reviews for, and to support the oversight of, production facilities or utilization facilities at covered sites.

"(2) REQUIREMENTS.—In carrying out paragraph (1), consistent with the mission of the Commission, the Commission shall consider matters relating to—

"(A) the use of existing site infrastructure;

"(B) existing emergency preparedness organizations and planning;

"(C) the availability of historical site-specific environmental data;

"(D) previously completed environmental reviews required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(E) activities associated with the potential decommissioning of facilities or decontamination and remediation at covered sites; and

"(F) community engagement and historical experience with energy production.

"(d) REPORT.—Not later than 3 years after the date of enactment of this Act, the Commission shall submit to the appropriate committees of Congress a report describing the actions taken by the Commission under subsection (c)(1)."

REGULATORY REQUIREMENTS FOR MICRO-REACTORS

Pub. L. 118–67, div. B, title II, §208, July 9, 2024, 138 Stat. 1464, provided that:

"(a) MICRO-REACTOR LICENSING.—The [Nuclear Regulatory] Commission shall—

"(1) not later than 18 months after the date of enactment of this Act [July 9, 2024], develop risk-informed and performance-based strategies and guidance to license and regulate micro-reactors pursuant to section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2133), including strategies and guidance for—

"(A) staffing and operations;

"(B) oversight and inspections;

"(C) safeguards and security;

"(D) emergency preparedness;

"(E) risk analysis methods, including alternatives to probabilistic risk assessments;

"(F) decommissioning funding assurance methods that permit the use of design- and site-specific cost estimates;

"(G) the transportation of fueled micro-reactors; and

"(H) siting, including in relation to—

"(i) the population density criterion limit described in the policy issue paper on population-related siting considerations for advanced reactors dated May 8, 2020, and numbered SECY–20–0045;

"(ii) licensing mobile deployment; and

"(iii) environmental reviews; and

"(2) not later than 3 years after the date of enactment of this Act, implement, as appropriate, the strategies and guidance developed under paragraph (1)—

"(A) within the existing regulatory framework;

"(B) through the technology-inclusive regulatory framework to be established under section 103(a)(4) of the Nuclear Energy Innovation and Modernization Act (42 U.S.C. 2133 note; Public Law 115–439); or

"(C) through a pending or new rulemaking.

"(b) CONSIDERATIONS.—In developing and implementing strategies and guidance under subsection (a), the Commission shall consider—

"(1) the unique characteristics of micro-reactors, including characteristics relating to—

"(A) physical size;

"(B) design simplicity; and

"(C) source term;

"(2) opportunities to address redundancies and inefficiencies;

"(3) opportunities to consolidate review phases and reduce transitions between review teams;

"(4) opportunities to establish integrated review teams to ensure continuity throughout the review process; and

"(5) other relevant considerations discussed in the policy issue paper on policy and licensing considerations related to micro-reactors dated October 6, 2020, and numbered SECY–20–0093.

"(c) CONSULTATION.—In carrying out subsection (a), the Commission shall consult with—

"(1) the Secretary of Energy;

"(2) the heads of other Federal agencies, as appropriate;

"(3) micro-reactor technology developers; and

"(4) other stakeholders."

FOREIGN OWNERSHIP

Pub. L. 118–67, div. B, title III, §301, July 9, 2024, 138 Stat. 1465, provided that:

"(a) IN GENERAL.—The prohibitions against issuing certain licenses for utilization facilities to certain aliens, corporations, and other entities described in the second sentence of section 103 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(d)) and the second sentence of section 104 d. of that Act (42 U.S.C. 2134(d)) shall not apply to an entity described in subsection (b) if the [Nuclear Regulatory] Commission determines that issuance of the applicable license to that entity is not inimical to—

"(1) the common defense and security; or

"(2) the health and safety of the public.

"(b) ENTITIES DESCRIBED.—

"(1) IN GENERAL.—An entity referred to in subsection (a) is an alien, corporation, or other entity that is owned, controlled, or dominated by—

"(A) the government of—

"(i) a country, other than a country described in paragraph (2), that is a member of the Organisation for Economic Co-operation and Development on the date of enactment of this Act [July 9, 2024]; or

"(ii) the Republic of India;

"(B) a corporation that is incorporated in a country described in clause (i) or (ii) of subparagraph (A); or

"(C) an alien who is a citizen or national of a country described in clause (i) or (ii) of subparagraph (A).

"(2) EXCLUSION.—A country described in this paragraph is a country—

"(A) any department, agency, or instrumentality of the government of which, on the date of enactment of this Act, is subject to sanctions under section 231 of the Countering America's Adversaries Through Sanctions Act (22 U.S.C. 9525); or

"(B) any citizen, national, or entity of which, as of the date of enactment of this Act, is included on the List of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the Department of the Treasury pursuant to sanctions imposed under section 231 of the Countering America's Adversaries Through Sanctions Act (22 U.S.C. 9525).

"(c) TECHNICAL AMENDMENT.—[Amended this section.]

"(d) SAVINGS CLAUSE.—Nothing in this section affects the requirements of section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565)."

ADVANCED NUCLEAR REACTOR PROGRAM LICENSING

Pub. L. 115–439, title I, §103(a), Jan. 14, 2019, 132 Stat. 5571, as amended by Pub. L. 118–67, div. B, title II, §205(b)(1), July 9, 2024, 138 Stat. 1461, provided that:

"(1) STAGED LICENSING.—For the purpose of predictable, efficient, and timely reviews, not later than 270 days after the date of enactment of this Act [Jan. 14, 2019], the [Nuclear Regulatory] Commission shall develop and implement, within the existing regulatory framework, strategies for—

"(A) establishing stages in the licensing process for commercial advanced nuclear reactors; and

"(B) developing procedures and processes for—

"(i) using a licensing project plan; and

"(ii) optional use of a conceptual design assessment.

"(2) RISK-INFORMED LICENSING.—Not later than 2 years after the date of enactment of this Act, the Commission shall develop and implement, where appropriate, strategies for the increased use of risk-informed, performance-based licensing evaluation techniques and guidance for commercial advanced nuclear reactors within the existing regulatory framework, including evaluation techniques and guidance for the resolution of the following:

"(A) Applicable policy issues identified during the course of review by the Commission of a commercial advanced nuclear reactor licensing application.

"(B) The issues described in SECY–93–092 and SECY–15–077, including—

"(i) licensing basis event selection and evaluation;

"(ii) source terms;

"(iii) containment performance; and

"(iv) emergency preparedness.

"(3) RESEARCH AND TEST REACTOR LICENSING.—For the purpose of predictable, efficient, and timely reviews, not later than 2 years after the date of enactment of this Act, the Commission shall develop and implement strategies within the existing regulatory framework for licensing research and test reactors, including the issuance of guidance.

"(4) TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK.—Not later than December 31, 2027, the Commission shall complete a rulemaking to establish a technology-inclusive regulatory framework for optional use by commercial advanced nuclear reactor applicants for new reactor license applications.

"(5) TRAINING AND EXPERTISE.—As soon as practicable after the date of enactment of this Act, the Commission shall provide for staff training or the hiring of experts, as necessary—

"(A) to support the activities described in paragraphs (1) through (4); and

"(B) to support preparations—

"(i) to conduct pre-application interactions; and

"(ii) to review commercial advanced nuclear reactor license applications (including fusion machine license applications).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission to carry out this subsection $14,420,000 for each of fiscal years 2020 through 2024."

[For definitions of terms used in section 103(a) of Pub. L. 115–439, set out above, see section 3 of Pub. L. 115–439, set out as a note under section 2215 of this title.]

PRIZES FOR ADVANCED NUCLEAR REACTOR LICENSING

Pub. L. 115–439, title I, §103(f), as added by Pub. L. 118–67, div. B, title II, §202, July 9, 2024, 138 Stat. 1457, provided that:

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a non-Federal entity; and

"(B) the Tennessee Valley Authority.

"(2) PRIZE FOR ADVANCED NUCLEAR REACTOR LICENSING.—

"(A) IN GENERAL.—Notwithstanding section 169 of the Atomic Energy Act of 1954 (42 U.S.C. 2209) and subject to the availability of appropriations, the Secretary [of Energy] is authorized to make, with respect to each award category described in subparagraph (C), an award in an amount described in subparagraph (B) to the first eligible entity—

"(i) to which the [Nuclear Regulatory] Commission issues an operating license for an advanced nuclear reactor under part 50 of title 10, Code of Federal Regulations (or successor regulations), for which an application has not been approved by the Commission as of the date of enactment of this subsection [July 9, 2024]; or

"(ii) for which the Commission makes a finding described in section 52.103(g) of title 10, Code of Federal Regulations (or successor regulations), with respect to a combined license for an advanced nuclear reactor—

"(I) that is issued under subpart C of part 52 of that title (or successor regulations); and

"(II) for which an application has not been approved by the Commission as of the date of enactment of this subsection.

"(B) AMOUNT OF AWARD.—Subject to paragraph (3), an award under subparagraph (A) shall be in an amount equal to the total amount assessed by the Commission and collected under section 102(b)(2) [42 U.S.C. 2215(b)(2)] from the eligible entity receiving the award for costs relating to the issuance of the license described in that subparagraph, including, as applicable, costs relating to the issuance of an associated construction permit described in section 50.23 of title 10, Code of Federal Regulations (or successor regulations), or early site permit (as defined in section 52.1 of that title (or successor regulations)).

"(C) AWARD CATEGORIES.—An award under subparagraph (A) may be made for—

"(i) the first advanced nuclear reactor for which the Commission—

"(I) issues a license in accordance with clause (i) of subparagraph (A); or

"(II) makes a finding in accordance with clause (ii) of that subparagraph;

"(ii) an advanced nuclear reactor that—

"(I) uses isotopes derived from spent nuclear fuel (as defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)) or depleted uranium as fuel for the advanced nuclear reactor; and

"(II) is the first advanced nuclear reactor described in subclause (I) for which the Commission—

"(aa) issues a license in accordance with clause (i) of subparagraph (A); or

"(bb) makes a finding in accordance with clause (ii) of that subparagraph;

"(iii) an advanced nuclear reactor that—

"(I) is a nuclear integrated energy system—

"(aa) that is composed of 2 or more co-located or jointly operated subsystems of energy generation, energy storage, or other technologies;

"(bb) in which not fewer than 1 subsystem described in item (aa) is a nuclear energy system; and

"(cc) the purpose of which is—

"(AA) to reduce greenhouse gas emissions in both the power and nonpower sectors; and

"(BB) to maximize energy production and efficiency; and

"(II) is the first advanced nuclear reactor described in subclause (I) for which the Commission—

"(aa) issues a license in accordance with clause (i) of subparagraph (A); or

"(bb) makes a finding in accordance with clause (ii) of that subparagraph;

"(iv) an advanced reactor that—

"(I) operates flexibly to generate electricity or high temperature process heat for nonelectric applications; and

"(II) is the first advanced nuclear reactor described in subclause (I) for which the Commission—

"(aa) issues a license in accordance with clause (i) of subparagraph (A); or

"(bb) makes a finding in accordance with clause (ii) of that subparagraph; and

"(v) the first advanced nuclear reactor for which the Commission grants approval to load nuclear fuel pursuant to the technology-inclusive regulatory framework established under subsection (a)(4) [of section 103(a) of Pub. L. 115–439, set out in a note above].

"(3) FEDERAL FUNDING LIMITATIONS.—

"(A) EXCLUSION OF TVA FUNDS.—In this paragraph, the term 'Federal funds' does not include funds received under the power program of the Tennessee Valley Authority established pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.).

"(B) LIMITATION ON AMOUNTS EXPENDED.—An award under this subsection shall not exceed the total amount expended (excluding any expenditures made with Federal funds received for the applicable project and an amount equal to the minimum cost-share required under section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352)) by the eligible entity receiving the award for licensing costs relating to the project for which the award is made.

"(C) REPAYMENT AND DIVIDENDS NOT REQUIRED.—Notwithstanding section 9104(a)(4) of title 31, United States Code, or any other provision of law, an eligible entity that receives an award under this subsection shall not be required—

"(i) to repay that award or any part of that award; or

"(ii) to pay a dividend, interest, or other similar payment based on the sum of that award."

[For definitions of terms used in section 103(f) of Pub. L. 115–439, set out above, see section 3 of Pub. L. 115–439, set out as a note under section 2215 of this title.]

[1] *So in original. Probably should be "(e)".*

§2134. Medical, industrial, and commercial licenses

(a) Medical therapy

The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its

obligations under this chapter to promote the common defense and security and to protect the health and safety of the public.

(b) Industrial and commercial purposes

As provided for in subsection (b) or (c) of section 2132 of this title, or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this chapter.

(c) Research and development activities

(1) In general

Subject to paragraphs (2) and (3), the Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title.

(2) Regulation

The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

(3) Limitation on utilization facilities

The Commission may issue a license under this section for a utilization facility useful in the conduct of research and development activities of the types specified in section 2051 of this title if—

(A) not more than 75 percent of the annual costs to the licensee of owning and operating the facility are devoted to the sale, other than for research and development or education and training, of—

(i) nonenergy services;

(ii) energy; or

(iii) a combination of nonenergy services and energy; and

(B) not more than 50 percent of the annual costs to the licensee of owning and operating the facility are devoted to the sale of energy.

(d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title or except under the provisions of section 2139 of this title. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(Aug. 1, 1946, ch. 724, title I, §104, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 937; amended Pub. L. 91–560, §5, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 115–439, title I, §106(b), Jan. 14, 2019, 132 Stat. 5577; Pub. L. 118–67, div. B, title VI, §601, July 9, 2024, 138 Stat. 1481.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (c)(2), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–67 inserted subsec. heading; designated first sentence as par. (1), inserted par. heading, and substituted "Subject to paragraphs (2) and (3), the Commission" for "The Commission"; designated second sentence as par. (2) and inserted heading; and substituted par. (3) for third sentence which read as follows: "The Commission is authorized to issue licenses under this section for utilization facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title in which the licensee sells research and testing services and energy to others, subject to the condition that the licensee shall recover not more than 75 percent of the annual costs to the licensee of owning and operating the facility through sales of nonenergy services, energy, or both, other than research and development or education and training, of which not more than 50 percent may be through sales of energy."

2019—Subsec. (c). Pub. L. 115–439 struck out "and which are not facilities of the type specified in subsection (b)" after "section 2051 of this title" and inserted at end "The Commission is authorized to issue licenses under this section for utilization facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title in which the licensee sells research and testing services and energy to others, subject to the condition that the licensee shall recover not more than 75 percent of the annual costs to the licensee of owning and operating the facility through sales of nonenergy services, energy, or both, other than research and development or education and training, of which not more than 50 percent may be through sales of energy."

1970—Subsec. (b). Pub. L. 91–560 substituted provisions authorizing the issue of licenses for utilization or production facilities for industrial or commercial purposes (i) where specifically authorized by law or (ii) where the facility was constructed or operated under an arrangement with the Commission entered into under the cooperative power reactor demonstration program, and the applicable statutory authorization does not require licensing under section 2133, or (iii) where the facility was theretofore licensed under section 2134(b), for provisions authorizing the issue of licenses for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial and commercial purposes.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ENCOURAGING PRIVATE INVESTMENT IN RESEARCH AND TEST REACTORS

Pub. L. 115–439, title I, §106(a), Jan. 14, 2019, 132 Stat. 5577, provided that: "The purpose of this section [amending this section] is to encourage private investment in research and test reactors."

§2135. Antitrust provisions governing licenses

(a) Violations of antitrust laws

Nothing contained in this chapter shall relieve any person from the operation of the following Acts, as amended, "An Act to protect trade and commerce against unlawful restraints and monopolies" approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes" approved August twenty-seven, eighteen hundred and ninety-four; "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October fifteen, nineteen hundred and fourteen; and "An Act to create a Federal Trade Commission, to defined its powers and duties, and for other purposes" approved September twenty-six, nineteen hundred and fourteen. In the event a licensee is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the laws cited above, to have violated any of the provisions of such laws in the conduct of the licensed activity, the Commission may suspend, revoke, or take such other action as it may deem necessary with respect to any license issued by the Commission under the provisions of this chapter.

(b) Reports to Attorney General

The Commission shall report promptly to the Attorney General any information it may have with respect to any utilization of special nuclear material or atomic energy which appears to violate or to tend toward the violation of any of the foregoing Acts, or to restrict free competition in private enterprise.

(c) Transmissions to Attorney General of copies of license applications; publication of advice; factors considered; exceptions

(1) The Commission shall promptly transmit to the Attorney General a copy of any license application provided for in paragraph (2) of this subsection, and a copy of any written request provided for in paragraph (3) of this subsection; and the Attorney General shall, within a reasonable time, but in no event to exceed 180 days after receiving a copy of such application or written request, render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor.

(2) Paragraph (1) of this subsection shall apply to an application for a license to construct or operate a utilization or production facility under section 2133 of this title: *Provided, however*, That paragraph (1) shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 2133 of this title unless the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

(3) With respect to any Commission permit for the construction of a utilization or production facility issued pursuant to subsection (b) of section 2134 of this title prior to December 19, 1970, any person who intervened or who sought by timely written notice to the Commission to intervene in the construction permit proceeding for the facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination shall have the right, upon a written request to the Commission, to obtain an antitrust review under this section of the application for an operating license. Such written request shall be made within 25 days after the date of initial Commission publication in the Federal Register of notice of the filing of an application for an operating license for the facility or December 19, 1970, whichever is later.

(4) Upon the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate for the advice called for in paragraph (1) of this subsection.

(5) Promptly upon receipt of the Attorney General's advice, the Commission shall publish the advice in the Federal Register. Where the Attorney General advises that there may be adverse antitrust aspects and recommends that there be a hearing, the Attorney General or his designee may participate as a party in the proceedings thereafter held by the Commission on such licensing matter in connection with the subject matter of his advice. The Commission shall give due consideration to the advice received from the Attorney General and to such evidence as may be provided during the proceedings in connection with such subject matter, and shall make a finding as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws as specified in subsection (a).

(6) In the event the Commission's finding under paragraph (5) is in the affirmative, the Commission shall also consider, in determining whether the license should be issued or continued, such other factors, including the need for power in the affected area, as the Commission in its judgment deems necessary to protect the public interest. On the basis of its findings, the Commission shall have the authority to issue or continue a license as applied for, to refuse to issue a license, to rescind a license or amend it, and to issue a license with such conditions as it deems appropriate.

(7) The Commission, with the approval of the Attorney General, may except from any of the requirements of this subsection such classes or types of licenses as the Commission may determine would not significantly affect the applicant's activities under the antitrust laws as specified in

subsection (a).

(8) With respect to any application for a construction permit on file at the time of enactment into law of this subsection, which permit would be for issuance under section 2133 of this title, and with respect to any application for an operating license in connection with which a written request for an antitrust review is made as provided for in paragraph (3), the Commission, after consultation with the Attorney General, may, upon determination that such action is necessary in the public interest to avoid unnecessary delay, establish by rule or order periods for Commission notification and receipt of advice differing from those set forth above and may issue a construction permit or operating license in advance of consideration of and findings with respect to the matters covered in this subsection: *Provided*, That any construction permit or operating license so issued shall contain such conditions as the Commission deems appropriate to assure that any subsequent findings and orders of the Commission with respect to such matters will be given full force and effect.

(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 2133 or 2134(b) of this title that is filed on or after August 8, 2005.

(Aug. 1, 1946, ch. 724, title I, §105, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 938; amended Pub. L. 88–489, §14, Aug. 26, 1964, 78 Stat. 606; Pub. L. 91–560, §6, Dec. 19, 1970, 84 Stat. 1473; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 107–273, div. C, title IV, §14102(c)(2)(D), Nov. 2, 2002, 116 Stat. 1921; Pub. L. 109–58, title VI, §625, Aug. 8, 2005, 119 Stat. 784.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The act to protect trade and commerce against unlawful restraints and monopolies, referred to in subsec. (a), is act July 2, 1890, ch. 647, 26 Stat. 209, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Sections seventy-three to seventy-six, inclusive, of an act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", referred to in subsec. (a), are sections 73 to 76 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, known as the Wilson Tariff Act, which are classified to sections 8 to 11, respectively, of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

"An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October fifteen, nineteen hundred and fourteen, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, known as the Federal Trade Commission Act, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2005—Subsec. (c)(9). Pub. L. 109–58 added par. (9).

2002—Subsec. (a). Pub. L. 107–273 substituted "seventy-six" for "seventy-seven".

1970—Subsec. (c). Pub. L. 91–560 designated existing provisions as pars. (1), (2), (4), and (5) and amended such provisions by extending the time for the Attorney General to give advice from 90 to 180 days

and provided for review of licenses once granted under section 2133 of this title, and when the Attorney General recommends that there be a hearing, authorized the Commission to hold hearings and permit the Attorney General to appear as a party and to make a finding as to whether the activities under the license would be inconsistent with the antitrust laws, and in par. (3), provided for a review of the permit issued under section 2134(b) of this title, and added pars. (6) to (8).

1964—Subsec. (a). Pub. L. 88–489 struck out ", including the provisions which vest title to all special nuclear material in the United States," before "shall relieve any person".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–273 effective Nov. 2, 2002, and applicable only with respect to cases commenced on or after Nov. 2, 2002, see section 14103 of Pub. L. 107–273, set out as a note under section 3 of Title 15, Commerce and Trade.

§2136. Classes of facilities

The Commission may—

(a) group the facilities licensed either under section 2133 or 2134 of this title into classes which may include either production or utilization facilities or both, upon the basis of the similarity of operating and technical characteristics of the facilities;

(b) define the various activities to be carried on at each such class of facility; and

(c) designate the amounts of special nuclear material available for use by each such facility.

(Aug. 1, 1946, ch. 724, title I, §106, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 938; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2137. Operators' licenses

The Commission shall—

(a) prescribe uniform conditions for licensing individuals as operators of any of the various classes of production and utilization facilities licensed in this chapter;

(b) determine the qualifications of such individuals;

(c) issue licenses to such individuals in such form as the Commission may prescribe; and

(d) suspend such licenses for violations of any provision of this chapter or any rule or regulation issued thereunder whenever the Commission deems such action desirable.

(Aug. 1, 1946, ch. 724, title I, §107, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TECHNICAL CAPABILITY OF LICENSEE PERSONNEL IMPROVEMENT PLAN; STUDY OF LICENSE REQUIREMENT FOR PLANT MANAGERS AND SENIOR LICENSEE OFFICERS; REPORT TO CONGRESS

Pub. L. 96–395, title III, §307, June 30, 1980, 94 Stat. 791, provided that:

"(a) The Commission is authorized and directed to prepare a plan for improving the technical capability of

licensee personnel to safely operate utilization facilities licensed under section 103 or 104b. of the Atomic Energy Act of 1954 [sections 2133 and 2134(b) of this title]. In proposing such plan, the Commission shall consider the feasibility of requiring standard mandatory training programs for nuclear facility operators, including classroom study, apprenticeships at the facility, and emergency simulator training. Such plan shall include specific criteria for more intensive training and retraining of operator personnel licensed under section 107 of the Atomic Energy Act of 1954 [this section], and for the licensing of such personnel, to assure—

"(1) conformity with all conditions and requirements of the operating license;

"(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and

"(3) effective response to any such event or sequence.

Such plan shall include provision for Commission review and approval of the qualifications of personnel conducting any required training and retraining program. The plan shall also include requirements for the renewal of operator licenses including, to the extent practicable, requirements that the operator—

"(A) has been actively and extensively engaged in the duties listed in such license,

"(B) has discharged such duties safely to the satisfaction of the Commission,

"(C) is capable of continuing such duties, and

"(D) has participated in a requalification training program.

Such plan shall include criteria for suspending or revoking operator licenses. In addition, the Commission shall also consider the feasibility of requiring such licensed operator to pass a requalification test every six months including—

"(i) written questions, and

"(ii) emergency simulator exams.

The Commission shall transmit to the Congress the plan required by this subsection within six months after the date of the enactment of this Act [June 30, 1980], and shall implement as expeditiously as practicable each element thereof not requiring legislative enactment.

"(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954 [this section], plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the date of enactment of this Act [June 30, 1980] on the findings and recommendations of the study required by this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment."

§2138. Suspension of licenses during war or national emergency

Whenever the Congress declares that a state of war or national emergency exists, the Commission is authorized to suspend any licenses granted under this chapter if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material or to order the operation of any facility licensed under section 2133 or 2134 of this title, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facility.

(Aug. 1, 1946, ch. 724, title I, §108, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; amended Pub. L. 86–373, §2, Sept. 23, 1959, 73 Stat. 691; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1959—Pub. L. 86–373 struck out "distributed under the provisions of section 2073(a) of this title," before

"or to order".

§2139. Component and other parts of facilities

(a) Licenses for domestic activities

With respect to those utilization and production facilities which are so determined by the Commission pursuant to section 2014(v)(2) or 2014(cc)(2) of this title the Commission may issue general licenses for domestic activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

(b) Export licenses

After consulting with the Secretaries of State, Energy, and Commerce, the Commission is authorized and directed to determine which component parts as defined in section 2014(v)(2) or 2014(cc)(2) of this title and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 2155(b)(2) of this title, no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided*, That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 2155 of this title.

(c) Exports inimical to common defense and security of United States

The Commission shall not issue an export license under the authority of subsection (b) if it is advised by the executive branch, in accordance with the procedures established under section 2155(a) of this title, that the export would be inimical to the common defense and security of the United States.

(Aug. 1, 1946, ch. 724, title I, §109, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; amended Pub. L. 87–615, §9, Aug. 29, 1962, 76 Stat. 411; Pub. L. 89–645, §1(b), Oct. 13, 1966, 80 Stat. 891; Pub. L. 95–242, title III, §309(a), Mar. 10, 1978, 92 Stat. 141; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–277, div. G, title XII, §1225(d)(2), Oct. 21, 1998, 112 Stat. 2681–774.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 struck out "and the Director" after "Energy, and Commerce".

1978—Subsec. (a). Pub. L. 95–242 designated existing provisions as subsec. (a) and substituted "the Commission may issue general licenses for domestic activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security" for "the Commission may (a) issue general licenses for activities required to be licensed under section 2131 of this title, if the Commission determines in writing that

such general licensing will not constitute an unreasonable risk to the common defense and security, and (b) issue licenses for the export of such facilities, if the Commission determines in writing that each export will not constitute an unreasonable risk to the common defense and security".

Subsecs. (b), (c). Pub. L. 95–242 added subsecs. (b) and (c).

1966—Pub. L. 89–645 substituted "section 2014(v)(2) or 2014 (cc)(2)" for "section 2014(t)(2) or 2014(aa)(2)".

1962—Pub. L. 87–615 substituted "section 2014(t)(2) or 2014(aa)(2)" for "section 2014(p)(2) or 2014(v)(2)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXPORTS CONTRACTED FOR PRIOR TO NOV. 1, 1977, MADE WITHIN ONE YEAR OF MAR. 10, 1978; SAVINGS PROVISION

Pub. L. 95–242, title III, §309(d), Mar. 10, 1978, 92 Stat. 142, provided that: "The amendments to section 109 of the 1954 Act [42 U.S.C. 2139] made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments [Mar. 10, 1978]."

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2139a. Regulations implementing requirements relating to licensing for components and other parts of facilities

(a) Omitted

(b) The Commission, not later than one hundred and twenty days after March 10, 1978, shall publish regulations to implement the provisions of subsections (b) and (c) of section 2139 of this title. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, and the Department of Commerce.

(c) The President, within not more than one hundred and twenty days after March 10, 1978, shall publish procedures regarding the control by the Department of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations by the Department of Commerce with the Department of State, the Commission, the Department of Energy, and the Department of Defense.

(Pub. L. 95–242, title III, §309(b), (c), Mar. 10, 1978, 92 Stat. 141; Pub. L. 103–236, title VII, §714(b), Apr. 30, 1994, 108 Stat. 498; Pub. L. 105–277, div. G, title XII, §1225(e)(4), Oct. 21, 1998,

112 Stat. 2681–775.)

EDITORIAL NOTES

REFERENCES IN TEXT

Commission, referred to in text, is defined as meaning the Nuclear Regulatory Commission by section 4(a)(1) of the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, which is classified to section 3203(a)(1) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section is based on subsecs. (b) and (c) of Pub. L. 95–242. Subsec. (a) of Pub. L. 95–242 amended section 2139 of this title, and subsec. (d) is set out as a note under section 2139 of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, §1225(e)(4)(A), substituted "and the Department of Commerce" for "the Department of Commerce, and the Arms Control and Disarmament Agency".

Subsec. (c). Pub. L. 105–277, §1225(e)(4)(B), struck out "the Arms Control and Disarmament Agency," after "Department of State,".

1994—Subsec. (c). Pub. L. 103–236 struck out ", as required," after "prior consultations" in last sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Secretary of Commerce to be responsible for performing function vested in President by subsec. (c) of this section, see section 3 of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2140. Exclusions from license requirement

Nothing in this subchapter shall be deemed—

(a) to require a license for (1) the processing, fabricating, or refining of special nuclear material, or the separation of special nuclear material, or the separation of special nuclear material from other substances, under contract with and for the account of the Commission; or (2) the construction or operation of facilities under contract with and for the account of the Commission; or

(b) to require a license for the manufacture, production, or acquisition by the Department of Defense of any utilization facility authorized pursuant to section 2121 of this title, or for the use of such facility by the Department of Defense or a contractor thereof.

(Aug. 1, 1946, ch. 724, title I, §110, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2141. Licensing by Nuclear Regulatory Commission of distribution of special nuclear material, source material, and byproduct material by Department of Energy

(a) The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursuant to section 2074, 2094, and 2112 of this title, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided*, That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 2112 of this title.

(b) The Department of Energy shall not distribute any special nuclear material or source material under section 2074 or 2094 of this title other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Nuclear Regulatory Commission and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after March 10, 1978, and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 2156 of this title or their equivalent and any applicable criteria in section 2157 of this title are met, and that the proposed distribution would not be inimical to the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §111, as added Pub. L. 95–242, title III, §301(c), Mar. 10, 1978, 92 Stat. 125; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 105–277, div. G, title XII, §1225(d)(3), Oct. 21, 1998, 112 Stat. 2681–774.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 substituted "the Nuclear Regulatory Commission" for "the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg.

Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2142. Domestic medical isotope production

(a) The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this chapter—

(1) the Commission determines that—

(A) there is no alternative medical isotope production target that can be used in that reactor; and

(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

(b) As used in this section—

(1) the term "alternative medical isotope production target" means a nuclear reactor target which is enriched to less than 20 percent of the isotope U–235;

(2) a target "can be used" in a nuclear research or test reactor if—

(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

(B) use of the target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

(3) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235; and

(4) the term "medical isotope" includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.

(Aug. 1, 1946, ch. 724, title I, §112, as added Pub. L. 112–239, div. C, title XXXI, §3176(a), Jan. 2, 2013, 126 Stat. 2215; Pub. L. 113–66, div. C, title XXXI, §3144, Dec. 26, 2013, 127 Stat. 1071.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2013—Pub. L. 113–66 inserted section designation and catchline.

SUBCHAPTER X—INTERNATIONAL ACTIVITIES

§2151. Effect of international arrangements

Any provision of this chapter or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangements made after August 30, 1954 shall be deemed to be of no force or effect.

(Aug. 1, 1946, ch. 724, title I, §121, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2152. Policies contained in international arrangements

In the performance of its functions under this chapter, the Commission shall give maximum effect to the policies contained in any international arrangement made after August 30, 1954.

(Aug. 1, 1946, ch. 724, title I, §122, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 939; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1808(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2153. Cooperation with other nations

No cooperation with any nation, group of nations or regional defense organization pursuant to sections 2073, 2074(a), 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

(a) Terms, conditions, duration, nature, scope, and other requirements of proposed agreements for cooperation; Presidential exemptions; negotiations; Nuclear Proliferation Assessment Statement

the proposed agreement for cooperation has been submitted to the President, which proposed

agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be maintained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

(3) except in the case of those agreements for cooperation arranged pursuant to section 2121(c) of this title, a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pursuant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

(4) except in the case of those agreements for cooperation arranged pursuant to section 2121(c) of this title and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return of any nuclear materials and equipment transferred pursuant thereto and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States;

(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to such agreement;

(7) except in the case of agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater than twenty percent in the isotope 235, or other nuclear materials which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

(8) except in the case of agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, a guaranty by the cooperating party that no plutonium, no uranium 233, and no uranium enriched to greater than twenty percent in the isotope 235, transferred pursuant to the agreement for cooperation, or recovered from any source or special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

(9) except in the case of agreements for cooperation arranged pursuant to section 2121(c),

2164(b), 2164(c), or 2164(d) of this title, a guaranty by the cooperating party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title) from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy; and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendations of the Secretary of State, the Secretary of Energy, and the Nuclear Regulatory Commission. The Secretary of State shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this chapter, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B) regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. Each Nuclear Proliferation Assessment Statement prepared pursuant to this chapter shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information. In the case of those agreements for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(d) of this title which are to be implemented by the Department of Defense, by the Secretary of Defense;

(b) Presidential approval and authorization for execution of proposed agreements for cooperation

the President has submitted text of the proposed agreement for cooperation (except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title), together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 2159(g) of this title) concerning the consistency of the terms of the proposed agreement with all the requirements of this chapter, and the President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;

(c) Submittal of proposed agreements for cooperation to Congressional committees

the proposed agreement for cooperation (if not an agreement subject to subsection (d)), together with the approval and determination of the President, has been submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in section 2159(g) of this title): *Provided, however*, That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

(d) Congressional action

the proposed agreement for cooperation (if arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, or if entailing implementation of section 2073, 2074(a), 2133, or 2134 of this title in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided*, That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto, when required by subsection (a), have been submitted to the Congress: *Provided further*, That an agreement for cooperation exempted by the President pursuant to subsection (a) from any requirement contained in that subsection, or an agreement exempted pursuant to section 8003(a)(1) of title 22, shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement. During the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved. Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 2159(i) of this title.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy, and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

If, after March 10, 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection (a)(2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to section 2157(b)(3) of this title for purposes of the Commission's consideration of applications and requests under section 2155(a)(2) of this title and there shall be no congressional review pursuant to section 2157 of this title of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.

(e) Congressional committees informed of initiatives or negotiations relating to cooperation agreements

The President shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation pursuant to this section (except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title, or an amendment thereto).

(Aug. 1, 1946, ch. 724, title I, §123, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 940; amended Pub. L. 85–479, §§3, 4, July 2, 1958, 72 Stat. 277; Pub. L. 85–681, §4, Aug. 19, 1958, 72 Stat. 632;

Pub. L. 88–489, §15, Aug. 26, 1964, 78 Stat. 606; Pub. L. 93–377, §5, Aug. 17, 1974, 88 Stat. 475; Pub. L. 93–485, §1, Oct. 26, 1974, 88 Stat. 1460; Pub. L. 95–242, title IV, §401, Mar. 10, 1978, 92 Stat. 142; Pub. L. 99–64, title III, §301(a), (b), July 12, 1985, 99 Stat. 159, 160; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. C, title XXXI, §3155(c)(1), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 104–106, div. A, title XV, §1505(g), Feb. 10, 1996, 110 Stat. 515; Pub. L. 105–277, div. G, title XII, §1225(d)(4), Oct. 21, 1998, 112 Stat. 2681–774; Pub. L. 109–401, title I, §104(e), Dec. 18, 2006, 120 Stat. 2734; Pub. L. 110–369, title II, §202, Oct. 8, 2008, 122 Stat. 4033.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–369 added subsec. (e).

2006—Subsec. (d). Pub. L. 109–401, in second proviso, inserted ", or an agreement exempted pursuant to section 8003(a)(1) of title 22," after "that subsection".

1998—Pub. L. 105–277, §1225(d)(4)(C), in first undesignated paragraph of concluding provisions, struck out "the Arms Control and Disarmament Agency," after "Department of Energy,".

Subsec. (a). Pub. L. 105–277, §1225(d)(4)(A), in concluding provisions, struck out "and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director')" before "; and after consultation", inserted "and" after "Secretary of Energy,", substituted "Commission. The Secretary of State" for "Commission, and the Director, who", and inserted "Each Nuclear Proliferation Assessment Statement prepared pursuant to this chapter shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information." after "nuclear explosive purpose."

Subsec. (d). Pub. L. 105–277, §1225(d)(4)(B), in first proviso, substituted "Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto," for "Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency," and substituted "have been" for "has been".

1996—Subsec. (a). Pub. L. 104–106 substituted ", 2164(b), or 2164(d)" for "2164(b), or 2164(d)" in concluding provisions.

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in penultimate paragraph.

Pub. L. 103–337, §3155(c)(1)(A), substituted "2164(c), or 2164(d)" for "or 2164(c)" in penultimate paragraph.

Subsec. (a). Pub. L. 103–337, §3155(c)(1)(B), substituted "2164(b), or 2164(d)" for "or 2164(b)" in provisions following par. (9).

Pub. L. 103–337, §3155(c)(1)(A), substituted "2164(c), or 2164(d)" for "or 2164(c)" wherever appearing.

Subsec. (b). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

Pub. L. 103–337, §3155(c)(1)(C), inserted "(except an agreement arranged pursuant to section 2121(c), 2164(b), 2164(c), or 2164(d) of this title)" after "the President has submitted text of the proposed agreement for cooperation".

Subsec. (c). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

Subsec. (d). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in two places.

Pub. L. 103–337, §3155(c)(1)(A), substituted "2164(c), or 2164(d)" for "or 2164(c)" in two places.

1985—Subsec. (a). Pub. L. 99–64, §301(a)(1), in provisions following par. (9) inserted "(A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this chapter, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)" after "Assessment Statement".

Subsec. (b). Pub. L. 99–64, §301(a)(2), inserted "the President has submitted text of the proposed agreement for cooperation, together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the

House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 2159(g) of this title) concerning the consistency of the terms of the proposed agreement with all the requirements of this chapter, and".

Subsec. (d). Pub. L. 99–64, §301(a)(3), (b), substituted "adopts, and there is enacted, a joint resolution" for "adopts a concurrent resolution", inserted a further proviso directing that an agreement for cooperation exempted by the President pursuant to subsection (a) of this section from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement, inserted sentence directing that during the sixty-day period the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved, and substituted "section 2159(i) of this title" for "section 2159 of this title for the consideration of Presidential submissions".

1978—Pub. L. 95–242 added unlettered paragraphs following subsec. (d) relating to the submission of agency views to Congressional committees and the failure of the Congress to act on agreements which exempt the recipient nation from the requirements of subsec. (a)(2).

Subsec. (a). Pub. L. 95–242 amended and carried forward into pars. (3), (5), and (6) the existing provisions relating to the terms and conditions required for inclusion in all new agreements for cooperation, inserted new terms and conditions set out in pars. (1), (2), (4), (7), (8), and (9), inserted provisions empowering the President to exempt proposed agreements from any of the requirements if he determines that inclusion of the requirement would be seriously prejudicial to the achievement of United States nonproliferation objectives or jeopardize the common defense and security for any other reason, provided for Congressional rejection of any such Presidential exemption, and provided that agreements be negotiated by the Department of State, with an exception for defense related agreements.

Subsec. (b). Pub. L. 95–242 reenacted existing provisions with only minor changes in punctuation.

Subsec. (c). Pub. L. 95–242 inserted "(if not an agreement subject to subsection (d))" after "the proposed agreement for cooperation", substituted "submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations for a period of thirty days of continuous session (as defined in section 2159(g) of this title)" for "submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of the adjournment of more than three days)", and substituted reference to "these committees" for reference to "the Joint Committee" in proviso.

Subsec. (d). Pub. L. 95–242 provided that proposed agreements be laid before the Committees on International Relations and Foreign Relations rather than the Joint Committee on Atomic Energy and that for major agreements the Nuclear Proliferation Assessment Statement, if any, prepared in conjunction with the President's review of the proposed agreement, also be submitted to the committees.

1974—Pub. L. 93–377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title in opening par.

Subsec. (d). Pub. L. 93–485 inserted reference to proposed agreements entailing implementation of sections 2073, 2074, 2133, or 2134 of this title, or in relation to reactors capable of producing more than five thermal megawatts or special nuclear material in connection therewith, inserted provision requiring the Joint Committee to submit a report to Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution favoring or otherwise of such agreement within the first thirty days of the sixty day period and providing that such concurrent resolution so reported shall become the pending business of the House in question within twenty-five days and shall be voted on within five days thereafter unless such House determined otherwise, and struck out the proviso that during the 85th Congress the waiting period shall be thirty days.

1964—Pub. L. 88–489 inserted reference to section 2073 in opening par.

1958—Pub. L. 85–479, §3, inserted reference to section 2121 in opening par.

Subsec. (a). Pub. L. 85–479, §3, included agreements for cooperation arranged pursuant to section 2121(c) of this title, and inserted in cl. (3) the exception in the case of agreements arranged pursuant to section 2121(c) of this title.

Subsec. (c). Pub. L. 85–681 inserted proviso clause relating to waiver waiting period.

Subsec. (d). Pub. L. 85–479, §4, added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the

Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–64, title III, §301(d), July 12, 1985, 99 Stat. 162, provided that: "The amendments made by this section [amending this section and section 2159 of this title] shall apply to any agreement for cooperation which is entered into after the date of the enactment of this Act [July 12, 1985]."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–242 effective Mar. 10, 1978, except as otherwise provided and regardless of any requirement for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as an Effective Date note under section 3201 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–485, §2, Oct. 26, 1974, 88 Stat. 1460, provided that: "This Act [amending this section] shall apply to proposed agreements for cooperation and to proposed amendments to agreements for cooperation hereafter [Oct. 26, 1974] submitted to the Congress."

LIMITATION ON PRODUCTION OF NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS

Pub. L. 116–92, div. A, title XII, §1264, Dec. 20, 2019, 133 Stat. 1692, provided that:

"(a) LIMITATION.—The Secretary of State may not provide to the President, and the President may not submit to Congress, a Nuclear Proliferation Assessment Statement described in subsection a. of section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) with respect to a proposed cooperation agreement with any country that has not signed and implemented an Additional Protocol with the International Atomic Energy Agency, other than a country with which, as of June 19, 2019, there is in effect a civilian nuclear cooperation agreement pursuant to such section 123.

"(b) WAIVER.—The limitation under subsection (a) shall be waived with respect to a particular country beginning on the date that is 90 days after the date on which the President submits to the appropriate congressional committees a report describing the manner in which such agreement would advance the national security and defense interests of the United States and not contribute to the proliferation of nuclear weapons.

"(c) FORM.—The report described in subsection (b) shall be submitted in unclassified form but may include a classified annex.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

SUPPORT FOR UNITED STATES-REPUBLIC OF KOREA CIVIL NUCLEAR COOPERATION

Pub. L. 113–81, Feb. 12, 2014, 128 Stat. 1007, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Support for United States-Republic of Korea Civil Nuclear Cooperation Act'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) In the 60th year of the alliance, the relationship between the United States and the Republic of Korea could not be stronger. It is based on mutual sacrifice, mutual respect, shared interests, and shared responsibility to promote peace and security in the Asia-Pacific region and throughout the world.

"(2) North Korea's nuclear weapons programs, including uranium enrichment and plutonium

reprocessing technologies, undermine security on the Korean Peninsula. The United States and the Republic of Korea have a shared interest in preventing further proliferation, including through the implementation of the 2005 Joint Statement of the Six-Party Talks.

"(3) Both the United States and Republic of Korea have a shared objective in strengthening the Treaty on the Non-Proliferation of Nuclear Weapons, done at London, Moscow, and Washington July 1, 1968, and a political and a commercial interest in working collaboratively to address challenges to their respective peaceful civil nuclear programs.

"(4) The nuclear energy agreement referred to in section 3 is scheduled to expire on March 19, 2014. In order to maintain healthy and uninterrupted cooperation in this area between the two countries while a new agreement is being negotiated, Congress should authorize the President to extend the duration of the current agreement until March 19, 2016.

"SEC. 3. EXTENSION OF NUCLEAR ENERGY AGREEMENT WITH THE REPUBLIC OF KOREA.

"Notwithstanding section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), the President is authorized to take such actions as may be required to extend the term of the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Atomic Energy, done at Washington November 24, 1972 (24 UST 775; TIAS 7583), and amended on May 15, 1974 (25 UST 1102; TIAS 7842), to a date that is not later than March 19, 2016.

"SEC. 4. REPORT TO CONGRESS ON PROGRESS OF NEGOTIATIONS BETWEEN THE UNITED STATES AND REPUBLIC OF KOREA.

"Not later than 180 days after the date of the enactment of this Act [Feb. 12, 2014], and every 180 days thereafter until a new Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea Concerning Civil Uses of Nuclear Energy is submitted to Congress, the President shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report on the progress of negotiations on a new civil nuclear cooperation agreement."

[Memorandum of President of the United States, July 11, 2014, 79 F.R. 43917, delegated to the Secretary of State the reporting functions under section 4 of Pub. L. 113–81, set out above.]

APPLICABILITY OF NOTICE AND WAIT PROVISIONS

Pub. L. 103–337, div. C, title XXXI, §3155(b), Oct. 5, 1994, 108 Stat. 3092, as amended by Pub. L. 104–201, div. C, title XXXI, §3160, Sept. 23, 1996, 110 Stat. 2843; Pub. L. 107–314, div. D, title XLV, §4501(b), formerly Pub. L. 104–106, div. C, title XXXI, §3154(b), Feb. 10, 1996, 110 Stat. 624, renumbered §4501(b) of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(h)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1771, provided that: "Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act [42 U.S.C. 2164(d)], as inserted by subsection (a), until October 1, 1997."

FUEL CYCLE EVALUATIONS; REPORT TO CONGRESS

Pub. L. 95–601, §9, Nov. 6, 1978, 92 Stat. 2951, directed Commission to monitor and assist, as requested, International Fuel Cycle Evaluation and studies and evaluations of various nuclear fuel cycle systems by Department of Energy in progress as of Nov. 6, 1978, and report to Congress semiannually through calendar year 1980 and annually through calendar year 1982 on status of domestic and international evaluations of nuclear fuel cycle systems, with report to include a summary of information developed by and available to Commission on health, safety, and safeguards implications of leading fuel cycle technologies.

ADEQUACY OF LAWS AND REGULATIONS GOVERNING EXPORT AND RE-EXPORT OF NUCLEAR MATERIALS, ETC., AND SAFEGUARDS PREVENTING PROLIFERATION OF NUCLEAR MATERIALS

Pub. L. 93–500, §14, Oct. 29, 1974, 88 Stat. 1557, directed President to review and report to Congress within six months after Oct. 29, 1974, on all laws and pertinent regulations issued thereunder, governing the export and re-export of nuclear materials and information relating to the design and development thereof, in order to curb further domestic and international nuclear proliferation, diversion, or theft of nuclear materials.

COOPERATION WITH BERLIN

Act Aug. 1, 1946, ch. 724, title I, §125, as added by Apr. 12, 1957, Pub. L. 85–14, 71 Stat. 11; amended by Aug. 17, 1974, Pub. L. 93–377, §5, 88 Stat. 475; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX,

§902(a)(8), 106 Stat. 2944, provided that the President could authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with this section, on behalf of Berlin, which for the purposes of this chapter comprised those areas over which the Berlin Senate exercised jurisdiction (the United States, British, and French sectors) and the Commission could thereafter cooperate with Berlin pursuant to section 2074(a), 2077, 2094, 2112, 2133, or 2134 of this title, with provision that the guaranties required by this section were to be made by Berlin with the approval of the allied commandants.

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 10841. INTERNATIONAL COOPERATION

Ex. Ord. No. 10841, eff. Sept. 30, 1959, 24 F.R. 7941, as amended by Ex. Ord. No. 10956, eff. Aug. 10, 1961, 26 F.R. 7315; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

SECTION 1. Whenever the President, pursuant to section 123 of the Act [this section], has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act [sections 2121(c), 2164(a), 2164(b), 2164 (c) of this title], such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c [sections 2121(c), 2164(a), 2164(b), or 2164(c) of this title], as pertinent. In respect of sections 91c, 144b, and 144c [sections 2121(c), 2164(b), and 2164(c) of this title], authorizations by the President to cooperate shall be subject to the requirements of sections 123d of the Act [subsec. (d) of this section] and shall also be subject to appropriate determinations made pursuant to section 2 of this order.

SEC. 2. (a) The Secretary of Defense and the Secretary of Energy are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following-described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act [section 2121(c) of this title] to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act [section 2164(b) of this title] to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security: *Provided*, That each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.

(3) The authority vested in the President by section 144c of the Act [section 2164(c) of this title] to determine that the proposed cooperation and the communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Secretary of Energy are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

SEC. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act [section 2121(c) of this title] of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act [this chapter] shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act [this chapter] shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

§2153a. Approval for enrichment after export of source or special nuclear material; export of major critical components of enrichment facilities

(a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approval of the United States for such enrichment: *Provided*, That the procedures governing such approvals shall be identical to those set forth for the approval of proposed subsequent arrangements under section 2160 of this title, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission: *And provided further*, That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after March 10, 1978, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to section 2121(c), 2164(b), or 2164(c) of this title) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term "major critical component" means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

(Pub. L. 95–242, title IV, §402, Mar. 10, 1978, 92 Stat. 145.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Delegation or assignment to Secretary of Energy of function vested in President under subsec. (b) of this section, see section 1(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2153b. Export policies relating to peaceful nuclear activities and international nuclear trade

The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

(a) Undertakings by transferee nations receiving nuclear material and equipment or sensitive nuclear technology

No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosive devices for any purpose, except as permitted by Article V, the Treaty;

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measures will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

(b) Enrichment of source or special nuclear material only under effective international auspices and inspection

(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in section 2014(aa)(2) of this title) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Establishment of physical security measures

Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

(d) United States military activities

Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

(Pub. L. 95–242, title IV, §403, Mar. 10, 1978, 92 Stat. 146.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2153c. Renegotiation of agreements for cooperation

(a) Application to existing agreements of undertakings required of new agreements after March 10, 1978

The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on March 10, 1978, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under the 1954 Act. To the extent that an agreement for cooperation in effect on March 10, 1978, with a cooperating party contains provisions equivalent to any or all of the criteria set forth in section 127 of the 1954 Act [42 U.S.C. 2156] with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on March 10, 1978, with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under section 123 a. of the 1954 Act [42 U.S.C. 2153(a)], the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish any rights which the United States may have under any agreement for cooperation in force on March 10, 1978.

(b) Presidential review of export agreement conditions and policy goals

The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123 a. of the 1954 Act [42 U.S.C. 2153(a)] and the export

policy goals set forth in section 2153b of this title to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

(c) Presidential proposals for additional export criteria

If the President proposes enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) Congressional action

If the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, after reviewing the President's annual report or any proposed legislation, determines that it is in the interest of United States non-proliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to subsection [1] 130 b. through g. of the 1954 Act [42 U.S.C. 2159(b) through (g)].

(Pub. L. 95–242, title IV, §404, Mar. 10, 1978, 92 Stat. 147; Pub. L. 103–437, §15(g), Nov. 2, 1994, 108 Stat. 4593.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section 2153b of this title, referred to in subsec. (b), was in the original "section 401", meaning section 401 of Pub. L. 95–242, which amended section 2153 of this title. Section 401 has been translated as section 2153b of this title, which was enacted by section 403 of Pub. L. 95–242, to reflect the probable intent of Congress in view of the reference to the export policy goals which are set forth in section 2153b of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

SUPPLY OF ADDITIONAL LOW-ENRICHED URANIUM UNDER INTERNATIONAL AGREEMENTS FOR COOPERATION IN CIVIL USES OF NUCLEAR ENERGY

Pub. L. 96–280, June 18, 1980, 94 Stat. 550, provided that:

"SECTION 1. Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

"SEC. 2. (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic

Energy Act of 1954 [this chapter] and by the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.].

"(b) The term 'low-enriched uranium' means uranium enriched to less than 20 per centum in the isotope 235."

DEFINITIONS

For definitions of terms used in this section, see section 3203 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

[1] *So in original.*

§2153d. Authority to continue agreements for cooperation entered into prior to March 10, 1978

(a) The amendments to section 2153 of this title made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to March 10, 1978.

(b) Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

(Pub. L. 95–242, title IV, §405, Mar. 10, 1978, 92 Stat. 148.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

§2153e. Protection of environment

The President shall endeavor to provide in any agreement entered into pursuant to section 2153 of

this title for cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

(Pub. L. 95–242, title IV, §407, Mar. 10, 1978, 92 Stat. 148.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2153e–1. Effectiveness of rule, regulation, or procedure with regard to exports subject to Nuclear Non-Proliferation Act of 1978

No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act (42 U.S.C. 2153e) entitled "Protection of the Environment" which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.

(Pub. L. 95–630, title XIX, §1913, Nov. 10, 1978, 92 Stat. 3727.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Nuclear Non-Proliferation Act of 1978, referred to in text, is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as an Effective Date of 1978 Amendment note under section 635 of Title 12, Banks and Banking.

§2153f. Savings clause; Nuclear Non-Proliferation Act of 1978

(a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to sections 2121(c), 2164(b), or 2164(c) of this title or arrangements pursuant thereto as it was in effect immediately prior to March 10, 1978.

(Pub. L. 95–242, title VI, §603(a), (b), Mar. 10, 1978, 92 Stat. 152.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2154. International atomic pool

The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 2074(a), 2077, 2094, 2112, 2133, 2134, or 2164(a) of this title: *Provided, however,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title.

(Aug. 1, 1946, ch. 724, title I, §124, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 940; amended Pub. L. 93–377, §5, Aug. 17, 1974, 88 Stat. 475; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1974—Pub. L. 93–377 substituted reference to section 2074(a) of this title for reference to section 2074 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2155. Export licensing procedures

(a) Executive branch judgment on export applications; criteria governing United States nuclear exports

No license may be issued by the Nuclear Regulatory Commission (the "Commission") for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 2074, 2094, or 2112 of this title, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

(1) the Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, and the Nuclear Regulatory Commission, for the preparation of the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations con [1] be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or

evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered to the provisions of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 2153b or 2153c(a) of this title;

(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 2156 of this title will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria in section 2156 of this title or their equivalent, and any other applicable statutory requirements, are met: *Provided*, That continued cooperation under an agreement for cooperation as authorized in accordance with section 2154 of this title shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 2156 of this title for a period of thirty days after March 10, 1978, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 2153c(a) of this title; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on March 10, 1978: *Provided further*, That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 2156 of this title, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 2159 of this title: *And additionally provided*, That the Commission is authorized to (A) make a single finding under this subsection for more than a single application or

request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no material changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no material changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such finding in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further*, That nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

(b) Requests to be given timely consideration; Presidential review if Commission is unable to make required statutory determinations; Commission review

(1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this chapter, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order: *Provided*, That prior to any such export, the President shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and shall be referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions: *And provided further*, That the procedures established pursuant to subsection (b) of section 2155a of this title shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such license and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of an additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject

to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of section 2155a of this title, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceedings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection (a)(1) of this section: *Provided further*, That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Secretary of State at any time as provided in subsection (a)(1) of this section.

(c) Additional export criteria

In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this chapter, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 2159 of this title.

(Aug. 1, 1946, ch. 724, title I, §126, as added Pub. L. 95–242, title III, §304(a), Mar. 10, 1978, 92 Stat. 131; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105–277, div. G, title XII, §1225(d)(5), Oct. 21, 1998, 112 Stat. 2681–774.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2) and (c), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–277 substituted "and the Nuclear Regulatory Commission," for "the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission".

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXPORT LICENSE NOTIFICATION

Pub. L. 118–67, div. B, title I, §103, July 9, 2024, 138 Stat. 1452, provided that:

"(a) DEFINITION OF LOW-ENRICHED URANIUM.—In this section, the term 'low-enriched uranium' means uranium enriched to less than 20 percent of the uranium-235 isotope.

"(b) NOTIFICATION.—If the [Nuclear Regulatory] Commission, after consultation with the Secretary of State and any other relevant agencies, issues an export license for the transfer of any item described in

subsection (d) to a country described in subsection (c), the Commission shall notify the appropriate committees of Congress [Committee on Energy and Commerce of the House of Representatives and Committee on Environment and Public Works of the Senate], the Committee on Foreign Relations of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Foreign Affairs of the House of Representatives.

"(c) COUNTRIES DESCRIBED.—A country referred to in subsection (b) is a country that—

"(1) has not concluded and ratified an Additional Protocol to its safeguards agreement with the International Atomic Energy Agency; or

"(2) has not ratified or acceded to the amendment to the Convention on the Physical Protection of Nuclear Material, adopted at Vienna October 26, 1979, and opened for signature at New York March 3, 1980 (TIAS 11080), described in the information circular of the International Atomic Energy Agency numbered INFCIRC/274/Rev.1/Mod.1 and dated May 9, 2016 (TIAS 16–508).

"(d) ITEMS DESCRIBED.—An item referred to in subsection (b) includes—

"(1) unirradiated nuclear fuel containing special nuclear material (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)), excluding low-enriched uranium;

"(2) a nuclear reactor that uses nuclear fuel described in paragraph (1); and

"(3) any plant or component listed in Appendix I to part 110 of title 10, Code of Federal Regulations (or successor regulations), that is involved in—

"(A) the reprocessing of irradiated nuclear reactor fuel elements;

"(B) the separation of plutonium; or

"(C) the separation of the uranium-233 isotope."

NUCLEAR EXPORT REPORTING REQUIREMENT

Pub. L. 105–261, div. A, title XV, §1523, Oct. 17, 1998, 112 Stat. 2180, as amended by Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1135], Nov. 29, 1999, 113 Stat. 1536, 1501A–494, provided that:

"(a) NOTIFICATION OF CONGRESS.—The President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives upon the granting of a license by the Nuclear Regulatory Commission for the export or reexport of any nuclear-related technology or equipment, including source material, special nuclear material, or equipment or material especially designed or prepared for the processing, use, or production of special nuclear material.

"(b) APPLICABILITY.—The requirements of this section shall apply only to an export or reexport to a country that—

"(1) the President has determined is a country that has detonated a nuclear explosive device; and

"(2) is not a member of the North Atlantic Treaty Organization.

"(c) CONTENT OF NOTIFICATION.—The notification required pursuant to this section shall include—

"(1) a detailed description of the articles or services to be exported or reexported, including a brief description of the capabilities of any article to be exported or reexported;

"(2) an estimate of the number of officers and employees of the United States Government and of United States Government civilian contract personnel expected to be required in such country to carry out the proposed export or reexport;

"(3) the name of each licensee expected to provide the article or service proposed to be sold and a description from the licensee of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);

"(4) the projected delivery dates of the articles or services to be exported or reexported; and

"(5) the extent to which the recipient country in the previous two years has engaged in any of the actions specified in subparagraph (A), (B), or (C) of section 129(2) of the Atomic Energy Act of 1954 [42 U.S.C. 2158(2)(A), (B), (C)]."

[Memorandum of President of the United States, July 8, 2004, 69 F.R. 43725, delegated to Secretary of State the functions conferred upon the President by section 1523 of Pub. L. 105–261, set out above.]

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to the functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

EX. ORD. NO. 12055. EXPORT OF SPECIAL NUCLEAR MATERIAL TO INDIA

Ex. Ord. No. 12055, Apr. 27, 1978, 43 F.R. 18157, provided:

By virtue of the authority vested in me as President by the Constitution of the United States of America and by Section 126b(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2155), as amended by Section 304(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242, 92 Stat. 131) [subsec. (b)(2) of this section], and having determined that withholding the export proposed pursuant to Nuclear Regulatory Commission export license application XSNM–1060 would be seriously prejudicial to the achievement of the United States non-proliferation objectives, that export to India is authorized; however, such export shall not occur for a period of 60 days as defined by Section 130g of the Atomic Energy Act of 1954, as amended [section 2159(g) of this title].

JIMMY CARTER.

EXECUTIVE ORDER NO. 12193

Ex. Ord. No. 12193, Feb. 12, 1980, 45 F.R. 9885, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1981, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EX. ORD. NO. 12218. EXPORT OF SPECIAL NUCLEAR MATERIAL TO INDIA

Ex. Ord. No. 12218, June 19, 1980, 45 F.R. 41625, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126b. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(b)(2)), and having determined that withholding the exports proposed pursuant to Nuclear Regulatory Commission export license applications XSNM–1379, XSNM–1569, XCOM–0240, XCOM–0250, XCOM–0376, XCOM–0381 and XCOM–0395, would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security, those exports to India are authorized; however, such exports shall not occur for a period of 60 days as defined by Section 130 g. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2159(g)).

JIMMY CARTER.

EXECUTIVE ORDER NO. 12295

Ex. Ord. No. 12295, Feb. 24, 1981, 46 F.R. 14113, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1982, was revoked by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617. See notes below.

EXECUTIVE ORDER NO. 12351

Ex. Ord. No. 12351, Mar. 9, 1982, 47 F.R. 10505, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1983, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12409

Ex. Ord. No. 12409, Mar. 7, 1983, 48 F.R. 9829, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1984, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12463

Ex. Ord. No. 12463, Feb. 23, 1984, 49 F.R. 7097, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1985, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. See notes below.

EXECUTIVE ORDER NO. 12506

Ex. Ord. No. 12506, Mar. 4, 1985, 50 F.R. 8991, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1986. See notes below.

EXECUTIVE ORDER NO. 12554

Ex. Ord. No. 12554, Feb. 28, 1986, 51 F.R. 7423, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1987. See notes below.

EXECUTIVE ORDER NO. 12587

Ex. Ord. No. 12587, Mar. 9, 1987, 52 F.R. 7397, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1988, was superseded by Ex. Ord. No. 12629, Mar. 9, 1988, 53 F.R. 7875. See notes below.

EXECUTIVE ORDER NO. 12629

Ex. Ord. No. 12629, Mar. 9, 1988, 53 F.R. 7875, extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1989. See notes below.

EXECUTIVE ORDER NO. 12670

Ex. Ord. No. 12670, Mar. 9, 1989, 54 F.R. 10267, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1990, was superseded by Ex. Ord. No. 12706, Mar. 9, 1990, 55 F.R. 9313. See notes below.

EXECUTIVE ORDER NO. 12706

Ex. Ord. No. 12706, Mar. 9, 1990, 55 F.R. 9313, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1991, was superseded by Ex. Ord. No. 12753, Mar. 8, 1991, 56 F.R. 10501. See notes below.

EXECUTIVE ORDER NO. 12753

Ex. Ord. No. 12753, Mar. 8, 1991, 56 F.R. 10501, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1992, was superseded by Ex. Ord. No. 12791, Mar. 9, 1992, 57 F.R. 8717. See notes below.

EXECUTIVE ORDER NO. 12791

Ex. Ord. No. 12791, Mar. 9, 1992, 57 F.R. 8717, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1993, was superseded by Ex. Ord. No. 12840, Mar. 9, 1993, 58 F.R. 13401. See notes below.

EXECUTIVE ORDER NO. 12840

Ex. Ord. No. 12840, Mar. 9, 1993, 58 F.R. 13401, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1994, was superseded by Ex. Ord. No. 12903, Mar. 9, 1994, 59 F.R. 11473. See notes below.

EXECUTIVE ORDER NO. 12903

Ex. Ord. No. 12903, Mar. 9, 1994, 59 F.R. 11473, which extended the period of nuclear cooperation with the European Atomic Energy Community to Mar. 10, 1995, was superseded by Ex. Ord. No. 12955, Mar. 9, 1995, 60 F.R. 13365. See note below.

EX. ORD. NO. 12955. NUCLEAR COOPERATION WITH EUROPEAN ATOMIC ENERGY COMMUNITY

Ex. Ord. No. 12955, Mar. 9, 1995, 60 F.R. 13365, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to section 126a(2) of such Act and extended for 12-month periods by Executive Order Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, 12670, 12706, 12753, 12791, 12840, and 12903 [see notes above], failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common

defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to December 31, 1995. Executive Order No. 12903 shall be superseded on the effective date of this Executive order.

WILLIAM J. CLINTON.

DELEGATION OF FUNCTIONS REGARDING DETERMINATION OF TIME, TERMS AND CONDITIONS OF NUCLEAR EXPORTS

Memorandum of the President of the United States, dated Oct. 3, 1980, provided:

By the authority vested in me by Title 3, United States Code, Section 301, you are hereby authorized to perform the following functions on my behalf:

1. Determination of the time, terms and conditions of exports made pursuant to any Executive Order heretofore or hereafter issued under Section 126(b)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. §2155(b)(2)).

2. Issuance of such rules, regulations and procedures as you may from time to time deem necessary or desirable for the exercise of functions delegated by paragraph 1.

This memorandum shall be published in the Federal Register.

JIMMY CARTER.

[1] *So in original. Probably should be "can".*

§2155a. Regulations establishing Commission procedures covering grant, suspension, revocation, or amendment of nuclear export licenses or exemptions

(a) Omitted

(b) Within one hundred and twenty days of March 10, 1978, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided*, That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further*, That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act [42 U.S.C. 2239(a)], shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

(Pub. L. 95–242, title III, §304(b), (c), Mar. 10, 1978, 92 Stat. 135.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section is based on subsecs. (b) and (c) of Pub. L. 95–242. Subsecs. (a) and (d) of Pub. L. 95–242 enacted sections 2155 and 2156a, respectively, of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DEFINITIONS

For definitions of terms used in this section, see section 3203 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2155b. International nuclear export and innovation activities

(a) Commission coordination

(1) In general

The Commission shall—

(A) coordinate all work of the Commission relating to—

(i) import and export licensing for nuclear reactors and radioactive materials; and

(ii) international regulatory cooperation and assistance relating to nuclear reactors and radioactive materials, including with countries that are members of—

(I) the Organisation for Economic Co-operation and Development; or

(II) the Nuclear Energy Agency; and

(B) support interagency and international coordination with respect to—

(i) the consideration of international technical standards to establish the licensing and regulatory basis to assist the design, construction, and operation of nuclear reactors and use of radioactive materials;

(ii) efforts to help build competent nuclear regulatory organizations and legal frameworks in foreign countries that are seeking to develop civil nuclear industries; and

(iii) exchange programs and training provided, in coordination with the Secretary of State, to foreign countries relating to civil nuclear licensing and oversight to improve the regulation of nuclear reactors and radioactive materials, in accordance with paragraph (2).

(2) Exchange programs and training

With respect to the exchange programs and training described in paragraph (1)(B)(iii), the Commission shall coordinate, as applicable, with—

(A) the Secretary of Energy;

(B) the Secretary of State;

(C) the National Laboratories;

(D) the private sector; and

(E) institutions of higher education.

(b) Authority to establish branch

The Commission may establish within the Office of International Programs a branch, to be known as the "International Nuclear Export and Innovation Branch", to carry out the international nuclear export and innovation activities described in subsection (a) as the Commission determines to be appropriate and within the mission of the Commission.

(c) Omitted

(d) Interagency coordination

The Commission shall coordinate all international activities under this section with the Secretary of State, the Secretary of Energy, and other applicable agencies, as appropriate.

(e) Savings clause

Nothing in this section alters the authority of the Commission to license and regulate the civilian use of radioactive materials.

(Pub. L. 118–67, div. B, title I, §101, July 9, 2024, 138 Stat. 1450.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024, also known as the ADVANCE Act of 2024, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

Section is comprised of section 101 of div. B of Pub. L. 118–67. Subsec. (c) of section 101 of div. B of Pub. L. 118–67 amended section 2215 of this title and enacted provisions set out as a note under section 2215 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of terms used in this section, see section 2 of div. B of Pub. L. 118–67, set out as a note under section 2011 of this title.

§2156. Criteria governing United States nuclear exports

The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to section 2156a of this title, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and

no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.

(Aug. 1, 1946, ch. 724, title I, §127, as added Pub. L. 95–242, title III, §305, Mar. 10, 1978, 92 Stat. 136; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2156a. Regulations establishing levels of physical security to protect facilities and material

Within sixty days of March 10, 1978, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy, and the Secretary of Defense, promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgement are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of section 2156 of this title taking into consideration variations in risks to security as appropriate.

(Pub. L. 95–242, title III, §304(d), Mar. 10, 1978, 92 Stat. 135; Pub. L. 105–277, div. G, title XII, §1225(e)(3), Oct. 21, 1998, 112 Stat. 2681–775.)

EDITORIAL NOTES

REFERENCES IN TEXT

Commission, referred to in text, is defined as meaning the Nuclear Regulatory Commission by section 4(a)(1) of the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, which is classified to section 3203(a)(1) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277 substituted "and the Secretary of Defense," for "the Secretary of Defense, and the Director,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2157. Additional export criterion and procedures

(a)(1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

(b) The criterion set forth in subsection (a) shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection (a) which is filed after eighteen months from March 10, 1978, or for any such application under which the first export would occur at least twenty-four months after March 10, 1978, except as provided in the following paragraphs:

(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of the law: *Provided*, That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 2155 of this title, and any Commission opinion and views) for a period of sixty days of

continuous session (as defined in section 2159(g) of this title) and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection (a) shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection (a) shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection (a) to that state: *Provided*, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further*, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

(Aug. 1, 1946, ch. 724, title I, §128, as added Pub. L. 95–242, title III, §306, Mar. 10, 1978, 92 Stat. 137; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing function vested in President under subsec. (a)(2) of this section and responsible for preparation of timely information and recommendations related to functions vested in President under subsec. (b) of this section, see section 2(b), (d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2158. Conduct resulting in termination of nuclear exports

(a) No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

(1) any non-nuclear-weapon state that is found by the President to have, at any time after March 10, 1978,

(A) detonated a nuclear explosive device; or

(B) terminated or abrogated IAEA safeguards; or

(C) materially violated an IAEA safeguards agreement; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

(2) any nation or group of nations that is found by the President to have, at any time after March 10, 1978,

(A) materially violated an agreement for cooperation with the United States, or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 2153a(a) of this title; or

(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

(C) entered into an agreement after March 10, 1978, for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: *Provided*, That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in section 2159(g) of this title), but any such determination shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions.

(b)(1) Notwithstanding any other provision of law, including specifically section 2151 of this title, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 2077(b) of this title and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government

of which has been determined by the Secretary of State under section 2371(a) of title 22, section 4605(j)(1) [1] of title 50, or section 2780(d) of title 22 to have repeatedly provided support for acts of international terrorism).

(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(C) the waiver of that paragraph is in the vital national security interest of the United States; or

(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

(Aug. 1, 1946, ch. 724, title I, §129, as added Pub. L. 95–242, title III, §307, Mar. 10, 1978, 92 Stat. 138; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 109–58, title VI, §632(a), Aug. 8, 2005, 119 Stat. 788; Pub. L. 110–369, title II, §203, Oct. 8, 2008, 122 Stat. 4033.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4605(j)(1) of title 50, referred to in subsec. (b)(1), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–369 substituted "Congress adopts, and there is enacted, a joint resolution" for "Congress adopts a concurrent resolution" in concluding provisions.

2005—Pub. L. 109–58 designated existing provisions as subsec. (a) and added subsec. (b).

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in closing provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, §632(b), Aug. 8, 2005, 119 Stat. 789, provided that: "Subsection b. of section 129 of Atomic Energy Act of 1954 [42 U.S.C. 2158(b)], as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act [Aug. 8, 2005] but have not yet been transferred as of that date."

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Secretary of State responsible for preparation of timely information and recommendations related to functions vested in President by this section, see section 2(d) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

[1] *See References in Text note below.*

§2159. Congressional review procedures

(a) Committee consideration of Presidential submissions; reports

Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by section 2155(a)(2), 2155(b)(2), 2157(b), 2158, 2160(a)(3), or 2160(f)(1)(A) of this title, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection (f), stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided*, That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission. If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection (f), which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

(b) Consideration of resolution by respective Houses of Congress

When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection (a)) or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection (a), as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(c) Debate

Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection (d).

(d) Vote on final approval

Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, "does not" in lieu of the word "does" if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

(e) Appeals from decisions of Chair

Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

(f) Resolution

For the purposes of subsections (a) through (e) of this section, the term "resolution" means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: "That the Congress (does or does not) favor the transmitted to the Congress by the President on , .", the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parenthetical to be appropriately selected.

(g) Continuity of Congressional sessions; computation of time

(1) Except as provided in paragraph (2), for the purposes of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(2) For purposes of this section insofar as it applies to section 2153 of this title—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session.

(h) Supersedure or change in rules

This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (f) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(i) Joint resolutions

(1) For the purposes of this subsection, the term "joint resolution" means—

(A) for an agreement for cooperation pursuant to section 2153 of this title, a joint resolution, the matter after the resolving clause of which is as follows: "That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on _____ .",

(B) for a determination under section 2158 of this title, a joint resolution, the matter after the resolving clause of which is as follows: "That the Congress does not favor the determination transmitted to the Congress by the President on _____ .", or

(C) for a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, a joint resolution, the matter after the resolving clause of which is as follows: "That the Congress does not favor the subsequent

arrangement to the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.",

with the date of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parenthetical appropriately selected.

(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 2153(d) of this title, a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services.

(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction), the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter; except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period) one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(Aug. 1, 1946, ch. 724, title I, §130, as added Pub. L. 95–242, title III, §308, Mar. 10, 1978, 92 Stat. 139; amended Pub. L. 99–64, title III, §301(c), July 12, 1985, 99 Stat. 160; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, §15(f)(5), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 110–369, title II, §205, Oct. 8, 2008, 122 Stat. 4033.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, referred to in subsec. (i)(1)(C), (4), is section 201 of Pub. L. 110–369, which is set out in a note under section 8001 of Title 22, Foreign Relations and Intercourse.

Section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (i)(5), is section 601(b)(4) of Pub. L. 94–329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and is not classified to the Code.

AMENDMENTS

2008—Subsec. (i)(1). Pub. L. 110–369, §205(1), substituted "means—" for "means a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .'," and added subpars. (A) to (C).

Subsec. (i)(4). Pub. L. 110–369, §205(2), inserted "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction)" after "45 days after its introduction" and "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period)" after "45-day period".

1994—Subsecs. (a), (i)(2). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

1985—Subsec. (a). Pub. L. 99–64, §301(c)(1), struck out "2153(d)," after "submission of the President required by section", struck out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate," after "Committee on Foreign Affairs of the House of Representatives", and struck out in proviso "and if, in the case of a proposed agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution" after "consideration of such submission".

Subsec. (g). Pub. L. 99–64, §301(c)(2), designated existing provisions of subsec. (g) as par. (1), substituted "Except as provided in paragraph (2), for" for "For", redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (i). Pub. L. 99–64, §301(c)(2)(B), added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–64 applicable to any agreement for cooperation entered into after July 12, 1985, see section 301(d) of Pub. L. 99–64, set out as a note under section 2153 of this title.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

§2160. Subsequent arrangements

(a) Consultation and concurrence; negotiations of a policy nature; notice of proposed subsequent arrangements; Nuclear Proliferation Assessment Statement; reprocessing of material

(1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title), the Secretary of Energy shall obtain the concurrence of the Secretary of State and shall consult with the Commission, and the Secretary of Defense: *Provided*, That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed

subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Secretary of State is required to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the requirement to prepare a Nuclear Proliferation Assessment Statement shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection (c) for the preparation of such Statement, whichever occurs first.

(2) If in the view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission a proposed subsequent arrangement might significantly contribute to proliferation, the Secretary of State, in consultation with such Secretary or the Commission, shall prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term "subsequent arrangements" means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any nation or group of nations (but not purely private or domestic arrangements) involving—

(A) contracts for the furnishing of nuclear materials and equipment;

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

(C) authorization for the distribution of nuclear materials and equipment pursuant to this chapter which is not subject to the procedures set forth in section 2141(b), section 2155, or section 2139(b) of this title;

(D) arrangements for physical security;

(E) arrangements for the storage or disposition of irradiated fuel elements;

(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

(3) The United States will give timely consideration to all requests for prior approval, when required by this chapter, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 2153 of this title.

(4) All other statutory requirements under other sections of this chapter for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to paragraph (1).

(b) Reports to Congressional committees; increase in risk of proliferation

With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United

States—

(1) the Secretary of Energy may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangement and a period of 15 days of continuous session (as defined in section 2159(g) of this title) has elapsed: *Provided, however*, That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of fifteen calendar days;

(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to March 10, 1978, or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and

(3) the Secretary of Energy shall attempt to ensure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to March 10, 1978, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in his view, and that of the Secretary of State, satisfy the standards set forth in paragraph (2).

(c) Procedures for consideration of requests for subsequent arrangements

The Secretary of Energy shall, within ninety days after March 10, 1978, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurance or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Secretary of State shall so declare in his response to the Department of Energy. If the Secretary of State declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Secretary of State's request, the President waives the sixty-day requirement and notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the

justification therefor. The processing of any subsequent arrangement proposed and filed as of March 10, 1978, shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

(d) Activities not prohibited, precluded, or limited

Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States, to preclude the United States from full participation in the International Nuclear Fuel Cycle Evaluation provided for in section 3224 of title 22; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the United States or any other participation; nor to prejudice open and objective consideration of the results of the evaluation.

(e) Jurisdiction of Secretary of Energy

Notwithstanding section 7172(d) of this title, the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section.

(f) Subsequent arrangements involving direct or indirect commitment of United States for storage or other disposition of foreign spent nuclear fuel in United States

(1) With regard to any subsequent arrangement under subsection (a)(2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title) and has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in section 2159(g) of this title), which plan has been referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 2159 of this title for the consideration of Presidential submissions;

(B) The Secretary of Energy has complied with subsection (a); and

(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of this chapter, under sections 2074 and 2075 of this title and any other applicable sections, and any other requirements of law.

(2) Paragraph (1) shall not apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (A) a commitment under section 2074 or 2075 of this title of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (B) it is in the national interest to take such immediate action, and (C) he notifies the Committees on Foreign Affairs and Science, Space, and Technology of the House of Representatives and the Committees on Foreign Relations and Energy and Natural Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible.

(3) Any plan submitted by the President under paragraph (1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives,

technical description, geographic information, cost data and justifications, legal and regulatory considerations, environmental impact information and any related international agreements, arrangements or understandings.

(4) For the purposes of this subsection, the term "foreign spent nuclear fuel" shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.

(Aug. 1, 1946, ch. 724, title I, §131, as added Pub. L. 95–242, title III, §303(a), Mar. 10, 1978, 92 Stat. 127; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(6), Nov. 2, 1994, 108 Stat. 4592; Pub. L. 105–277, div. G, title XII, §1225(d)(6), (7), Oct. 21, 1998, 112 Stat. 2681–774.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2)(C), (3), (4) and (f)(1)(C), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–277, §1225(d)(6)(A), in first sentence, struck out "the Director," after "shall consult with" and, in third sentence, substituted "the Secretary of State is required" for "the Director declares that he intends" and "the requirement to prepare a Nuclear Proliferation Assessment Statement" for "the Director's declaration".

Subsec. (a)(2). Pub. L. 105–277, §1225(d)(6)(B), substituted "view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission" for "Director's view" and "the Secretary of State, in consultation with such Secretary or the Commission, shall prepare" for "he may prepare".

Subsec. (c). Pub. L. 105–277, §1225(d)(7), struck out ", the Director of the Arms Control and Disarmament Agency," before "and the Nuclear" in first sentence and substituted "Secretary of State" for "Director" in sixth and seventh sentences and "Secretary of State's" for "Director's" in seventh sentence.

1994—Subsecs. (b)(1), (c), (f)(1)(A). Pub. L. 103–437, §15(f)(6)(A), substituted "Foreign Affairs" for "International Relations" wherever appearing.

Subsec. (f)(2). Pub. L. 103–437 substituted "Foreign Affairs and Science, Space, and Technology" for "International Relations and Science and Technology".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

LIMITATIONS ON RECEIPT AND STORAGE OF SPENT NUCLEAR FUEL FROM FOREIGN RESEARCH REACTORS

Pub. L. 103–160, div. C, title XXXI, §3151, Nov. 30, 1993, 107 Stat. 1949, provided that:

"(a) PURPOSE.—It is the purpose of this section to regulate the receipt and storage of spent nuclear fuel at the Department of Energy defense nuclear facility located at the Savannah River Site, South Carolina (in this section referred to as the 'Savannah River Site').

"(b) RECEIPT IN EMERGENCY CIRCUMSTANCES.—When the Secretary of Energy determines that emergency circumstances make it necessary to receive spent nuclear fuel, the Secretary shall submit a notification of that determination to the Congress. The Secretary may not receive spent nuclear fuel at the Savannah River Site until the expiration of the 30-day period beginning on the date on which the Congress receives the notification.

"(c) LIMITATION ON STORAGE IN NON-EMERGENCY CIRCUMSTANCES.—The Secretary of Energy may not, under other than emergency circumstances, receive and store at the Savannah River Site any spent nuclear fuel in excess of the amount that (as of the date of the enactment of this Act [Nov. 30, 1993]) the Savannah River Site is capable of receiving and storing, until, with respect to the receipt and storage of any such spent nuclear fuel—

"(1) the completion of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

"(2) the expiration of the 90-day period (as prescribed by regulation pursuant to such Act [42 U.S.C. 4321 et seq.]) beginning on the date of such completion; and

"(3) the signing by the Secretary of a record of decision following such completion.

"(d) LIMITATIONS ON RECEIPT.—The Secretary of Energy may not, under emergency or non-emergency circumstances, receive spent nuclear fuel if the spent nuclear fuel—

"(1) cannot be transferred in an expeditious manner from its port of entry in the United States to a storage facility that is located at a Department of Energy facility and is capable of receiving and storing the spent nuclear fuel; or

"(2) will remain on a vessel in the port of entry for a period that exceeds the period necessary to unload the fuel from the vessel pursuant to routine unloading procedures.

"(e) CRITERIA FOR PORT OF ENTRY.—The Secretary of Energy shall, if economically feasible and to the maximum extent practicable, provide for the receipt of spent nuclear fuel under this section at a port of entry in the United States which, as determined by the Secretary and compared to each other port of entry in the United States that is capable of receiving the spent nuclear fuel—

"(1) has the lowest human population in the area surrounding the port of entry;

"(2) is closest in proximity to the facility which will store the spent nuclear fuel; and

"(3) has the most appropriate facilities for, and experience in, receiving spent nuclear fuel.

"(f) DEFINITION.—In this section, the term 'spent nuclear fuel' means nuclear fuel that—

"(1) was originally exported to a foreign country from the United States in the form of highly enriched uranium; and

"(2) was used in a research reactor by the Government of a foreign country or by a foreign-owned or foreign-controlled entity."

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Delegation or assignment to Secretary of Energy of functions vested in President under subsecs. (a)(2)(G), (b)(1), and (f)(2) of this section, and of function vested in President under subsec. (f)(1)(A)(ii) of this section to extent that such function relates to preparation of a detailed generic plan, see section 1(b) and (c) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

Secretary of State responsible for performing function vested in President under subsec. (c) of this section, except that Secretary of State may not waive 60-day requirement for preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without approval of President, see section 2(e) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§2160a. Review of Nuclear Proliferation Assessment Statements

No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement, or any annexes thereto, called for in this Act or in the 1954 Act.

(Pub. L. 95–242, title IV, §406, Mar. 10, 1978, 92 Stat. 148; Pub. L. 105–277, div. G, title XII, §1225(e)(5), Oct. 21, 1998, 112 Stat. 2681–775.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277 inserted ", or any annexes thereto," before "called for in".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of Title 22.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of Title 22, Foreign Relations and Intercourse.

DEFINITIONS

For definitions of terms used in this section, see section 3203 of Title 22, Foreign Relations and Intercourse.

§2160b. Authority to suspend nuclear cooperation with nations which have not ratified the Convention on the Physical Security of Nuclear Material

The President may suspend nuclear cooperation under this chapter with any nation or group of nations which has not ratified the Convention on the Physical Security of Nuclear Material.

(Aug. 1, 1946, ch. 724, title I, §132, as added Pub. L. 99–399, title VI, §602, Aug. 27, 1986, 100 Stat. 875; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

§2160c. Consultation with Department of Defense concerning certain exports and subsequent arrangements

(a) In addition to other applicable requirements—

(1) a license may be issued by the Nuclear Regulatory Commission under this chapter for the export of special nuclear material described in subsection (b); and

(2) approval may be granted by the Secretary of Energy under section 2160 of this title for the transfer of special nuclear material described in subsection (b);

only after the Secretary of Defense has been consulted on whether the physical protection of that material during the export or transfer will be adequate to deter theft, sabotage, and other acts of international terrorism which would result in the diversion of that material. If, in the view of the Secretary of Defense based on all available intelligence information, the export or transfer might be subject to a genuine terrorist threat, the Secretary shall provide to the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, his written assessment of the risk and a description of the actions the Secretary of Defense considers necessary to upgrade physical protection measures.

(b) Subsection (a) applies to the export or transfer of more than 2 kilograms of plutonium or more than 5 kilograms of uranium enriched to more than 20 percent in the isotope 233 or the isotope 235.

(Aug. 1, 1946, ch. 724, title I, §133, as added Pub. L. 99–399, title VI, §603, Aug. 27, 1986, 100 Stat. 875; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–236, title VIII, §829, Apr. 30, 1994, 108 Stat. 521.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–236 substituted "5 kilograms" for "20 kilograms".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of Title 22, Foreign Relations and Intercourse.

§2160d. Further restrictions on exports

(a) In general

Except as provided in subsection (b), the Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this chapter, the Commission determines that—

(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

(b) Medical isotope production

(1) Definitions

In this subsection:

(A) Highly enriched uranium

The term "highly enriched uranium" means uranium enriched to include concentration of U–235 above 20 percent.

(B) Medical isotope

The term "medical isotope" includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

(C) Radiopharmaceutical

The term "radiopharmaceutical" means a radioactive isotope that—

(i) contains byproduct material combined with chemical or biological material; and

(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

(D) Recipient country

The term "recipient country" means Canada, Belgium, France, Germany, and the Netherlands.

(2) Licenses

The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this chapter (except subsection (a)), the Commission determines that—

(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

(i) uses an alternative nuclear reactor fuel; or

(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

(3) Review of physical protection requirements

(A) In general

The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

(B) Imposition of additional requirements

If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

(4) First report to Congress

(A) NAS study

The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

(B) Feasibility

For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

(C) Report by the Secretary

Not later than 5 years after August 8, 2005, the Secretary shall submit to Congress a report that—

(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

(5) Second report to Congress

If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after August 8, 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

(6) Certification

At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

(7) Sunset provision

After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.

(c) Medical production license sunset

Effective 7 years after January 2, 2013, the Commission may not issue a license for the export of

highly enriched uranium from the United States for the purposes of medical isotope production.

(d) Medical production license extension

The period referred to in subsection (c) may be extended for no more than 6 years if, no earlier than 6 years after January 2, 2013, the Secretary of Energy certifies to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

(1) there is insufficient global supply of molybdenum-99 produced without the use of highly enriched uranium available to satisfy the domestic United States market; and

(2) the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the most effective temporary means to increase the supply of molybdenum-99 to the domestic United States market.

(e) Public notice

To ensure public review and comment, the development of the certification described in subsection (d) shall be carried out through announcement in the Federal Register.

(f) Joint certification

(1) In general

In accordance with paragraph (2), the ban on the export of highly enriched uranium for purposes of medical isotope production referred to in subsections (c) and (d) shall not go into effect unless the Secretary of Energy and the Secretary of Health and Human Services have jointly certified that—

(A) there is a sufficient supply of molybdenum-99 produced without the use of highly enriched uranium available to meet the needs of patients in the United States; and

(B) it is not necessary to export United States-origin highly enriched uranium for the purposes of medical isotope production in order to meet United States patient needs.

(2) Time of certification

The joint certification under paragraph (1) shall be made not later than 7 years after January 2, 2013, except that, if the period referred to in subsection (c) is extended under subsection (d), the 7-year deadline under this paragraph shall be extended by a period equal to the period of such extension under subsection (d).

(g) Suspension of medical production license

At any time after the restriction of export licenses provided for in subsection (c) becomes effective, if there is a critical shortage in the supply of molybdenum-99 available to satisfy the domestic United States medical isotope needs, the restriction of export licenses may be suspended for a period of no more than 12 months, if—

(1) the Secretary of Energy certifies to the Congress that the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the only effective temporary means to increase the supply of molybdenum-99 necessary to meet United States medical isotope needs during that period; and

(2) the Congress enacts a Joint Resolution approving the temporary suspension of the restriction of export licenses.

(h) Definitions

As used in this section—

(1) the term "alternative nuclear reactor fuel or target" means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

(2) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235;

(3) a fuel or target "can be used" in a nuclear research or test reactor if—

(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor; and

(4) the term "medical isotope" includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.

(Aug. 1, 1946, ch. 724, title I, §134, as added Pub. L. 102–486, title IX, §903(a)(1), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §630, Aug. 8, 2005, 119 Stat. 785; Pub. L. 112–239, div. C, title XXXI, §3174, Jan. 2, 2013, 126 Stat. 2214.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2013—Subsecs. (c) to (h). Pub. L. 112–239 added subsecs. (c) to (h) and struck out former subsec. (c), which provided definitions for terms used in this section.

2005—Subsec. (a). Pub. L. 109–58, §630(1), inserted heading and substituted "Except as provided in subsection (b), the Commission" for "The Commission" in introductory provisions.

Subsecs. (b), (c). Pub. L. 109–58, §630(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

§2160e. Congressional review and oversight of agreements with Iran

(a) Transmission to Congress of nuclear agreements with Iran and verification assessment with respect to such agreements

(1) Transmission of agreements

Not later than 5 calendar days after reaching an agreement with Iran relating to the nuclear program of Iran, the President shall transmit to the appropriate congressional committees and leadership—

(A) the agreement, as defined in subsection (h)(1), including all related materials and annexes;

(B) a verification assessment report of the Secretary of State prepared under paragraph (2) with respect to the agreement; and

(C) a certification that—

(i) the agreement includes the appropriate terms, conditions, and duration of the agreement's requirements with respect to Iran's nuclear activities and provisions describing any sanctions to be waived, suspended, or otherwise reduced by the United States, and any other nation or entity, including the United Nations; and

(ii) the President determines the agreement meets United States non-proliferation objectives, does not jeopardize the common defense and security, provides an adequate framework to ensure that Iran's nuclear activities permitted thereunder will not be inimical to or constitute an unreasonable risk to the common defense and security, and ensures that Iran's nuclear activities permitted thereunder will not be used to further any nuclear-related military or nuclear explosive purpose, including for any research on or development of any nuclear explosive device or any other nuclear-related military purpose.

(2) Verification assessment report

(A) In general

The Secretary of State shall prepare, with respect to an agreement described in paragraph (1), a report assessing—

(i) the extent to which the Secretary will be able to verify that Iran is complying with its obligations and commitments under the agreement;

(ii) the adequacy of the safeguards and other control mechanisms and other assurances contained in the agreement with respect to Iran's nuclear program to ensure Iran's activities permitted thereunder will not be used to further any nuclear-related military or nuclear explosive purpose, including for any research on or development of any nuclear explosive device or any other nuclear-related military purpose; and

(iii) the capacity and capability of the International Atomic Energy Agency to effectively implement the verification regime required by or related to the agreement, including whether the International Atomic Energy Agency will have sufficient access to investigate suspicious sites or allegations of covert nuclear-related activities and whether it has the required funding, manpower, and authority to undertake the verification regime required by or related to the agreement.

(B) Assumptions

In preparing a report under subparagraph (A) with respect to an agreement described in paragraph (1), the Secretary shall assume that Iran could—

(i) use all measures not expressly prohibited by the agreement to conceal activities that violate its obligations and commitments under the agreement; and

(ii) alter or deviate from standard practices in order to impede efforts to verify that Iran is complying with those obligations and commitments.

(C) Classified annex

A report under subparagraph (A) shall be transmitted in unclassified form, but shall include a classified annex prepared in consultation with the Director of National Intelligence, summarizing relevant classified information.

(3) Exception

(A) In general

Neither the requirements of subparagraphs (B) and (C) of paragraph (1), nor subsections (b) through (g) of this section, shall apply to an agreement described in subsection (h)(5) or to the EU-Iran Joint Statement made on April 2, 2015.

(B) Additional requirement

Notwithstanding subparagraph (A), any agreement as defined in subsection (h)(1) and any related materials, whether concluded before or after May 22, 2015, shall not be subject to the exception in subparagraph (A).

(b) Period for review by Congress of nuclear agreements with Iran

(1) In general

During the 30-calendar day period following transmittal by the President of an agreement pursuant to subsection (a), the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives shall, as appropriate, hold hearings and briefings and otherwise obtain information in order to fully review such agreement.

(2) Exception

The period for congressional review under paragraph (1) shall be 60 calendar days if an agreement, including all materials required to be transmitted to Congress pursuant to subsection (a)(1), is transmitted pursuant to subsection (a) between July 10, 2015, and September 7, 2015.

(3) Limitation on actions during initial congressional review period

Notwithstanding any other provision of law, except as provided in paragraph (6), prior to and during the period for transmission of an agreement in subsection (a)(1) and during the period for

congressional review provided in paragraph (1), including any additional period as applicable under the exception provided in paragraph (2), the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to an agreement described in subsection (a).

(4) Limitation on actions during presidential consideration of a joint resolution of disapproval

Notwithstanding any other provision of law, except as provided in paragraph (6), if a joint resolution of disapproval described in subsection (c)(2)(B) passes both Houses of Congress, the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to an agreement described in subsection (a) for a period of 12 calendar days following the date of such passage.

(5) Limitation on actions during congressional reconsideration of a joint resolution of disapproval

Notwithstanding any other provision of law, except as provided in paragraph (6), if a joint resolution of disapproval described in subsection (c)(2)(B) passes both Houses of Congress, and the President vetoes such joint resolution, the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to an agreement described in subsection (a) for a period of 10 calendar days following the date of the President's veto.

(6) Exception

The prohibitions under paragraphs (3) through (5) do not apply to any new deferral, waiver, or other suspension of statutory sanctions pursuant to the Joint Plan of Action if that deferral, waiver, or other suspension is made—

(A) consistent with the law in effect on May 22, 2015; and

(B) not later than 45 calendar days before the transmission by the President of an agreement, assessment report, and certification under subsection (a).

(7) Definition

In the House of Representatives, for purposes of this subsection, the terms "transmittal," "transmitted," and "transmission" mean transmittal, transmitted, and transmission, respectively, to the Speaker of the House of Representatives.

(c) Effect of congressional action with respect to nuclear agreements with Iran

(1) Sense of Congress

It is the sense of Congress that—

(A) the sanctions regime imposed on Iran by Congress is primarily responsible for bringing Iran to the table to negotiate on its nuclear program;

(B) these negotiations are a critically important matter of national security and foreign policy for the United States and its closest allies;

(C) this section does not require a vote by Congress for the agreement to commence;

(D) this section provides for congressional review, including, as appropriate, for approval, disapproval, or no action on statutory sanctions relief under an agreement; and

(E) even though the agreement may commence, because the sanctions regime was imposed by Congress and only Congress can permanently modify or eliminate that regime, it is critically important that Congress have the opportunity, in an orderly and deliberative manner, to consider and, as appropriate, take action affecting the statutory sanctions regime imposed by Congress.

(2) In general

Notwithstanding any other provision of law, action involving any measure of statutory sanctions relief by the United States pursuant to an agreement subject to subsection (a) or the Joint Plan of

Action—

(A) may be taken, consistent with existing statutory requirements for such action, if, during the period for review provided in subsection (b), there is enacted a joint resolution stating in substance that the Congress does favor the agreement;

(B) may not be taken if, during the period for review provided in subsection (b), there is enacted a joint resolution stating in substance that the Congress does not favor the agreement; or

(C) may be taken, consistent with existing statutory requirements for such action, if, following the period for review provided in subsection (b), there is not enacted any such joint resolution.

(3) Definition

For the purposes of this subsection, the phrase "action involving any measure of statutory sanctions relief by the United States" shall include waiver, suspension, reduction, or other effort to provide relief from, or otherwise limit the application of statutory sanctions with respect to, Iran under any provision of law or any other effort to refrain from applying any such sanctions.

(d) Congressional oversight of Iranian compliance with nuclear agreements

(1) In general

The President shall keep the appropriate congressional committees and leadership fully and currently informed of all aspects of Iranian compliance with respect to an agreement subject to subsection (a).

(2) Potentially significant breaches and compliance incidents

The President shall, within 10 calendar days of receiving credible and accurate information relating to a potentially significant breach or compliance incident by Iran with respect to an agreement subject to subsection (a), submit such information to the appropriate congressional committees and leadership.

(3) Material breach report

Not later than 30 calendar days after submitting information about a potentially significant breach or compliance incident pursuant to paragraph (2), the President shall make a determination whether such potentially significant breach or compliance issue constitutes a material breach and, if there is such a material breach, whether Iran has cured such material breach, and shall submit to the appropriate congressional committees and leadership such determination, accompanied by, as appropriate, a report on the action or failure to act by Iran that led to the material breach, actions necessary for Iran to cure the breach, and the status of Iran's efforts to cure the breach.

(4) Semi-annual report

Not later than 180 calendar days after entering into an agreement described in subsection (a), and not less frequently than once every 180 calendar days thereafter, the President shall submit to the appropriate congressional committees and leadership a report on Iran's nuclear program and the compliance of Iran with the agreement during the period covered by the report, including the following elements:

(A) Any action or failure to act by Iran that breached the agreement or is in noncompliance with the terms of the agreement.

(B) Any delay by Iran of more than one week in providing inspectors access to facilities, people, and documents in Iran as required by the agreement.

(C) Any progress made by Iran to resolve concerns by the International Atomic Energy Agency about possible military dimensions of Iran's nuclear program.

(D) Any procurement by Iran of materials in violation of the agreement or which could otherwise significantly advance Iran's ability to obtain a nuclear weapon.

(E) Any centrifuge research and development conducted by Iran that—

(i) is not in compliance with the agreement; or

(ii) may substantially reduce the breakout time of acquisition of a nuclear weapon by Iran, if deployed.

(F) Any diversion by Iran of uranium, carbon-fiber, or other materials for use in Iran's nuclear program in violation of the agreement.

(G) Any covert nuclear activities undertaken by Iran, including any covert nuclear weapons-related or covert fissile material activities or research and development.

(H) An assessment of whether any Iranian financial institutions are engaged in money laundering or terrorist finance activities, including names of specific financial institutions if applicable.

(I) Iran's advances in its ballistic missile program, including developments related to its long-range and inter-continental ballistic missile programs.

(J) An assessment of—

(i) whether Iran directly supported, financed, planned, or carried out an act of terrorism against the United States or a United States person anywhere in the world;

(ii) whether, and the extent to which, Iran supported acts of terrorism, including acts of terrorism against the United States or a United States person anywhere in the world;

(iii) all actions, including in international fora, being taken by the United States to stop, counter, and condemn acts by Iran to directly or indirectly carry out acts of terrorism against the United States and United States persons;

(iv) the impact on the national security of the United States and the safety of United States citizens as a result of any Iranian actions reported under this paragraph; and

(v) all of the sanctions relief provided to Iran, pursuant to the agreement, and a description of the relationship between each sanction waived, suspended, or deferred and Iran's nuclear weapon's program.

(K) An assessment of whether violations of internationally recognized human rights in Iran have changed, increased, or decreased, as compared to the prior 180-day period.

(5) Additional reports and information

(A) Agency reports

Following submission of an agreement pursuant to subsection (a) to the appropriate congressional committees and leadership, the Department of State, the Department of Energy, and the Department of Defense shall, upon the request of any of those committees or leadership, promptly furnish to those committees or leadership their views as to whether the safeguards and other controls contained in the agreement with respect to Iran's nuclear program provide an adequate framework to ensure that Iran's activities permitted thereunder will not be inimical to or constitute an unreasonable risk to the common defense and security.

(B) Provision of information on nuclear initiatives with Iran

The President shall keep the appropriate congressional committees and leadership fully and currently informed of any initiative or negotiations with Iran relating to Iran's nuclear program, including any new or amended agreement.

(6) Compliance certification

After the review period provided in subsection (b), the President shall, not less than every 90 calendar days—

(A) determine whether the President is able to certify that—

(i) Iran is transparently, verifiably, and fully implementing the agreement, including all related technical or additional agreements;

(ii) Iran has not committed a material breach with respect to the agreement or, if Iran has committed a material breach, Iran has cured the material breach;

(iii) Iran has not taken any action, including covert activities, that could significantly advance its nuclear weapons program; and

(iv) suspension of sanctions related to Iran pursuant to the agreement is—

(I) appropriate and proportionate to the specific and verifiable measures taken by Iran

with respect to terminating its illicit nuclear program; and
(II) vital to the national security interests of the United States; and

(B) if the President determines he is able to make the certification described in subparagraph (A), make such certification to the appropriate congressional committees and leadership.

(7) Sense of Congress

It is the sense of Congress that—

(A) United States sanctions on Iran for terrorism, human rights abuses, and ballistic missiles will remain in place under an agreement, as defined in subsection (h)(1);

(B) issues not addressed by an agreement on the nuclear program of Iran, including fair and appropriate compensation for Americans who were terrorized and subjected to torture while held in captivity for 444 days after the seizure of the United States Embassy in Tehran, Iran, in 1979 and their families, the freedom of Americans held in Iran, the human rights abuses of the Government of Iran against its own people, and the continued support of terrorism worldwide by the Government of Iran, are matters critical to ensure justice and the national security of the United States, and should be expeditiously addressed;

(C) the President should determine the agreement in no way compromises the commitment of the United States to Israel's security, nor its support for Israel's right to exist; and

(D) in order to responsibly implement any long-term agreement reached between the P5+1 countries and Iran, it is critically important that Congress have the opportunity to review any agreement and, as necessary, take action to modify the statutory sanctions regime imposed by Congress.

(e) Expedited consideration of legislation

(1) Initiation

(A) In general

In the event the President does not submit a certification pursuant to subsection (d)(6) during each 90-day period following the review period provided in subsection (b), or submits a determination pursuant to subsection (d)(3) that Iran has materially breached an agreement subject to subsection (a) and the material breach has not been cured, qualifying legislation introduced within 60 calendar days of such event shall be entitled to expedited consideration pursuant to this subsection.

(B) Definition

In the House of Representatives, for purposes of this paragraph, the terms "submit" and "submits" mean submit and submits, respectively, to the Speaker of the House of Representatives.

(2) Qualifying legislation defined

For purposes of this subsection, the term "qualifying legislation" means only a bill of either House of Congress—

(A) the title of which is as follows: "A bill reinstating statutory sanctions imposed with respect to Iran."; and

(B) the matter after the enacting clause of which is: "Any statutory sanctions imposed with respect to Iran pursuant to _____ that were waived, suspended, reduced, or otherwise relieved pursuant to an agreement submitted pursuant to section 135(a) of the Atomic Energy Act of 1954 are hereby reinstated and any action by the United States Government to facilitate the release of funds or assets to Iran pursuant to such agreement, or provide any further waiver, suspension, reduction, or other relief pursuant to such agreement is hereby prohibited.", with the blank space being filled in with the law or laws under which sanctions are to be reinstated.

(3) Introduction

During the 60-calendar day period provided for in paragraph (1), qualifying legislation may be

introduced—

(A) in the House of Representatives, by the majority leader or the minority leader; and

(B) in the Senate, by the majority leader (or the majority leader's designee) or the minority leader (or the minority leader's designee).

(4) Floor consideration in House of Representatives

(A) Reporting and discharge

If a committee of the House to which qualifying legislation has been referred has not reported such qualifying legislation within 10 legislative days after the date of referral, that committee shall be discharged from further consideration thereof.

(B) Proceeding to consideration

Beginning on the third legislative day after each committee to which qualifying legislation has been referred reports it to the House or has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the qualifying legislation in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the qualifying legislation with regard to the same agreement. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(C) Consideration

The qualifying legislation shall be considered as read. All points of order against the qualifying legislation and against its consideration are waived. The previous question shall be considered as ordered on the qualifying legislation to final passage without intervening motion except two hours of debate equally divided and controlled by the sponsor of the qualifying legislation (or a designee) and an opponent. A motion to reconsider the vote on passage of the qualifying legislation shall not be in order.

(5) Consideration in the Senate

(A) Committee referral

Qualifying legislation introduced in the Senate shall be referred to the Committee on Foreign Relations.

(B) Reporting and discharge

If the Committee on Foreign Relations has not reported such qualifying legislation within 10 session days after the date of referral of such legislation, that committee shall be discharged from further consideration of such legislation and the qualifying legislation shall be placed on the appropriate calendar.

(C) Proceeding to consideration

Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time after the committee authorized to consider qualifying legislation reports it to the Senate or has been discharged from its consideration (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of qualifying legislation, and all points of order against qualifying legislation (and against consideration of the qualifying legislation) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the qualifying legislation is agreed to, the qualifying legislation shall remain the unfinished business until disposed of.

(D) Debate

Debate on qualifying legislation, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between

the majority and minority leaders or their designees. A motion to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the qualifying legislation is not in order.

(E) Vote on passage

The vote on passage shall occur immediately following the conclusion of the debate on the qualifying legislation and a single quorum call at the conclusion of the debate, if requested in accordance with the rules of the Senate.

(F) Rulings of the Chair on procedure

Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to qualifying legislation shall be decided without debate.

(G) Consideration of veto messages

Debate in the Senate of any veto message with respect to qualifying legislation, including all debatable motions and appeals in connection with such qualifying legislation, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(6) Rules relating to Senate and House of Representatives

(A) Coordination with action by other House

If, before the passage by one House of qualifying legislation of that House, that House receives qualifying legislation from the other House, then the following procedures shall apply:

(i) The qualifying legislation of the other House shall not be referred to a committee.

(ii) With respect to qualifying legislation of the House receiving the legislation—

(I) the procedure in that House shall be the same as if no qualifying legislation had been received from the other House; but

(II) the vote on passage shall be on the qualifying legislation of the other House.

(B) Treatment of a bill of other House

If one House fails to introduce qualifying legislation under this section, the qualifying legislation of the other House shall be entitled to expedited floor procedures under this section.

(C) Treatment of companion measures

If, following passage of the qualifying legislation in the Senate, the Senate then receives a companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) Application to revenue measures

The provisions of this paragraph shall not apply in the House of Representatives to qualifying legislation which is a revenue measure.

(f) Rules of House of Representatives and Senate

Subsection (e) is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of legislation described in those sections, and supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(g) Rules of construction

Nothing in the section shall be construed as—

(1) modifying, or having any other impact on, the President's authority to negotiate, enter into, or implement appropriate executive agreements, other than the restrictions on implementation of the agreements specifically covered by this section;

(2) allowing any new waiver, suspension, reduction, or other relief from statutory sanctions with respect to Iran under any provision of law, or allowing the President to refrain from applying any such sanctions pursuant to an agreement described in subsection (a) during the period for review provided in subsection (b);

(3) revoking or terminating any statutory sanctions imposed on Iran; or

(4) authorizing the use of military force against Iran.

(h) Definitions

In this section:

(1) Agreement

The term "agreement" means an agreement related to the nuclear program of Iran that includes the United States, commits the United States to take action, or pursuant to which the United States commits or otherwise agrees to take action, regardless of the form it takes, whether a political commitment or otherwise, and regardless of whether it is legally binding or not, including any joint comprehensive plan of action entered into or made between Iran and any other parties, and any additional materials related thereto, including annexes, appendices, codicils, side agreements, implementing materials, documents, and guidance, technical or other understandings, and any related agreements, whether entered into or implemented prior to the agreement or to be entered into or implemented in the future.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Financial Services, the Permanent Select Committee on Intelligence, and the Committee on Foreign Affairs of the House of Representatives.

(3) Appropriate congressional committees and leadership

The term "appropriate congressional committees and leadership" means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, the Select Committee on Intelligence, and the Committee on Foreign Relations, and the Majority and Minority Leaders of the Senate and the Committee on Ways and Means, the Committee on Financial Services, the Permanent Select Committee on Intelligence, and the Committee on Foreign Affairs, and the Speaker, Majority Leader, and Minority Leader of the House of Representatives.

(4) Iranian financial institution

The term "Iranian financial institution" has the meaning given the term in section 8513b(d) of title 22.

(5) Joint Plan of Action

The term "Joint Plan of Action" means the Joint Plan of Action, signed at Geneva November 24, 2013, by Iran and by France, Germany, the Russian Federation, the People's Republic of China, the United Kingdom, and the United States, and all implementing materials and agreements related to the Joint Plan of Action, including the technical understandings reached on January 12, 2014, the extension thereto agreed to on July 18, 2014, the extension agreed to on November 24, 2014, and any materially identical extension that is agreed to on or after May 22, 2015.

(6) EU-Iran Joint Statement

The term "EU-Iran Joint Statement" means only the Joint Statement by EU High Representative Federica Mogherini and Iranian Foreign Minister Javad Zarif made on April 2, 2015, at Lausanne, Switzerland.

(7) Material breach

The term "material breach" means, with respect to an agreement described in subsection (a), any breach of the agreement, or in the case of non-binding commitments, any failure to perform those commitments, that substantially—

(A) benefits Iran's nuclear program;

(B) decreases the amount of time required by Iran to achieve a nuclear weapon; or

(C) deviates from or undermines the purposes of such agreement.

(8) Noncompliance defined

The term "noncompliance" means any departure from the terms of an agreement described in subsection (a) that is not a material breach.

(9) P5+1 countries

The term "P5+1 countries" means the United States, France, the Russian Federation, the People's Republic of China, the United Kingdom, and Germany.

(10) United States person

The term "United States person" has the meaning given that term in section 8511 of title 22.

(Aug. 1, 1946, ch. 724, title I, §135, as added Pub. L. 114–17, §2, May 22, 2015, 129 Stat. 201.)

EXECUTIVE DOCUMENTS

DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES UNDER SECTION 135 OF THE ATOMIC ENERGY ACT OF 1954 (42 U.S.C. 2011 ET SEQ.), AS AMENDED BY THE IRAN NUCLEAR AGREEMENT REVIEW ACT OF 2015

Memorandum of President of the United States, July 17, 2015, 80 F.R. 43909, provided:

Memorandum for the Secretary of State [and] the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby order as follows:

I hereby delegate the functions and authorities vested in the President by the following provisions of section 135 of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended by the Iran Nuclear Agreement Review Act of 2015, as follows:

• Section 135(a)(1) to the Secretary of State, in consultation with the Secretary of the Treasury as appropriate;

• Sections 135(d)(1)–(d)(3), (d)(5)(B), and (d)(6) to the Secretary of State, in consultation with other relevant agencies as appropriate;

• Section 135(d)(4) to the Secretary of State, in consultation with the Secretary of the Treasury as appropriate, with respect to the requirement to submit the report described in that provision and to prepare each of the required elements of the report, with the exception of the required assessment related to money laundering or terrorist finance activities in section 135(d)(4)(H);

• Section 135(d)(4)(H) to the Secretary of the Treasury, in consultation with the Secretary of State, with respect to preparation of the assessment described in that provision for inclusion in the report required by section 135(d)(4).

Any reference in this memorandum to provisions of any act related to the subject of this memorandum shall be deemed to include references to any hereafter enacted provisions of law that are the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

SUBCHAPTER XI—CONTROL OF INFORMATION

§2161. Policy of Commission

It shall be the policy of the Commission to control the dissemination and declassification of

Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(a) Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 2164 of this title; and

(b) The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

(Aug. 1, 1946, ch. 724, title I, §141, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 940; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2162. Classification and declassification of Restricted Data

(a) Periodic determination

The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

(b) Continuous review

The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

(c) Joint determination on atomic weapons; Presidential determination on disagreement

In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

(d) Removal from Restricted Data category

(1) The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection (b) or (d) of section 2164 of this title.

(2) The Commission may restore to the Restricted Data category any information related to the design of nuclear weapons removed under paragraph (1) if the Commission and the Department of Defense jointly determine that—

(A) the programmatic requirements that caused the information to be removed from the

Restricted Data category are no longer applicable or have diminished;

(B) the information would be more appropriately protected as Restricted Data; and

(C) restoring the information to the Restricted Data category is in the interest of national security.

(3) In carrying out paragraph (2), information related to the design of nuclear weapons shall be restored to the Restricted Data category in accordance with regulations prescribed for purposes of such paragraph.

(e) Joint determination on atomic energy programs

(1) The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of National Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended,[1] and can be adequately safeguarded as defense information.

(2) The Commission may restore to the Restricted Data category any information concerning atomic energy programs of other nations removed under paragraph (1) if the Commission and the Director of National Intelligence jointly determine that—

(A) the programmatic requirements that caused the information to be removed from the Restricted Data category are no longer applicable or have diminished;

(B) the information would be more appropriately protected as Restricted Data; and

(C) restoring the information to the Restricted Data category is in the interest of national security.

(3) In carrying out paragraph (2), information concerning atomic energy programs of other nations shall be restored to the Restricted Data category in accordance with regulations prescribed for purposes of such paragraph.

(Aug. 1, 1946, ch. 724, title I, §142, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 941; amended Pub. L. 102–484, div. C, title XXXI, §3152, Oct. 23, 1992, 106 Stat. 2644; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. A, title XXXI, §3155(c)(2), (3), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 112–239, div. C, title XXXI, §3163, Jan. 2, 2013, 126 Stat. 2205.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 102(d) of the National Security Act of 1947, as amended, referred to in subsec. (e)(1), was a reference to section 102(d) of act July 26, 1947, ch. 343, title I, 61 Stat. 497, which was classified to section 403(d) of Title 50, War and National Defense, prior to repeal by Pub. L. 104–293, title VIII, §805(a), Oct. 11, 1996, 110 Stat. 3477.

AMENDMENTS

2013—Subsec. (d). Pub. L. 112–239, §3163(1), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (e). Pub. L. 112–239, §3163(2), designated existing provisions as par. (1), substituted "National Intelligence" for "Central Intelligence", and added pars. (2) and (3).

1994—Subsec. (d). Pub. L. 103–337, §3155(c)(2), substituted "subsection (b) or (d) of section 2164 of this title" for "section 2164(b) of this title".

Subsec. (f). Pub. L. 103–337, §3155(c)(3), struck out subsec. (f) which read as follows: "Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data."

1992—Subsec. (f). Pub. L. 102–484 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE

Pub. L. 104–106, div. C, title XXXI, §3155, Feb. 10, 1996, 110 Stat. 625, which was formerly set out as a note under this section, was renumbered section 4521 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(h)(11), Nov. 24, 2003, 117 Stat. 1774, and classified to section 2671 of Title 50, War and National Defense, and was repealed and restated as section 6231 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1409, 1458.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 10899. COMMUNICATION OF RESTRICTED DATA BY CENTRAL INTELLIGENCE AGENCY

Ex. Ord. No. 10899, eff. Dec. 9, 1960, 25 F.R. 12729, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq*.), and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

DWIGHT D. EISENHOWER.

MODIFICATION OF EXECUTIVE ORDER NO. 10899

Ex. Ord. No. 10899, Dec. 9, 1960, 25 F.R. 12729, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

EX. ORD. NO. 11057. COMMUNICATION OF RESTRICTED DATA BY DEPARTMENT OF STATE

Ex. Ord. No. 11057, eff. Oct. 18, 1962, 27 F.R. 10289, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the act (42 U.S.C. 2164(b)), such restricted data and data removed from the restricted data category under subsection 142d of the act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

JOHN F. KENNEDY.

MODIFICATION OF EXECUTIVE ORDER NO. 11057

Ex. Ord. No. 11057, Oct. 18, 1962, 27 F.R. 10289, set out above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

[1] *See References in Text note below.*

§2163. Access to Restricted Data

The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165(b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however*, That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further*, That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title.

(Aug. 1, 1946, ch. 724, title I, §143, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 941; amended Aug. 6, 1956, ch. 1015, §14, 70 Stat. 1071; Pub. L. 87–206, §5, Sept. 6, 1961, 75 Stat. 476; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1961—Pub. L. 87–206 inserted reference to subsection (c) of section 2165 of this title.

1956—Act Aug. 6, 1956, inserted "or any other person authorized access to Restricted Data by the Commission under section 2165(b) of this title".

§2164. International cooperation

(a) By Commission

The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

(1) refining, purification, and subsequent treatment of source material;
(2) civilian reactor development;
(3) production of special nuclear material;
(4) health and safety;
(5) industrial and other applications of atomic energy for peaceful purposes; and
(6) research and development relating to the foregoing:

Provided, however, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of

this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

(b) By Department of Defense

The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

(1) the development of defense plans;

(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(c) Exchange of information concerning atomic weapons; research, development, or design, of military reactors

In addition to the cooperation authorized in subsections (a) and (b), the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided*, That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(d) By Department of Energy

(1) In addition to the cooperation authorized in subsections (a), (b), and (c), the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 2162 of this title, as is necessary for—

(A) the support of a program for the control of and accounting for fissile material and other weapons material;

(B) the support of the control of and accounting for atomic weapons;

(C) the verification of a treaty; and

(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

(A) will promote the common defense and security interests of the United States and the nation concerned; and

(B) will not constitute an unreasonable risk to such common defense and security interests.

(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title.

(e) Communication of data by other Government agencies

The President may authorize any agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection (a), (b), (c), or (d), such Restricted Data as is determined to be transmissible under the agreement for cooperation involved.

(Aug. 1, 1946, ch. 724, title I, §144, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 942; amended Pub. L. 85–479, §§5–7, July 2, 1958, 72 Stat. 278; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–337, div. C, title XXXI, §3155(a), (c)(4), Oct. 5, 1994, 108 Stat. 3091, 3092.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–337, §3155(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103–337, §3155(c)(4), substituted "(c), or (d)" for "or (c)".

Pub. L. 103–337, §3155(a)(1), redesignated subsec. (d) as (e).

1958—Subsec. (a). Pub. L. 85–479, §5, substituted "civilian reactor development" for "reactor development" in cl. (2).

Subsec. (b). Pub. L. 85–479, §6, authorized communication of design information, of data concerning other military applications of atomic energy necessary for the training of personnel or for the evaluation of the capabilities of potential enemies, and of data necessary to the development of compatible delivery systems for atomic weapons, and struck out provisions which prohibited communication of data which would reveal important information concerning the design or fabrication of the nuclear components of atomic weapons.

Subsecs. (c), (d). Pub. L. 85–479, §7, added subsecs. (c) and (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

PROHIBITION ON INSPECTIONS

Pub. L. 104–106, div. C, title XXXI, §3154(a), Feb. 10, 1996, 110 Stat. 624, which was formerly set out as a note under this section, was renumbered section 4501(a) of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(h)(2)(A)–(C), Nov. 24, 2003, 117 Stat. 1771, and classified to section 2651(a) of Title 50, War and National Defense, and was repealed and restated as section 6221 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1401, 1458.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Authority vested in President by subsecs. (b) and (c) of this section delegated to Secretary of Defense and Secretary of Energy, see section 2(a)(2) and (3) of Ex. Ord. No. 10841, as amended, set out as a note under section 2153 of this title.

§2165. Security restrictions

(a) On contractors and licensees

No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Director of the Office of Personnel Management shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(b) Employment of personnel; access to Restricted Data

Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Director of the Office of Personnel Management shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(c) Acceptance of investigation and clearance granted by other Government agencies

In lieu of the investigation and report to be made by the Director of the Office of Personnel Management pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

(d) Investigations by FBI

In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Director of the Office of Personnel Management shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Director of the Office of Personnel Management for his information and appropriate action.

(e) Presidential investigation

(1) If the President deems it to be in the national interest he may from time to time determine that investigations of any group or class which are required by subsections (a), (b), and (c) of this section be made by the Federal Bureau of Investigation.

(2) In the case of an individual employed in a program known as a Special Access Program, any investigation required by subsections (a), (b), and (c) of this section shall be made by the Federal Bureau of Investigation.

(f) Performance of personnel security investigations by FBI

(1) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, but subject to subsection (e) of this section, a majority of the members of the Commission may direct that an investigation required by such provisions on an individual described in paragraph (2) be carried out by the Federal Bureau of Investigation rather than by the Civil Service Commission.

(2) An individual described in this paragraph is an individual who is employed—

(A) in a program certified by a majority of the members of the Commission to be of a high degree of importance or sensitivity; or

(B) in any other specific position certified by a majority of the members of the Commission to be of a high degree of importance or sensitivity.

(g) Investigation standards

The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and

specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

(h) War time clearance

Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b), to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §145, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 942; amended Pub. L. 85–681, §5, Aug. 19, 1958, 72 Stat. 633; Pub. L. 87–206, §6, Sept. 6, 1961, 75 Stat. 476; Pub. L. 87–615, §10, Aug. 29, 1962, 76 Stat. 411; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–65, div. C, title XXXI, §3144(a), Oct. 5, 1999, 113 Stat. 934; Pub. L. 108–136, div. C, title XXXI, §3131, Nov. 24, 2003, 117 Stat. 1749.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(b)(5) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2003—Subsec. (e)(2). Pub. L. 108–136, §3131(b), struck out "or a Personnel Security and Assurance Program" after "Special Access Program".

Subsec. (f). Pub. L. 108–136, §3131(a), amended text of subsec. (f) generally. Prior to amendment, text read as follows: "Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation."

1999—Subsec. (e). Pub. L. 106–65 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (f). Pub. L. 87–615 struck out the comma after "investigation".

1961—Subsecs. (c), (d). Pub. L. 87–206 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (e). Pub. L. 87–206 redesignated former subsec. (d) as (e) and amended provisions by substituting "determine that" for "cause investigations", inserting reference to subsection (c) of this section and striking out "instead of by the Civil Service Commission" after "Federal Bureau of Investigation". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87–206 redesignated former subsec. (e) as (f) and amended provisions by inserting reference to subsection (c) of this section and striking out "instead of by the Civil Service Commission" after "Federal Bureau of Investigation". Former subsec. (f) redesignated (g).

Subsecs. (g), (h). Pub. L. 87–206 redesignated former subsec. (f) as (g) and amended provisions by substituting ", the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security" for "to be made by the Civil Service Commission pursuant to subsections (a) and (b) of this section." Former subsec. (g) redesignated (h).

1958—Subsec. (g). Pub. L. 85–681 added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMPLEMENTATION OF SUBSECTION (E)(2)

Pub. L. 106–65, div. C, title XXXI, §3144(b), (c), Oct. 5, 1999, 113 Stat. 934, provided that:

"(b) COMPLIANCE.—The Director of the Federal Bureau of Investigation shall have 18 months from the date of the enactment of this Act [Oct. 5, 1999] to meet the responsibilities of the Bureau under subsection

e.(2) of section 145 of the Atomic Energy Act of 1954 [42 U.S.C. 2165(e)(2)], as added by subsection (a).

"(c) REPORT.—(1) Not later than six months after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the committees specified in paragraph (2) a report on the implementation of the responsibilities of the Bureau under subsection e.(2) of that section. That report shall include the following:

"(A) An assessment of the capability of the Bureau to execute the additional clearance requirements, to include additional post-initial investigations.

"(B) An estimate of the additional resources required, to include funding, to support the expanded use of the Bureau to conduct the additional investigations.

"(C) The extent to which contractor personnel are and would be used in the clearance process.

"(2) The committees referred to in paragraph (1) are the following:

"(A) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(B) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" and "his" substituted for "Civil Service Commission" and "its", respectively, in subsecs. (a) to (d), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§2166. Applicability of other laws

(a) Sections 2161 to 2165 of this title shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of those sections.

(b) The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

(Aug. 1, 1946, ch. 724, title I, §146, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 943; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1810(b)(6) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2167. Safeguards information

(a) Confidentiality of certain types of information; issuance of regulations and orders; considerations for exercise of Commission's authority; disclosure of routes and quantities of shipment; civil penalties; withholding of information from Congressional committees

In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of title 5, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed—

(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever

possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by paragraphs (1) and (2) [1]

if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this chapter shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 2282 of this title. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

(b) Regulations or orders issued under this section and section 2201(b) of this title for purposes of section 2273 of this title

For the purposes of section 2273 of this title, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 2201(b) of this title.

(c) Judicial review

Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5.

(d) Reports to Congress; contents

Upon prescribing or issuing any regulation or order under subsection (a) of this section, the Commission shall submit to Congress a report that:

(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §147, as added Pub. L. 96–295, title II, §207(a)(1), June 30, 1980, 94 Stat. 788; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Subsection (e) of this section, which required the Commission to submit to Congress on a quarterly basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 7 on page 186 of House Document No. 103–7.

[1] *So in original. Probably should be followed by a semicolon.*

§2168. Dissemination of unclassified information

(a) Dissemination prohibited; rules and regulations; determinations of Secretary prerequisite to issuance of prohibiting regulations or orders; criteria

(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Energy (hereinafter in this section referred to as the "Secretary"), with respect to atomic energy defense programs, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to—

(A) the design of production facilities or utilization facilities;

(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 2162 of this title.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1) of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal

production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

(b) Civil penalties

(1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed $100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

(2) The provisions of subsections (b) and (c) of section 2282 of this title, shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection (a) of such section.

(c) Criminal penalties

For the purposes of section 2273 of this title, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 2201(b) of this title.

(d) Judicial review

Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(Aug. 1, 1946, ch. 724, title I, §148, as added Pub. L. 97–90, title II, §210(a)(1), Dec. 4, 1981, 95 Stat. 1169; amended Pub. L. 97–415, §17, Jan. 4, 1983, 96 Stat. 2076; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 112–239, div. C, title XXXI, §3134(c), Jan. 2, 2013, 126 Stat. 2193.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (e). Pub. L. 112–239 struck out subsec. (e), which related to quarterly reports for interested persons.

1983—Subsec. (a)(1). Pub. L. 97–415, §17(a), inserted ", with respect to atomic energy defense programs," after "(hereinafter in this section referred to as the 'Secretary')".

Subsecs. (d), (e). Pub. L. 97–415, §17(b), added subsecs. (d) and (e).

§2169. Fingerprinting for criminal history record checks

(a) In general

(1)(A)(i) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

(B) The Commission shall require to be fingerprinted any individual who—

(i) is permitted unescorted access to—

(I) a utilization facility; or

(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

(ii) is permitted access to safeguards information under section 2167 of this title.

(2) All fingerprints obtained by an individual or entity as required in paragraph (1) shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check.

(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

(4) Notwithstanding any other provision of law—

(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

(b) Waiver

The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.

(c) Regulations

For purposes of administering this section, the Commission shall prescribe requirements—

(1) to implement procedures for the taking of fingerprints;

(2) to establish the conditions for use of information received from the Attorney General, in order—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely for the purpose of determining whether an individual shall be permitted unescorted access to a utilization facility, radioactive material, or other property described in subsection (a)(1)(B) or shall be permitted access to safeguards information under section 2167 of this title;

(C) to ensure that no final determination may be made solely on the basis of information provided under this section involving—

(i) an arrest more than 1 year old for which there is no information of the disposition of the case; or

(ii) an arrest that resulted in dismissal of the charge or an acquittal; and

(D) to protect individuals subject to fingerprinting under this section from misuse of the criminal history records; and

(3) to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination.

(d) Use of biometric methods

The Commission may require a person or individual to conduct fingerprinting under subsection (a)(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

(1) the Attorney General; and
(2) the Commission, by regulation.

(e) Processing fees; use of amounts collected

(1) The Commission may establish and collect fees to process fingerprints and criminal history records under this section.

(2) Notwithstanding section 3302(b) of title 31, and to the extent approved in appropriation Acts—

(A) a portion of the amounts collected under this subsection in any fiscal year may be retained and used by the Commission to carry out this section; and

(B) the remaining portion of the amounts collected under this subsection in such fiscal year may be transferred periodically to the Attorney General and used by the Attorney General to carry out this section.

(3) Any amount made available for use under paragraph (2) shall remain available until expended.

(Aug. 1, 1946, ch. 724, title I, §149, as added Pub. L. 99–399, title VI, §606(a), Aug. 27, 1986, 100 Stat. 876; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 109–58, title VI, §652, Aug. 8, 2005, 119 Stat. 810.)

EDITORIAL NOTES

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, §652(1), revised and restructured provisions of subsec. (a). Prior to amendment, subsec. (a) read as follows: "The Nuclear Regulatory Commission (in this section referred to as the 'Commission') shall require each licensee or applicant for a license to operate a utilization facility under section 2133 or 2134(b) of this title to fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information under section 2167 of this title. All fingerprints obtained by a licensee or applicant as required in the preceding sentence shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the licensee or applicant submitting such fingerprints." Amendment by Pub. L. 109–58, §652(1)(D), which misquoted the sentence to be stricken by leaving out the word "the" before "licensee", was nevertheless executed to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 109–58, §652(2)(A), substituted "requirements—" for ", subject to public notice and comment, regulations—" in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 109–58, §652(2)(B), substituted "unescorted access to a utilization facility, radioactive material, or other property described in subsection (a)(1)(B)" for "unescorted access to the facility of a licensee or applicant".

Subsecs. (d), (e). Pub. L. 109–58, §652(3), (4), added subsec. (d) and redesignated former subsec. (d) as (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 99–399, title VI, §606(b), Aug. 27, 1986, 100 Stat. 877, provided that: "The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954 [subsec. (a) of this section], as added by this Act, shall take effect upon the promulgation of regulations by the Nuclear Regulatory Commission as set forth in subsection c. of such section [subsec. (c) of this section]. Such regulations shall be promulgated not later than 6 months after the date of the enactment of this Act [Aug. 27, 1986]."

SUBCHAPTER XII—PATENTS AND INVENTIONS

§2181. Inventions relating to atomic weapons, and filing of reports

(a) Denial of patent; revocation of prior patents

No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is revoked, and just compensation shall be made therefor.

(b) Denial of rights; revocation of prior rights

No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

(c) Report of invention to Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

(d) Report to Commission by Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries required to be reported under subsection (c), and shall provide the Commission access to all such applications.

(e) Confidential information; circumstances permitting disclosure

Reports filed pursuant to subsection (c) of this section, and applications to which access is provided under subsection (d) of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission.

(Aug. 1, 1946, ch. 724, title I, §151, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 943; amended Pub. L. 87–206, §§7–9, Sept. 6, 1961, 75 Stat. 477; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(18)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1999—Subsecs. (c), (d). Pub. L. 106–113 substituted "Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office" for "Commissioner of Patents".

1961—Pub. L. 87–206, §7, substituted provision concerning inventions relating to atomic weapons and filing of reports for provision relating to military utilization in section catchline.

Subsec. (c). Pub. L. 87–206, §8, struck out designation as cl. (1) of provision relating to production or utilization of special nuclear material or atomic energy and cls. (2) and (3) relating to utilization of special

nuclear material in an atomic weapon and utilization of atomic energy in an atomic weapon, respectively, and substituted "the one hundred and eightieth day" for "whichever of the following is the later: either the ninetieth day after completion of such invention or discovery; or the ninetieth day".

Subsec. (e). Pub. L. 87–206, §9, added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EMERGENCY RELIEF FROM POSTAL SITUATION AFFECTING ATOMIC ENERGY CASES

Excusal of delayed fees or actions affected by postal situation beginning on Mar. 18, 1970, and ending on or about Mar. 30, 1970, see note set out under section 111 of Title 35, Patents.

§2182. Inventions conceived during Commission contracts; ownership; waiver; hearings

Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (unless the Commission advises the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within 90 days after receipt of copies of the application and statement, directs the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before the Patent Trial and Appeal Board. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Under Secretary of Commerce

for Intellectual Property and Director of the United States Patent and Trademark Office. The Board shall follow the rules and procedures established for interference and derivation cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the United States Court of Appeals for the Federal Circuit in accordance with the procedures governing the appeals from the Patent Trial and Appeal Board.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant.

(Aug. 1, 1946, ch. 724, title I, §152, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 944; amended Pub. L. 87–206, §10, Sept. 6, 1961, 75 Stat. 477; Pub. L. 87–615, §11, Aug. 29, 1962, 76 Stat. 411; Pub. L. 97–164, title I, §162(2), Apr. 2, 1982, 96 Stat. 49; Pub. L. 98–622, title II, §205(b), Nov. 8, 1984, 98 Stat. 3388; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(19)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585; Pub. L. 112–29, §7(d)(1), Sept. 16, 2011, 125 Stat. 315.)

EDITORIAL NOTES

AMENDMENTS

2011—Pub. L. 112–29 substituted "Patent Trial and Appeal Board" for "Board of Patent Appeals and Interferences" in two places and inserted "and derivation" after "established for interference".

1999—Pub. L. 106–113 substituted "Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office" for "Commissioner of Patents" wherever appearing.

1984—Pub. L. 98–622, in third par., substituted "the Board of Patent Appeals and Interferences" for "a Board of Patent Interferences" and "the Board of Patent Interferences".

1982—Pub. L. 97–164 substituted "United States Court of Appeals for the Federal Circuit" for "Court of Customs and Patent Appeals" in third par.

1962—Pub. L. 87–615 substituted "allowance" for "allowances" before "forward copies of the application" in first par.

1961—Pub. L. 87–206 clarified language concerning Commission's patent rights on inventions made or conceived under contract, subcontract, or arrangement with Commission, striking out language extending Commission's patent rights to other relationships and activities in connection with Commission contracts, provided for waiver of patent rights consistent with the policy of this section and for finality of determinations of Commission, and dispensed with need for statement to Commissioner of Patents under certain circumstances.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, with certain exceptions, see section 7(e) of Pub. L. 112–29, set out as a note under section 6 of Title 35, Patents.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–622, effective three months after Nov. 8, 1984, see section 207 of Pub. L. 98–622, set out as a note under section 41 of Title 35, Patents.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§2183. Nonmilitary utilization

(a) Declaration of public interest

The Commission may, after giving the patent owner an opportunity for a hearing, declare any patent to be affected with the public interest if (1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy; and (2) the licensing of such invention or discovery under this section is of primary importance to effectuate the policies and purposes of this chapter.

(b) Action by Commission

Whenever any patent has been declared affected with the public interest, pursuant to subsection (a)—

(1) the Commission is licensed to use the invention or discovery covered by such patent in performing any of its powers under this chapter; and

(2) any person may apply to the Commission for a nonexclusive patent license to use the invention or discovery covered by such patent, and the Commission shall grant such patent license to the extent that it finds that the use of the invention or discovery is of primary importance to the conduct of an activity by such person authorized under this chapter.

(c) Application for patent

Any person—

(1) who has made application to the Commission for a license under sections 2073, 2092, 2093, 2111, 2133 or 2134 of this title, or a permit or lease under section 2097 of this title;

(2) to whom such license, permit, or lease has been issued by the Commission;

(3) who is authorized to conduct such activities as such applicant is conducting or proposes to conduct under a general license issued by the Commission under sections 2092 or 2111 of this title; or

(4) whose activities or proposed activities are authorized under section 2051 of this title,

may at any time make application to the Commission for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent. Each such application shall set forth the nature and purpose of the use which the applicant intends to make of the patent license, the steps taken by the applicant to obtain a patent license from the owner of the patent, and a statement of the effects, as estimated by the applicant, on the authorized activities which will result from failure to obtain such patent license and which will result from the granting of such patent license.

(d) Hearings

Whenever any person has made an application to the Commission for a patent license pursuant to subsection (c)—

(1) the Commission, within 30 days after the filing of such application, shall make available to the owner of the patent all of the information contained in such application, and shall notify the owner of the patent of the time and place at which a hearing will be held by the Commission;

(2) the Commission shall hold a hearing within 60 days after the filing of such application at a time and place designated by the Commission; and

(3) in the event an applicant applies for two or more patent licenses, the Commission may, in its discretion, order the consolidation of such applications, and if the patents are owned by more than

one owner, such owners may be made parties to one hearing.

(e) Commission's findings

If, after any hearing conducted pursuant to subsection (d), the Commission finds that—

(1) the invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy;

(2) the licensing of such invention or discovery is of primary importance to the conduct of the activities of the applicant;

(3) the activities to which the patent license are proposed to be applied by such applicant are of primary importance to the furtherance of policies and purposes of this chapter; and

(4) such applicant cannot otherwise obtain a patent license from the owner of the patent on terms which the Commission deems to be reasonable for the intended use of the patent to be made by such applicant,

the Commission shall license the applicant to use the invention or discovery covered by the patent for the purposes stated in such application on terms deemed equitable by the Commission and generally not less fair than those granted by the patentee or by the Commission to similar licensees for comparable use.

(f) Limitations on issuance of patent

The Commission shall not grant any patent license pursuant to subsection (e) for any other purpose than that stated in the application. Nor shall the Commission grant any patent license to any other applicant for a patent license on the same patent without an application being made by such applicant pursuant to subsection (c), and without separate notification and hearing as provided in subsection (d), and without a separate finding as provided in subsection (e).

(g) Royalty fees

The owner of the patent affected by a declaration or a finding made by the Commission pursuant to subsection (b) or (e) shall be entitled to a reasonable royalty fee from the licensee for any use of an invention or discovery licensed by this section. Such royalty fee may be agreed upon by such owner and the patent licensee, or in the absence of such agreement shall be determined for each patent license by the Commission pursuant to section 2187(c) of this title.

(h) Effective period

The provisions of this section shall apply to any patent the application for which shall have been filed before September 1, 1979.

(Aug. 1, 1946, ch. 724, title I, §153, as added Aug. 20, 1954, ch. 1073, §1, 68 Stat. 945; amended Pub. L. 86–50, §114, June 23, 1959, 73 Stat. 87; Pub. L. 88–394, §1, Aug. 1, 1964, 78 Stat. 376; Pub. L. 91–161, §1, Dec. 24, 1969, 83 Stat. 444; Pub. L. 93–377, §6, Aug. 17, 1974, 88 Stat. 475; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (e)(3), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(c)(1), (2) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1974—Subsec. (h). Pub. L. 93–377 substituted "September 1, 1979" for "September 1, 1974".

1969—Subsec. (h). Pub. L. 91–161 substituted "September 1, 1974" for "September 1, 1969".

1964—Subsec. (h). Pub. L. 88–394 substituted "September 1, 1969" for "September 1, 1964".
1959—Subsec. (h). Pub. L. 86–50 substituted "September 1, 1964" for "September 1, 1959".

§2184. Injunctions; measure of damages

No court shall have jurisdiction or power to stay, restrain, or otherwise enjoin the use of any invention or discovery by a patent licensee, to the extent that such use is licensed by section 2183(b) or 2183(e) of this title. If, in any action against such patent licensee, the court shall determine that the defendant is exercising such license, the measure of damages shall be the royalty fee determined pursuant to section 2187(c) of this title, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court. If no royalty fee has been determined, the court shall stay the proceeding until the royalty fee is determined pursuant to section 2187(c) of this title. If any such patent licensee shall fail to pay such royalty fee, the patentee may bring an action in any court of competent jurisdiction for such royalty fee, together with such costs, interest, and reasonable attorney's fees as may be fixed by the court.

(Aug. 1, 1946, ch. 724, title I, §154, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 946; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(c)(3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2185. Prior art

In connection with applications for patents covered by this subchapter, the fact that the invention or discovery was known or used before shall be a bar to the patenting of such invention or discovery even though such prior knowledge or use was under secrecy within the atomic energy program of the United States.

(Aug. 1, 1946, ch. 724, title I, §155, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§2186. Commission patent licenses

The Commission shall establish standard specifications upon which it may grant a patent license to use any patent declared to be affected with the public interest pursuant to section 2183(a) of this title. Such a patent license shall not waive any of the other provisions of this chapter.

(Aug. 1, 1946, ch. 724, title I, §156, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947; amended Pub. L. 96–517, §7(a), Dec. 12, 1980, 94 Stat. 3027; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1980—Pub. L. 96–517 substituted "patent declared to be affected" for "patent held by the Commission or declared to be affected".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–517 effective July 1, 1981, but implementing regulations authorized to be issued earlier, see section 8(f) of Pub. L. 96–517, set out as a note under section 41 of Title 35, Patents.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§2187. Compensation, awards, and royalties

(a) Patent Compensation Board

The Commission shall designate a Patent Compensation Board to consider applications under this section. The members of the Board shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of the Board. The members of the Board may serve as such without regard to the provisions of sections 281, 283, or 284 [1] of title 18, except in so far as such sections may prohibit any such member from receiving compensation in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(b) Eligibility

(1) Any owner of a patent licensed under section 2188 or 2183(b) or 2183(e) of this title, or any patent licensee thereunder may make application to the Commission for the determination of a reasonable royalty fee in accordance with such procedures as the Commission by regulation may establish.

(2) Any person seeking to obtain the just compensation provided in section 2181 of this title shall make application therefor to the Commission in accordance with such procedures as the Commission may by regulation establish.

(3) Any person making any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, who is not entitled to compensation or a royalty therefor under this chapter and who has complied with the provisions of section 2181(c) of this title may make application to the Commission for, and the Commission may grant, an award. The Commission may also, after consultation with the General Advisory Committee, and with the approval of the President, grant an award for any especially meritorious contribution to the development, use, or control of atomic energy.

(c) Standards

(1) In determining a reasonable royalty fee as provided for in section 2183(b) or 2183(e) of this title, the Commission shall take into consideration (A) the advice of the Patent Compensation Board; (B) any defense, general or special, that might be pleaded by a defendant in an action for infringement; (C) the extent to which, if any, such patent was developed through federally financed research; and (D) the degree of utility, novelty, and importance of the invention or discovery, and may consider the cost to the owner of the patent of developing such invention or discovery or acquiring such patent.

(2) In determining what constitutes just compensation as provided for in section 2181 of this title, or in determining the amount of any award under subsection (b)(3), the Commission shall take into account the considerations set forth in paragraph (1) of this subsection and the actual use of such invention or discovery. Such compensation may be paid by the Commission in periodic payments or in a lump sum.

(d) Limitations

Every application under this section shall be barred unless filed within six years after the date on which first accrues the right to such reasonable royalty fee, just compensation, or award for which such application is filed.

(Aug. 1, 1946, ch. 724, title I, §157, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947; amended Pub. L. 87–206, §11, Sept. 6, 1961, 75 Stat. 478; Pub. L. 93–276, title II, §201, May 10, 1974, 88 Stat. 119; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 281, 283, and 284 of title 18, referred to in subsec. (a), were repealed by Pub. L. 87–849, §2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. For further details, see "Exemptions" note set out under section 203 of Title 18.

This chapter, referred to in subsec. (b)(3), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1811(e)(1) to (3) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93–276 substituted "after consultation with the General Advisory Committee" for "upon the recommendation of the General Advisory Committee".

1961—Subsec. (d). Pub. L. 87–206 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. Patent Compensation Board established by this section transferred to Energy Research and Development Administration and functions of Atomic Energy Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See, also, notes set out under sections 5814 and 5841 of this title. Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11477. AWARDS BY COMMISSION WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 11477, eff. Aug. 7, 1969, 34 F.R. 12937, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Atomic Energy Commission is hereby designated and empowered, without approval, ratification, or other action by the President, to grant by the unanimous affirmative vote of all of its members not more than five awards in any calendar year, not exceeding the sum of $5,000 each, pursuant to the last sentence of section 157b(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)) which authorizes the Commission to grant awards for especially meritorious contributions to the development, use, or control of atomic energy.

RICHARD NIXON.

MODIFICATION OF EXECUTIVE ORDER NO. 11477

Ex. Ord. No. 11477, Aug. 7, 1969, 34 F.R. 12937, set out as a note above, when referring to functions of the Atomic Energy Commission is modified to provide that all such functions shall be exercised by the Secretary of Energy and the Nuclear Regulatory Commission, see section 4(a)(1) of Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 7151 of this title.

[1] *See References in Text note below.*

§2188. Monopolistic use of patents

Whenever the owner of any patent hereafter granted for any invention or discovery of primary use in the utilization or production of special nuclear material or atomic energy is found by a court of competent jurisdiction to have intentionally used such patent in a manner so as to violate any of the antitrust laws specified in section 2135(a) of this title, there may be included in the judgment of the court, in its discretion and in addition to any other lawful sanctions, a requirement that such owner license such patent to any other licensee of the Commission who demonstrates a need therefor. If the court, at its discretion, deems that such licensee shall pay a reasonable royalty to the owner of the patent, the reasonable royalty shall be determined in accordance with section 2187 of this title.

(Aug. 1, 1946, ch. 724, title I, §158, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 947; amended Pub. L. 87–206, §12, Sept. 6, 1961, 75 Stat. 478; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1961—Pub. L. 87–206 made it discretionary, rather than mandatory, for the court to require payment of royalties by a licensee to the owner of a patent.

§2189. Federally financed research

Nothing in this chapter shall affect the right of the Commission to require that patents granted on inventions, made or conceived during the course of federally financed research or operations, be assigned to the United States.

(Aug. 1, 1946, ch. 724, title I, §159, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 948; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out

under section 2011 of this title and Tables.

§2190. Saving clause for prior patent applications

Any patent application on which a patent was denied by the United States Patent and Trademark Office under sections 1811(a)(1), 1811(a)(2), or 1811(b) [1] of this title, and which is not prohibited by section 2181 or 2185 of this title may be reinstated upon application to the Commissioner of Patents and Trademarks within one year after August 30, 1954 and shall then be deemed to have been continuously pending since its original filing date: *Provided, however,* That no patent issued upon any patent application so reinstated shall in any way furnish a basis of claim against the Government of the United States.

(Aug. 1, 1946, ch. 724, title I, §160, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 948; amended Pub. L. 93–596, §3, Jan. 2, 1975, 88 Stat. 1949; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1811(a)(1), 1811(a)(2), and 1811(b) of this title, referred to in text, were omitted from the Code in the general amendment and renumbering of act Aug. 1, 1946 (which was classified to section 1801 et seq. of this title) by act Aug. 30, 1954, ch. 1073, 68 Stat. 919.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Patent Office and Commissioner of Patents changed to Patent and Trademark Office and Commissioner of Patents and Trademarks, respectively, pursuant to Pub. L. 93–596, §3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

[1] *See References in Text note below.*

SUBCHAPTER XIII—GENERAL AUTHORITY OF COMMISSION

§2201. General duties of Commission

In the performance of its functions the Commission is authorized to—

(a) Establishment of advisory boards

establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

(b) Standards governing use and possession of material

establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense

and security with regard to control, ownership, or possession of any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;

(c) Studies and investigations

make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

(d) Employment of personnel

appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, except that, to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: *Provided, however*, That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule) whose position would be subject to chapter 51 and subchapter III of chapter 53 of title 5, if such provisions were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such provisions for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by chapter 51 and subchapter III of chapter 53 of title 5, as of the same date such rates are authorized for positions subject to such provisions. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;

(e) Acquisition of material, property, etc.; negotiation of commercial leases

acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title: *Provided, however*, That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising [1] and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;

(f) Utilization of other Federal agencies

with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

(g) Acquisition of real and personal property

acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject to the provisions of section 2224 of this title, and to sell, lease, grant, and dispose of such real and personal property as provided in this chapter;

(h) Consideration of license applications

consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission;

(i) Regulations governing Restricted Data

prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property, and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 2133 or 2134(b) of this title, including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this chapter that has control over any fund for the decommissioning of the facility;

(j) Disposition of surplus materials

without regard to the provisions of chapters 1 to 11 (except section 559) of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: *Provided, however*, That the property furnished to licensees in accordance with the provisions of subsection (m) shall not be deemed to be property disposed of by the Commission pursuant to this subsection;

(k) Carrying of firearms; authority to make arrests without warrant

authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable ground to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the

United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;

(l) Repealed. Pub. L. 87–456, title III, §303(c), May 24, 1962, 76 Stat. 78

(m) Agreements regarding production

enter into agreements with persons licensed under section 2133, 2134, 2073(a)(4), or 2093(a)(4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: *Provided, however*, That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: *And provided further*, That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Government for such material or services and will not discourage the development of sources of supply independent of the Commission;

(n) Delegation of functions

delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b) (with respect to enrichment and reprocessing of special nuclear material or with respect to transfers to any covered foreign country (as defined in section 2077a of this title)), 2091, 2138, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(f) of this title and subsection (a) of this section;

(o) Reports

require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant to sections 2073, 2093, 2111, 2133, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title; and

(p) Rules and regulations

make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

(q) Easements for rights-of-way

The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon acquired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: *Provided*, That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be

incompatible with the public interest: *Provided further*, That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: *And provided further*, That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

(r) Sale of utilities and related services

Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to sell to purchasers within Commission-owned communities or in the immediate vicinity of the Commission community, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of the national defense or in the public interest:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural, manufactured, or mixed gas.
(7) Ice.
(8) Mechanical refrigeration.
(9) Telephone service.

Proceeds of sales under this subsection shall be credited to the appropriation currently available for the supply of that utility or service. To meet local needs the Commission may make minor expansions and extensions of any distributing system or facility within or in the immediate vicinity of a Commission-owned community through which a utility or service is furnished under this subsection.

(s) Succession of authority

establish a plan for a succession of authority which will assure the continuity of direction of the Commission's operations in the event of a national disaster due to enemy activity. Notwithstanding any other provision of this chapter, the person or persons succeeding to command in the event of disaster in accordance with the plan established pursuant to this subsection shall be vested with all of the authority of the Commission: *Provided*, That any such succession to authority, and vesting of authority shall be effective only in the event and as long as a quorum of three or more members of the Commission is unable to convene and exercise direction during the disaster period: *Provided further*, That the disaster period includes the period when attack on the United States is imminent and the post-attack period necessary to reestablish normal lines of command;

(t) Contracts

enter into contracts for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct or other material, or special nuclear material, in accordance with and within the period of an agreement for cooperation while comparable services are available to persons licensed under section 2133 or 2134 of this title: *Provided*, That the prices for services under such contracts shall be no less than the prices currently charged by the Commission pursuant to subsection (m);

(u) Additional contracts; guiding principles; appropriations

(1) enter into contracts for such periods of time as the Commission may deem necessary or desirable, but not to exceed five years from the date of execution of the contract, for the purchase or acquisition of reactor services or services related to or required by the operation of reactors;

(2)(A) enter into contracts for such periods of time as the Commission may deem necessary or desirable for the purchase or acquisition of any supplies, equipment, materials, or services

required by the Commission whenever the Commission determines that: (i) it is advantageous to the Government to make such purchase or acquisition from commercial sources; (ii) the furnishing of such supplies, equipment, materials, or services will require the construction or acquisition of special facilities by the vendors or suppliers thereof; (iii) the amortization chargeable to the Commission constitutes an appreciable portion of the cost of contract performance, excluding cost of materials; and (iv) the contract for such period is more advantageous to the Government than a similar contract not executed under the authority of this subsection. Such contracts shall be entered into for periods not to exceed five years each from the date of initial delivery of such supplies, equipment, materials, or services or ten years from the date of execution of the contracts excluding periods of renewal under option.

(B) In entering into such contracts the Commission shall be guided by the following principles: (i) the percentage of the total cost of special facilities devoted to contract performance and chargeable to the Commission should not exceed the ratio between the period of contract deliveries and the anticipated useful life of such special facilities; (ii) the desirability of obtaining options to renew the contract for reasonable periods at prices not to include charges for special facilities already amortized; and (iii) the desirability of reserving in the Commission the right to take title to the special facilities under appropriate circumstances; and

(3) include in contracts made under this subsection provisions which limit the obligation of funds to estimated annual deliveries and services and the unamortized balance of such amounts due for special facilities as the parties shall agree is chargeable to the performance of the contract. Any appropriation available at the time of termination or thereafter made available to the Commission for operating expenses shall be available for payment of such costs which may arise from termination as the contract may provide. The term "special facilities" as used in this subsection means any land and any depreciable buildings, structures, utilities, machinery, equipment, and fixtures necessary for the production or furnishing of such supplies, equipment, materials, or services and not available to the vendors or suppliers for the performance of the contract.

(v) Support of United States Enrichment Corporation

provide services in support of the United States Enrichment Corporation, except that the Secretary of Energy shall annually collect payments and other charges from the Corporation sufficient to ensure recovery of the costs (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under section 2297c–2(d) [2] of this title) incurred by the Department of Energy after October 24, 1992, in performing such services;

(w) License fees for nuclear power reactors

prescribe and collect from any other Government agency, which applies to the Commission for, or is issued by the Commission, a license or certificate, any fee, charge, or price which it may require, in accordance with the provisions of section 9701 of title 31 or any other law.

(x) Standards and instructions for bonding, surety, or other financial arrangements, including performance bonds

Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 2231 of this title, such standards and instructions as the Commission may deem necessary or desirable to ensure—

(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 2014(e)(2) of this title, by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

(2) that—

(A) in the case of any such license issued or renewed after November 8, 1978, the need for

long-term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized and, to the maximum extent practicable, eliminated; and

(B) in the case of each license for such material (whether in effect on November 8, 1978, or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 2014(e)(2) of this title, will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.

(Aug. 1, 1946, ch. 724, title I, §161, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 948; amended July 14, 1956, ch. 608, 70 Stat. 553; Aug. 6, 1956, ch. 1015, §4, 70 Stat. 1069; Pub. L. 85–162, title II, §§201, 204, Aug. 21, 1957, 71 Stat. 410; Pub. L. 85–287, §4, Sept. 4, 1957, 71 Stat. 613; Pub. L. 85–507, §21(b)(1), July 7, 1958, 72 Stat. 337; Pub. L. 85–681, §§6, 7, Aug. 19, 1958, 72 Stat. 633; Pub. L. 86–300, §1, Sept. 21, 1959, 73 Stat. 574; Pub. L. 87–206, §13, Sept. 6, 1961, 75 Stat. 478; Pub. L. 87–456, title III, §303(c), May 24, 1962, 76 Stat. 78; Pub. L. 87–615, §12, Aug. 29, 1962, 76 Stat. 411; Pub. L. 87–793, title VI, §1001(g), Oct. 11, 1962, 76 Stat. 864; Pub. L. 88–489, §16, Aug. 26, 1964, 78 Stat. 606; Pub. L. 90–190, §11, Dec. 14, 1967, 81 Stat. 578; Pub. L. 91–452, title II, §237, Oct. 15, 1970, 84 Stat. 930; Pub. L. 91–560, §§7, 8, Dec. 19, 1970, 84 Stat. 1474; Pub. L. 92–314, title III, §301, June 16, 1972, 86 Stat. 227; Pub. L. 93–377, §7, Aug. 17, 1974, 88 Stat. 475; Pub. L. 95–604, title II, §203, Nov. 8, 1978, 92 Stat. 3036; Pub. L. 97–90, title II, §211, Dec. 4, 1981, 95 Stat. 1170; Pub. L. 99–661, div. C, title I, §3134, Nov. 14, 1986, 100 Stat. 4064; Pub. L. 100–449, title III, §305(b), Sept. 28, 1988, 102 Stat. 1876; Pub. L. 101–575, §5(b), Nov. 15, 1990, 104 Stat. 2835; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(4), (5), (8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109–58, title VI, §§623, 626, Aug. 8, 2005, 119 Stat. 783, 784; Pub. L. 115–232, div. C, title XXXI, §3116(a), Aug. 13, 2018, 132 Stat. 2291; Pub. L. 117–263, div. C, title XXXI, §3131(c), Dec. 23, 2022, 136 Stat. 3059.)

AMENDMENT OF SECTION

For termination of amendment by section 501(c) of Pub. L. 100–449, see Effective and Termination Dates of 1988 Amendment note below.

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c), (g) to (i), (m) to (p), and (s), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Section 2297c–2 of this title, referred to in subsec. (v), was repealed by Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349.

CODIFICATION

In subsec. (d), "chapter 51 and subchapter III of chapter 53 of title 5" and "such provisions" substituted for "the Classification Act of 1949, as amended" and "such Act", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and

Employees.

In subsec. (j), "chapters 1 to 11 (except section 559) of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (x)(2)(B), "November 8, 1978" was in the original "the date of the enactment of this section", which has been translated as the date of the enactment of this subsection to reflect the probable intent of Congress.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2022—Subsec. (n). Pub. L. 117–263 substituted "section 2077a of this title" for "section 2077a(i) of this title".

2018—Subsec. (n). Pub. L. 115–232 substituted "2077(b) (with respect to enrichment and reprocessing of special nuclear material or with respect to transfers to any covered foreign country (as defined in section 2077a(i) of this title))," for "2077(b),".

2005—Subsec. (i)(4). Pub. L. 109–58, §626, added cl. (4).

Subsec. (w). Pub. L. 109–58, §623, substituted "to the Commission for, or is issued by the Commission, a license or certificate" for "for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 2133 or 2134(b) of this title, or which operates any facility regulated or certified under section 2297f or 2297f–1 of this title" and "section 9701" for "section 483a" and struck out ", of applicants for, or holders of, such licenses or certificates" before period at end.

1992—Subsec. (v). Pub. L. 102–486, §902(a)(4), amended subsec. (v) generally, substituting provisions relating to duty to provide services in support of United States Energy Enrichment Corporation for provisions relating to duty to enter into contracts for production or enrichment of special nuclear material.

Subsec. (w). Pub. L. 102–486, §902(a)(5), inserted "or which operates any facility regulated or certified under section 2297f or 2297f–1 of this title," after "2134(b) of this title," and "or certificates" after "holders of, such licenses".

1990—Subsec. (b). Pub. L. 101–575, which directed amendment of subsec. (b) by striking the period at the end and inserting "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership, or possession of any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;", was executed by striking the semicolon at end of subsec. (b) and making insertion to reflect probable intent of Congress.

1988—Subsec. (v). Pub. L. 100–449 temporarily inserted in closing provisions "For purposes of this subsection and of section 305 of Public Law 99–591 (100 Stat. 3341–209, 210), 'foreign origin' excludes source or special nuclear material originating in Canada." See Effective and Termination Dates of 1988 Amendment note below.

1986—Subsec. (k). Pub. L. 99–661 inserted "and subcontractors (at any tier)" after "employees of its contractors", substituted "under the jurisdiction of the United States" for "owned by the United States and", inserted "or being transported to or from such facilities" after "contracted to the United States", inserted after third sentence "An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense.", and inserted before the semicolon at end ". The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection".

1981—Subsec. (k). Pub. L. 97–90 inserted provision that a person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony, that a person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory

Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this chapter that may subject an offender to a fine, imprisonment, or both, and that the arrest authority conferred by this subsection is in addition to any arrest authority under other laws.

1978—Subsec. (x). Pub. L. 95–604 added subsec. (x).

1974—Subsec. (i). Pub. L. 93–377 inserted provision in cl. (2) relating to regulations or orders designating activities, involving quantities of special nuclear material important to the common defense and security, that may be conducted by persons whose character, etc., have been established so that if they are permitted to conduct such activities it would not be inimical to the common defense and security.

1972—Subsec. (w). Pub. L. 92–314 added subsec. (w).

1970—Subsec. (c). Pub. L. 91–452 struck out provisions that no person be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but that the immunity provisions of the Compulsory Testimony Act of Feb. 11, 1893, apply with respect to any individual who specifically claims such privilege.

Subsec. (n). Pub. L. 91–560, §7, struck out references to section 2132 of this title and the finding of practical value.

Subsec. (v). Pub. L. 91–560, §8, substituted provisions for the establishment of prices on a basis of recovery of the Government's costs over a reasonable period of time for provisions for the establishment of prices on a basis which will provide reasonable compensation to the Government.

1967—Subsec. (n). Pub. L. 90–190 substituted "2077(b)" for "2077(a)(3)".

1964—Subsec. (v). Pub. L. 88–489 added subsec. (v).

1962—Subsec. (d). Pub. L. 87–793 substituted "up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended" for "up to a limit of $19,000".

Subsec. (l). Pub. L. 87–456 repealed subsec. (l) which authorized the admittance free of duty into the United States of purchases made abroad of source materials.

Subsec. (n). Pub. L. 87–615 substituted "2165(f) of this title" for "2165(e) of this title".

1961—Subsecs. (s) to (v). Pub. L. 87–206 redesignated subsecs. (t) to (v) as (s) to (u), respectively.

1959—Subsec. (m). Pub. L. 86–300 inserted references to sections 2073(a)(4) and 2093(a)(4) of this title.

1958—Subsec. (d). Pub. L. 85–681, §6, authorized the Commission to adopt compensation rates on a retroactive basis as may be authorized by the Classification Act for other Government employees.

Subsecs. (n) to (s). Pub. L. 85–507 redesignated subsecs. (o) to (s) as (n) to (r), respectively. Former subsec. (n), which authorized the Commission to assign employees for instruction, education, or training by public or private agencies, institutions of learning, laboratories, or industrial or commercial organizations, was repealed by Pub. L. 85–507, see section 4101 et seq. of Title 5, Government Organizations and Employees.

Subsecs. (t) to (v). Pub. L. 85–681, §7, added subsecs. (t) to (v).

1957—Subsec. (d). Pub. L. 85–287 inserted "up to a limit of $19,000" after "scientific and technical personnel".

Subsec. (e). Pub. L. 85–162, §201, inserted "(at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant)" after "adjusted terms which".

Subsec. (s). Pub. L. 85–162, §204, added subsec. (s).

1956—Subsec. (e). Act July 14, 1956, inserted proviso relating to negotiation of commercial leases without advertising by the Commission.

Subsec. (r). Act Aug. 6, 1956, added subsec. (r).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see Pub. L. 87–793, title VI, §1008, Oct. 11, 1962, 76 Stat. 868.

Repeal of subsec. (l) effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see Pub. L. 87–456, title V, §501(a), May 24, 1962, 76 Stat. 78.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–507, see Pub. L. 85–507, §21(a), July 7, 1958, 72 Stat. 337.

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

MISSION ALIGNMENT

Pub. L. 118–67, div. B, title V, §501, July 9, 2024, 138 Stat. 1471, provided that:

"(a) UPDATE.—Not later than 1 year after the date of enactment of this Act [July 9, 2024], the [Nuclear Regulatory] Commission shall, while remaining consistent with the policies of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) (including to provide reasonable assurance of adequate protection of the public health and safety, to promote the common defense and security, and to protect the environment), update the mission statement of the Commission to include that licensing and regulation of the civilian use of radioactive materials and nuclear energy be conducted in a manner that is efficient and does not unnecessarily limit—

"(1) the civilian use of radioactive materials and deployment of nuclear energy; or

"(2) the benefits of civilian use of radioactive materials and nuclear energy technology to society.

"(b) REPORT.—On completion of the update to the mission statement required under subsection (a), the Commission shall submit to the appropriate committees of Congress [Committee on Energy and Commerce of the House of Representatives and Committee on Environment and Public Works of the Senate] a report that describes—

"(1) the updated mission statement; and

"(2) the guidance that the Commission will provide to staff of the Commission to ensure effective performance of the mission of the Commission."

ORGANIZATIONAL CONFLICTS OF INTEREST

Pub. L. 95–209, §7, Dec. 13, 1977, 91 Stat. 1483, provided that the Commission would, by Dec. 31, 1977, promulgate guidelines to be applied by the Commission to determine whether an organization proposing to enter into a contractual arrangement with the Commission had a conflict of interest that could impair the contractor's judgment or give the contractor an unfair competitive advantage.

APPLICABILITY TO FUNCTIONS TRANSFERRED BY DEPARTMENT OF ENERGY ORGANIZATION ACT

Pub. L. 95–91, title VII, §709(c)(2), Aug. 4, 1977, 91 Stat. 608, provided that: "Section 161(d) of the Atomic Energy Act of 1954 [subsec. (d) of this section] shall not apply to functions transferred by this Act [see Short Title note set out under section 7101 of this title]."

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the

Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

PRINCIPAL OFFICE BUILDING FOR ATOMIC ENERGY COMMISSION

Act May 6, 1955, ch. 34, 69 Stat. 47, as amended by Pub. L. 85–107, July 17, 1957, 71 Stat. 307, authorized Atomic Energy Commission to acquire a suitable site in or near District of Columbia and, notwithstanding any other provision of law, to provide for construction on such site, in accordance with plans and specifications prepared by or under direction of Commission, of a modern office building to serve as principal office of Commission at a total cost of not to exceed $13,300,000 and authorized to be appropriated such sums as were necessary.

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

Pub. L. 85–162, title II, §203, Aug. 21, 1957, 71 Stat. 410, directed Atomic Energy Commission, Federal Housing Administration, and Housing and Home Finance Agency to report to Joint Committee by Jan. 31, 1958, with respect to renegotiations, reappraisals, and sales proceedings authorized under sections 201 and 202 of Pub. L. 85–162 [amending subsec. (e) of this section and enacting section 2325(c) of this title].

EXECUTIVE DOCUMENTS

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Members of the Nuclear Regulatory Commission, see Parts 1, 2, and 21 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

[1] *So in original.*

[2] *See References in Text note below.*

§2201a. Use of firearms by security personnel

(a) Definitions

In this section, the terms "handgun", "rifle", "shotgun", "firearm", "ammunition", "machinegun", "short-barreled shotgun", and "short-barreled rifle" have the meanings given the terms in section 921(a) of title 18.

(b) Authorization

Notwithstanding subsections (a)(4), (a)(5), (b)(2), (b)(4), and (o) of section 922 of title 18, section 925(d)(3) of title 18, section 5844 of title 26, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device, in carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use 1 or more such guns, weapons, ammunition, or devices, if the Commission determines that—

(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

(2) the security personnel—

(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

(B) have successfully completed any requirement under this section for training in the use of

firearms and tactical maneuvers;

(C) are engaged in the protection of—

(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission; or

(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

(D) are discharging the official duties of the security personnel in transferring, receiving, possessing, transporting, or importing the weapons, ammunition, or devices.

(c) Background checks

A person that receives, possesses, transports, imports, or uses a weapon, ammunition, or a device under subsection (b) shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103–159; 18 U.S.C. 922 note) [1] to determine whether the person is prohibited from possessing or receiving a firearm under Federal or State law.

(d) Effective date

This section takes effect on the date on which guidelines are issued by the Commission, with the approval of the Attorney General, to carry out this section.

(Aug. 1, 1946, ch. 724, title I, §161A, as added Pub. L. 109–58, title VI, §653, Aug. 8, 2005, 119 Stat. 811.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 103 of the Brady Handgun Violence Prevention Act, referred to in subsec. (c), is section 103 of Pub. L. 103–159, which was classified as a note under section 922 of Title 18, Crimes and Criminal Procedure, prior to editorial reclassification as section 40901 of Title 34, Crime Control and Law Enforcement.

Guidelines to carry out this section, referred to in subsec. (d), were issued effective Sept. 11, 2009, see 74 F.R. 46800.

[1] See References in Text note below.

§2201b. Commission workforce

(a) Direct hire authority

(1) In general

Notwithstanding section 2201(d) of this title and any provision of Reorganization Plan No. 1 of 1980 (94 Stat. 3585; 5 U.S.C. app.),[1] and without regard to any provision of title 5 (except section 3328) governing appointments in the civil service, the Chairman of the Nuclear Regulatory Commission (in this section referred to as the "Chairman") may, in order to carry out the Nuclear Regulatory Commission's (in this section referred to as the "Commission") responsibilities and activities in a timely, efficient, and effective manner and subject to the limitations described in paragraphs (2), (3), and (4)—

(A) recruit and directly appoint exceptionally well-qualified individuals into the excepted service for covered positions; and

(B) establish in the excepted service term-limited covered positions and recruit and directly appoint exceptionally well-qualified individuals into such term-limited covered positions, which

may not exceed a term of 4 years.

(2) Limitations

(A) Number

(i) In general

The number of exceptionally well-qualified individuals serving in covered positions pursuant to paragraph (1)(A) may not exceed 210 at any one time.

(ii) Term-limited covered positions

The Chairman may not appoint more than 20 exceptionally well-qualified individuals into term-limited covered positions pursuant to paragraph (1)(B) during any fiscal year.

(B) Compensation

(i) Annual rate

The annual basic rate of pay for any individual appointed under paragraph (1)(A) or paragraph (1)(B) may not exceed the annual basic rate of pay for level III of the Executive Schedule under section 5314 of title 5.

(ii) Experience and qualifications

Any individual recruited and directly appointed into a covered position or a term-limited covered position shall be compensated at a rate of pay that is commensurate with such individual's experience and qualifications.

(C) Senior executive service position

The Chairman may not, under paragraph (1)(A) or paragraph (1)(B), appoint exceptionally well-qualified individuals to any Senior Executive Service position, as defined in section 3132 of title 5.

(3) Level of positions

To the extent practicable, in carrying out paragraph (1) the Chairman shall recruit and directly appoint exceptionally well-qualified individuals into the excepted service to entry, mid, and senior level covered positions, including term-limited covered positions.

(4) Consideration of future workforce needs

When recruiting and directly appointing exceptionally well-qualified individuals to covered positions pursuant to paragraph (1)(A), to maintain sufficient flexibility under the limitations of paragraph (2)(A)(i), the Chairman shall consider the future workforce needs of the Commission to carry out its responsibilities and activities in a timely, efficient, and effective manner.

(b) Addressing insufficient compensation of employees and other personnel of the Commission

(1) In general

Notwithstanding any other provision of law, the Chairman may fix the compensation for employees or other personnel serving in a covered position without regard to any provision of title 5 governing General Schedule classification and pay rates.

(2) Applicability

The authority under this subsection to fix the compensation of employees or other personnel shall apply with respect to an employee or other personnel serving in a covered position regardless of when the employee or other personnel was hired.

(3) Limitations on compensation

(A) Annual rate

The Chairman may not use the authority under paragraph (1) to fix the compensation of employees or other personnel—

(i) at an annual rate of basic pay higher than the annual basic rate of pay for level III of the

Executive Schedule under section 5314 of title 5; or

(ii) at an annual rate of basic pay that is not commensurate with such an employee or other personnel's experience and qualifications.

(B) Senior Executive Service positions

The Chairman may not use the authority under paragraph (1) to fix the compensation of an employee serving in a Senior Executive Service position, as defined in section 3132 of title 5.

(c) Additional compensation authority

(1) For new employees

The Chairman may pay an individual recruited and directly appointed under subsection (a) a 1-time hiring bonus in an amount not to exceed $25,000.

(2) For existing employees

(A) In general

Subject to subparagraphs (B) and (C), an employee or other personnel who the Chairman determines exhibited exceptional performance in a fiscal year may be paid a performance bonus in an amount not to exceed the least of—

(i) $25,000; and

(ii) the amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5.

(B) Exceptional performance

Exceptional performance under subparagraph (A) includes—

(i) leading a project team in a timely and efficient licensing review to enable the safe use of nuclear technology;

(ii) making significant contributions to a timely and efficient licensing review to enable the safe use of nuclear technology;

(iii) the resolution of novel or first-of-a-kind regulatory issues;

(iv) developing or implementing licensing or regulatory oversight processes to improve the effectiveness of the Commission; and

(v) other performance, as determined by the Chairman.

(C) Limitations

(i) Subsequent bonuses

Any person who receives a performance bonus under subparagraph (A) may not receive another performance bonus under that subparagraph for a period of 5 years thereafter.

(ii) Hiring bonuses

Any person who receives a 1-time hiring bonus under paragraph (1) may not receive a performance bonus under subparagraph (A) unless more than one year has elapsed since the payment of such 1-time hiring bonus.

(iii) No bonus for Senior Executive Service positions

No person serving in a Senior Executive Service position, as defined in section 3132 of title 5, may receive a performance bonus under subparagraph (A).

(d) Implementation plan and report

(1) In general

Not later than 180 days after July 9, 2024, the Chairman shall develop and implement a plan to carry out this section. Before implementing such plan, the Chairman shall submit to the Committee on Energy and Commerce of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Office of Personnel Management a report on the details of the plan.

(2) Report content

The report submitted under paragraph (1) shall include—

(A) evidence and supporting documentation justifying the plan; and

(B) budgeting projections on costs and benefits resulting from the plan.

(3) Consultation

The Chairman may consult with the Office of Personnel Management, the Office of Management and Budget, and the Comptroller General of the United States in developing the plan under paragraph (1).

(e) Delegation

The Chairman shall delegate, subject to the direction and supervision of the Chairman, the authority provided by subsections (a), (b), and (c) to the Executive Director for Operations of the Commission.

(f) Information on hiring, vacancies, and compensation

(1) In general

The Commission shall include in its budget materials submitted in support of the budget of the President (submitted to Congress pursuant to section 1105 of title 31), for fiscal year 2026 and each fiscal year thereafter, information relating to hiring, vacancies, and compensation at the Commission.

(2) Inclusions

The information described in paragraph (1) shall include—

(A) an analysis of any trends with respect to hiring, vacancies, and compensation at the Commission;

(B) a description of the efforts to retain and attract employees or other personnel to serve in covered positions at the Commission;

(C) information that describes—

(i) how the authority provided by subsection (a) is being used to address the hiring needs of the Commission;

(ii) the total number of exceptionally well-qualified individuals serving in—

(I) covered positions described in subsection (g)(1) pursuant to subsection (a)(1)(A);

(II) covered positions described in subsection (g)(2) pursuant to subsection (a)(1)(A);

(III) term-limited covered positions described in subsection (g)(1) pursuant to subsection (a)(1)(B); and

(IV) term-limited covered positions described in subsection (g)(2) pursuant to subsection (a)(1)(B);

(iii) how the authority provided by subsection (b) is being used to address the hiring or retention needs of the Commission;

(iv) the total number of employees or other personnel serving in a covered position that have their compensation fixed pursuant to subsection (b); and

(v) the attrition levels with respect to term-limited covered positions appointed under subsection (a)(1)(B), including the number of individuals leaving a term-limited covered position before completion of the applicable term of service and the average length of service for such individuals as a percentage of the applicable term of service; and

(D) an assessment of—

(i) the current critical workforce needs of the Commission and any critical workforce needs that the Commission anticipates in the next five years; and

(ii) additional skillsets that are or likely will be needed for the Commission to fulfill the licensing and oversight responsibilities of the Commission.

(g) Covered position

In this section, the term "covered position" means—

(1) a position in which an employee or other personnel is responsible for conducting work of a highly-specialized scientific, technical, engineering, mathematical, or otherwise skilled nature to address a critical licensing or regulatory oversight need for the Commission; or

(2) a position that the Executive Director for Operations of the Commission determines is necessary to fulfill the responsibilities of the Commission in a timely, efficient, and effective manner.

(h) Sunset

(1) In general

Except as provided in paragraph (2), the authorities provided by subsections (a) and (b) shall terminate on September 30, 2034.

(2) Certification

If, no later than the date referenced in paragraph (1), the Commission issues a certification that the authorities provided by subsection (a), subsection (b), or both subsections are necessary for the Commission to carry out its responsibilities and activities in a timely, efficient, and effective manner, the authorities provided by the applicable subsection shall terminate on September 30, 2039.

(3) Compensation

The termination of the authorities provided by subsections (a) and (b) shall not affect the compensation of an employee or other personnel serving in a covered position whose compensation was fixed by the Chairman in accordance with subsection (a) or (b).

(Aug. 1, 1946, ch. 724, title I, §161B, as added Pub. L. 118–67, div. B, title V, §502(a)(1), July 9, 2024, 138 Stat. 1471.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan No. 1 of 1980, referred to in subsec. (a)(1), is set out in the Appendix to Title 5, Government Organization and Employees, and as a note under section 5841 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ANNUAL SOLICITATION FOR NUCLEAR REGULATOR APPRENTICESHIP NETWORK APPLICATIONS

Pub. L. 118–67, div. B, title V, §502(c), July 9, 2024, 138 Stat. 1476, provided that: "The [Nuclear Regulatory] Commission, on an annual basis, shall solicit applications for the Nuclear Regulator Apprenticeship Network."

[1] *So in original. Probably should be capitalized.*

§2202. Contracts

The President may, in advance, exempt any specific action of the Commission in a particular matter from the provisions of law relating to contracts whenever he determines that such action is essential in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §162, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 951; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2203. Advisory committees

The members of the General Advisory Committee established pursuant to section 2036 [1] of this title and the members of advisory boards established pursuant to section 2201(a) of this title may serve as such without regard to the provisions of sections 281, 283, or 284 [1] of title 18, except insofar as such sections may prohibit any such member from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter which directly involves the Commission or in which the Commission is directly interested.

(Aug. 1, 1946, ch. 724, title I, §163, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 951; amended Pub. L. 86–300, §2, Sept. 21, 1959, 73 Stat. 574; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2036 of this title, referred to in text, was repealed by Pub. L. 95–91, title VII, §709(c)(1), Aug. 4, 1977, 91 Stat. 608.

Sections 281, 283, and 284 of title 18, referred to in text, were repealed by Pub. L. 87–849, §2, Oct. 23, 1962, 76 Stat. 1126, except as sections 281 and 283 apply to retired officers of the Armed Forces of the United States, and were supplanted by sections 203, 205, and 207, respectively, of Title 18, Crimes and Criminal Procedures. For further details, see "Exemptions" note set out under section 203 of Title 18.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1812(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1959—Pub. L. 86–300 inserted "from a source other than a nonprofit educational institution" after "compensation".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. General Advisory Committee transferred to Energy Research and Development Administration and functions of Commission with respect thereto transferred to Administrator by section 5814(d) of this title. See, also, notes set out under sections 5814 and 5841 of this title. General Advisory Committee abolished by Pub. L. 95–91, title VII, §709(c)(1), Aug. 4, 1977, 91 Stat. 608. Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

TERMINATION OF ADVISORY BOARDS AND COMMITTEES

Advisory boards and committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board or committee established by the President or an officer of the federal government, such board or committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board or committee established by the Congress, its duration is otherwise provided by law. Advisory boards and committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board or committee established by the President or an officer of the

federal government, such board or committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board or committee established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

[1] *See References in Text note below.*

§2204. Electric utility contracts; authority to enter into; cancellation; submission to Energy Committees

The Commission is authorized in connection with the construction or operation of the Oak Ridge, Paducah, and Portsmouth installations of the Commission, without regard to sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31, to enter into new contracts or modify or confirm existing contracts to provide for electric utility services for periods not exceeding twenty-five years, and such contracts shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contracts, and any appropriation presently or hereafter made available to the Commission shall be available for the payment of such cancellation costs. Any such cancellation payments shall be taken into consideration in determination of the rate to be charged in the event the Commission or any other agency of the Federal Government shall purchase electric utility services from the contractor subsequent to the cancellation and during the life of the original contract. The authority of the Commission under this section to enter into new contracts or modify or confirm existing contracts to provide for electric utility services includes, in case such electric utility services are to be furnished to the Commission by the Tennessee Valley Authority, authority to contract with any person to furnish electric utility services to the Tennessee Valley Authority in replacement thereof. Any contract hereafter entered into by the Commission pursuant to this section shall be submitted to the Energy Committees and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) before the contract of the Commission shall become effective: *Provided, however*, That the Energy Committees, after having received the proposed contract, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

(Aug. 1, 1946, ch. 724, title I, §164, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 951; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 103–437, §15(f)(7), Nov. 2, 1994, 108 Stat. 4593.)

EDITORIAL NOTES

CODIFICATION

"Sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31" substituted in text for "section 3679 of the Revised Statutes, as amended [31 U.S.C. 665]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Energy Committees" for "Joint Committee" in two places.

§2204a. Fission product contracts

(a) Authority to enter into contracts

Without regard to sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31, the Commission is authorized to enter into contracts for such periods of time as the Commission may deem necessary or desirable, for the purpose of making available fission products from Commission reactors, with or without charge for commercial application.

(b) Cancellation

Any contract entered into by the Commission pursuant to this section shall be subject to termination by the Commission upon payment of cancellation costs as provided in such contract, and any appropriation presently or hereafter made available to the Commission shall be available for payment of such costs which may arise from termination as the contract may provide.

(c) Submission to Energy Committees

Before the Commission enters into any arrangement or amendment thereto under the authority of this section, the basis for the proposed arrangement or amendment thereto which the Commission proposes to execute (with necessary background and explanatory data) shall be submitted to the Energy Committees (as defined by section 2014 of this title), and a period of forty-five days shall elapse while Congress is in session in computing such forty-five days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days: *Provided, however,* That the Energy Committees, after having received the basis for the proposed arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Pub. L. 88–332, §107, June 30, 1964, 78 Stat. 230; Pub. L. 103–437, §15(h), Nov. 2, 1994, 108 Stat. 4593.)

EDITORIAL NOTES

REFERENCES IN TEXT

Commission, referred to in text, probably means the Atomic Energy Commission in view of the fact that this section was enacted as part of the act authorizing appropriations for the Atomic Energy Commission.

CODIFICATION

In subsec. (a), "sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31" substituted for "section 3679 of the Revised Statutes, as amended [31 U.S.C. 665]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted "Energy Committees (as defined by section 2014 of this title)" for "Joint Committee" after "submitted to the" and "Energy Committees" for "Joint Committee" after "That the".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See, also, notes set out under those sections.

§2205. Contract practices

(a) In carrying out the purposes of this chapter the Commission shall not use the cost-plus-percentage-of-cost system of contracting.

(b) No contract entered into under the authority of this chapter shall provide, and no contract entered into under the authority of the Atomic Energy Act of 1946, as amended, shall be modified or amended after August 30, 1954, to provide, for direct payment or direct reimbursement by the Commission of any Federal income taxes on behalf of any contractor performing such contract for profit.

(Aug. 1, 1946, ch. 724, title I, §165, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 951; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Atomic Energy Act of 1946, as amended, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified generally to chapter 14 (§1801 et seq.) of this title prior to the general amendment by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919. The act of Aug. 1, 1946, ch. 724, is now known as the Atomic Energy Act of 1954, and is classified principally to this chapter.

§2205a. Repealed. Pub. L. 97–375, title I, §115, Dec. 21, 1982, 96 Stat. 1821

Section, Pub. L. 95–601, §11, Nov. 6, 1978, 92 Stat. 2953, directed Commission to report to Congress on Jan. 1, 1979, and annually thereafter on use of contractors, consultants, and National Laboratories by Commission, and that such report include, for each contract issued, in progress or completed during fiscal year 1978, information on bidding procedure, nature of work, amount and duration of contract, progress of work, relation to previous contracts, and relation between amount of contract and amount actually spent.

§2206. Comptroller General audit

No moneys appropriated for the purposes of this chapter shall be available for payments under any contract with the Commission, negotiated without advertising, except contracts with any foreign government or any agency thereof and contracts with foreign producers, unless such contract includes a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of, and involving transactions related to such contracts or subcontracts: *Provided, however*, That no moneys so appropriated shall be available for payment under such contract which includes any provision precluding an audit by the Government Accountability Office of any transaction under such contract: *And provided further*, That nothing in this section shall preclude the earlier disposal of contractor and subcontractor records in accordance with records disposal schedules agreed upon between the Commission and the Government Accountability Office.

(Aug. 1, 1946, ch. 724, title I, §166, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 951; amended Pub. L. 85–681, §8, Aug. 19, 1958, 72 Stat. 634; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

1958—Pub. L. 85–681 inserted proviso relating to records disposal.

§2207. Claim settlements; reports to Congress

The Commission, acting on behalf of the United States, is authorized to consider, ascertain, adjust, determine, settle, and pay, any claim for money damage of $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from any detonation, explosion, or radiation produced in the conduct of any program undertaken by the Commission involving the detonation of an explosive device, where such claim is presented to the Commission in writing within one year after the accident or incident out of which the claim arises: *Provided, however,* That the damage to or loss of property, or bodily injury or death, shall not have been caused in whole or in part by any negligence or wrongful act on the part of the claimant, his agents, or employees. Any such settlement under the authority of this section shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary. If the Commission considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this section, the Commission may report the facts and circumstances thereof to the Congress for its consideration.

(Aug. 1, 1946, ch. 724, title I, §167, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 952; amended Pub. L. 87–206, §14, Sept. 6, 1961, 75 Stat. 478; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

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1961—Pub. L. 87–206 substituted "any program undertaken by the Commission involving the detonation of an explosive device" for "the Commission's program for testing atomic weapons" and authorized the Commission to report meritorious claims in excess of $5,000 to the Congress.

§2208. Payments in lieu of taxes

In order to render financial assistance to those States and localities in which the activities of the Commission are carried on, and in which the Commission has acquired property previously subject to State and local taxation, the Commission is authorized to make payments to State and local governments in lieu of property taxes. Such payments may be in the amounts, at the times, and upon the terms the Commission deems appropriate, but the Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the Commission, the Manhattan Engineer District or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment.

(Aug. 1, 1946, ch. 724, title I, §168, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 952; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

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PRIOR PROVISIONS

Provisions similar to this section were contained in section 1809(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2209. Subsidies

No funds of the Commission shall be employed in the construction or operation of facilities licensed under section 2133 or 2134 of this title except under contract or other arrangement entered into pursuant to section 2051 of this title.

(Aug. 1, 1946, ch. 724, title I, §169, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 952; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2210. Indemnification and limitation of liability

(a) Requirement of financial protection for licensees

Each license issued under section 2133 or 2134 of this title and each construction permit issued under section 2235 of this title shall, and each license issued under section 2073, 2093, or 2111 of this title may, for the public purposes cited in section 2012(i) of this title, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Nuclear Regulatory Commission (in this section referred to as the "Commission") in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection (b) to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection (c). The Commission may require, as a further condition of issuing a license, that an applicant waive any immunity from public liability conferred by Federal or State law.

(b) Amount and type of financial protection for licensees

(1) The amount of primary financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (A) the cost and terms of private insurance, (B) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (C) the nature and purpose of the licensed activity: *Provided*, That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of primary financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources (excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection). Such primary financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such primary financial protection: *And provided further*, That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $95,800,000 (subject to adjustment for inflation under subsection (t)), but not more than $15,000,000 in any 1 year (subject to adjustment for inflation under subsection (t)), for each facility for which such licensee is required to maintain the maximum amount of primary financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs (excluding legal costs subject to subsection (o)(1)(D), payment of which has not been authorized under such subsection) arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premium provided for in this chapter shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission.

(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.

(3) The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.

(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds—

(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obligations to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the

Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

(B) A combination of facilities referred to in subparagraph (A) is two or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.

(c) Indemnification of licensees by Nuclear Regulatory Commission

The Commission shall, with respect to licenses issued between August 30, 1954, and December 31, 2065, for which it requires financial protection of less than $560,000,000, agree to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability arising from nuclear incidents which is in excess of the level of financial protection required of the licensee. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000 excluding costs of investigating and settling claims and defending suits for damage: *Provided, however,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000. Such a contract of indemnification shall cover public liability arising out of or in connection with the licensed activity. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2065, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2065.

(d) Indemnification of contractors by Department of Energy

(1)(A) In addition to any other authority the Secretary of Energy (in this section referred to as the "Secretary") may have, the Secretary shall, until December 31, 2065, enter into agreements of indemnification under this subsection with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability and that are not subject to financial protection requirements under subsection (b) or agreements of indemnification under subsection (c) or (k).

(B)(i)(I) Beginning 60 days after August 20, 1988, agreements of indemnification under subparagraph (A) shall be the exclusive means of indemnification for public liability arising from activities described in such subparagraph, including activities conducted under a contract that contains an indemnification clause under Public Law 85–804 [50 U.S.C. 1431 et seq.] entered into between August 1, 1987, and August 20, 1988.

(II) The Secretary may incorporate in agreements of indemnification under subparagraph (A) the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity authorized in subsection (n)(1) to be incorporated in agreements of indemnification. Any such provisions incorporated under this subclause shall apply to any nuclear incident arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A).

(ii) Public liability arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A) that are funded by the Nuclear Waste Fund established in section 10222 of this title shall be compensated from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection (b).

(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation

under subsection (t)), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.

(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on August 8, 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.

(4) Financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section for any Department of Energy demonstration reactor licensed by the Commission under section 5842 of this title.

(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed $2,000,000,000.

(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

(7) A contractor with whom an agreement of indemnification has been executed under paragraph (1)(A) and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this subsection, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.

(e) Limitation on aggregate public liability

(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection (o)(1)(D), shall not exceed—

(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection (b) (plus any surcharge assessed under subsection (o)(1)(E));

(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection (d), the amount of indemnity and financial protection that may be required under paragraph (2) of subsection (d); and

(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

(i) $500,000,000, together with the amount of financial protection required of the licensee; or

(ii) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in subsection (i) and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection (b), to fund any action undertaken pursuant to paragraph (2).

(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection (d) is applicable, such aggregate public liability shall not exceed the amount of $2,000,000,000, together with the amount of financial protection required of the contractor.

(f) Collection of fees by Nuclear Regulatory Commission

The Commission or the Secretary, as appropriate, is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy capacity for facilities licensed under section 2133 of this title: *Provided*, That the Commission or the Secretary, as appropriate, is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 2134 of this title, and for construction permits under section 2235 of this title, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 2134 of this title, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.

(g) Use of services of private insurers

In administering the provisions of this section, the Commission or the Secretary, as appropriate, shall use, to the maximum extent practicable, the facilities and services of private insurance organizations, and the Commission or the Secretary, as appropriate, may contract to pay a reasonable compensation for such services. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 6101 of title 41 upon a showing by the Commission or the Secretary, as appropriate, that advertising is not reasonably practicable and advance payments may be made.

(h) Conditions of agreements of indemnification

The agreement of indemnification may contain such terms as the Commission or the Secretary, as appropriate, deems appropriate to carry out the purposes of this section. Such agreement shall provide that, when the Commission or the Secretary, as appropriate, makes a determination that the United States will probably be required to make indemnity payments under this section, the Commission or the Secretary, as appropriate, shall collaborate with any person indemnified and may approve the payment of any claim under the agreement of indemnification, appear through the Attorney General on behalf of the person indemnified, take charge of such action, and settle or defend any such action. The Commission or the Secretary, as appropriate, shall have final authority on behalf of the United States to settle or approve the settlement of any such claim on a fair and reasonable basis with due regard for the purposes of this chapter. Such settlement shall not include expenses in connection with the claim incurred by the person indemnified.

(i) Compensation plans

(1) After any nuclear incident involving damages that are likely to exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1), the Secretary or the Commisison,[1] as appropriate, shall—

(A) make a survey of the causes and extent of damage; and

(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts.

(2) Not later than 90 days after any determination by a court, pursuant to subsection (o), that the public liability from a single nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1) the President shall submit to the Congress—

(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection (e)(1);

(B) recommendations for additional sources of funds to pay claims exceeding the applicable

amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection (e)(1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

(D) any additional legislative authorities necessary to implement such compensation plan or plans.

(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

(4) No such compensation plan may be considered approved for purposes of subsection (e)(2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6 [2] of this subsection.

(5) For the purpose of paragraph (4) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(6)(A) This paragraph is enacted—

(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(B) For purposes of this paragraph, the term "resolution" means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: "That the approves the compensation plan numbered submitted to the Congress on , 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one

hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.

(j) Contracts in advance of appropriations

In administering the provisions of this section, the Commission or the Secretary, as appropriate, may make contracts in advance of appropriations and incur obligations without regard to sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31.

(k) Exemption from financial protection requirement for nonprofit educational institutions

With respect to any license issued pursuant to section 2073, 2093, 2111, 2134(a), or 2134(c) of this title, for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection requirement of subsection (a). With respect to licenses issued between August 30, 1954, and December 31, 2065, for which the Commission grants such exemption:

(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of $250,000 arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed $500,000,000, including such legal costs of the licensee as are approved by the Commission;

(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency.

Any licensee may waive an exemption to which it is entitled under this subsection. With respect to any production or utilization facility for which a construction permit is issued between August 30, 1954, and December 31, 2065, the requirements of this subsection shall apply to any license issued for such facility subsequent to December 31, 2065.

(l) Presidential commission on catastrophic nuclear accidents

(1) Not later than 90 days after August 20, 1988, the President shall establish a commission (in this subsection referred to as the "study commission") in accordance with chapter 10 of title 5 to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection (e)(1).

(2)(A) The study commission shall consist of not less than 7 and not more than 11 members, who—

(i) shall be appointed by the President; and

(ii) shall be representative of a broad range of views and interests.

(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

(E) The President shall designate one of the members of the study commission as chairperson, to serve at the pleasure of the President.

(3) The study commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection (e)(1), and shall submit to the Congress a final report setting forth—

(A) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period; and

(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of title 5.

(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

(C) The Attorney General, the Secretary of Health and Human Services, and the Administrator of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice or assistance upon request by the chairperson of the study commission.

(E) Each member of the study commission may receive compensation at the maximum rate prescribed by chapter 10 of title 5 for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per diem in lieu of subsistence under sections 5702 and 5703 of title 5.

(F) The functions of the President under chapter 10 of title 5 that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on August 20, 1988.

(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.

(m) Coordinated procedures for prompt settlement of claims and emergency assistance

The Commission or the Secretary, as appropriate, is authorized to enter into agreements with other indemnitors to establish coordinated procedures for the prompt handling, investigation, and settlement of claims for public liability. The Commission or the Secretary, as appropriate, and other indemnitors may make payments to, or for the aid of, claimants for the purpose of providing immediate assistance following a nuclear incident. Any funds appropriated to the Commission or the Secretary, as appropriate, shall be available for such payments. Such payments may be made without securing releases, shall not constitute an admission of the liability of any person indemnified or of any indemnitor, and shall operate as a satisfaction to the extent thereof of any final settlement or judgment.

(n) Waiver of defenses and judicial procedures

(1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

(A) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility,

(B) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility,

(C) during the course of the contract activity arises out of or results from the possession, operation, or use by a Department of Energy contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

(D) arises out of, results from, or occurs in the course of, the construction, possession, or operation of any facility licensed under section 2073, 2093, or 2111 of this title, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection (a),

(E) arises out of, results from, or occurs in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under section 2073, 2093, or 2111 of this title, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection (a), or

(F) arises out of, results from, or occurs in the course of nuclear waste activities.[3]

the Commission or the Secretary, as appropriate, may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons indemnified, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded

under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection (e).

(2) With respect to any public liability action arising out of or resulting from a nuclear incident, the United States district court in the district where the nuclear incident takes place, or in the case of a nuclear incident taking place outside the United States, the United States District Court for the District of Columbia, shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. Upon motion of the defendant or of the Commission or the Secretary, as appropriate, any such action pending in any State court (including any such action pending on August 20, 1988) or United States district court shall be removed or transferred to the United States district court having venue under this subsection. Process of such district court shall be effective throughout the United States. In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28 or within the 30-day period beginning on August 20, 1988, whichever occurs later.

(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the "management panel") to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

(i) a court, acting pursuant to subsection (o), determines that the aggregate amount of public liability is likely to exceed the amount of primary financial protection available under subsection (b) (or an equivalent amount in the case of a contractor indemnified under subsection (d)); or

(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

(C) It shall be the function of each management panel—

(i) to consolidate related or similar claims for hearing or trial;

(ii) to establish priorities for the handling of different classes of cases;

(iii) to assign cases to a particular judge or special master;

(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.

(o) Plan for distribution of funds

(1) Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed the limit of liability under the applicable limit of liability under subparagraph (A), (B), or (C) of subsection (e)(1):

(A) Total payments made by or for all indemnitors as a result of such nuclear incident shall not exceed 15 per centum of such limit of liability without the prior approval of such court;

(B) The court shall not authorize payments in excess of 15 per centum of such limit of liability unless the court determines that such payments are or will be in accordance with a plan of

distribution which has been approved by the court or such payments are not likely to prejudice the subsequent adoption and implementation by the court of a plan of distribution pursuant to subparagraph (C); and

(C) The Commission or the Secretary, as appropriate, shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another plan; and to determine the proportionate share of funds available for each claimant. The Commission or the Secretary as appropriate, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States.

(D) A court may authorize payment of only such legal costs as are permitted under paragraph (2) from the amount of financial protection required by subsection (b).

(E) If the sum of public liability claims and legal costs authorized under paragraph (2) arising from any nuclear incident exceeds the maximum amount of financial protection required under subsection (b), any licensee required to pay a standard deferred premium under subsection (b)(1) shall, in addition to such deferred premium, be charged such an amount as is necessary to pay a pro rata share of such claims and costs, but in no case more than 5 percent of the maximum amount of such standard deferred premium described in such subsection.

(2) A court may authorize the payment of legal costs under paragraph (1)(D) only if the person requesting such payment has—

(A) submitted to the court the amount of such payment requested; and

(B) demonstrated to the court—

(i) that such costs are reasonable and equitable; and

(ii) that such person has—

(I) litigated in good faith;

(II) avoided unnecessary duplication of effort with that of other parties similarly situated;

(III) not made frivolous claims or defenses; and

(IV) not attempted to unreasonably delay the prompt settlement or adjudication of such claims.

(p) Reports to Congress

The Commission and the Secretary shall submit to the Congress by December 31, 2061, detailed reports concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.

(q) Limitation on awarding of precautionary evacuation costs

No court may award costs of a precautionary evacuation unless such costs constitute a public liability.

(r) Limitation on liability of lessors

No person under a bona fide lease of any utilization or production facility (or part thereof or undivided interest therein) shall be liable by reason of an interest as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting

from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.

(s) Limitation on punitive damages

No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.

(t) Inflation adjustment

(1) The Commission shall adjust the amount of the maximum total and annual standard deferred premium under subsection (b)(1) not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) August 20, 2003, in the case of the first adjustment under this subsection; or

(B) the previous adjustment under this subsection.

(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection (d) not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) that date, in the case of the first adjustment under this paragraph; or

(B) the previous adjustment under this paragraph.

(3) For purposes of this subsection, the term "Consumer Price Index" means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

(Aug. 1, 1946, ch. 724, title I, §170, as added Pub. L. 85–256, §4, Sept. 2, 1957, 71 Stat. 576; amended Pub. L. 85–602, §§2, 2[3], Aug. 8, 1958, 72 Stat. 525; Pub. L. 85–744, Aug. 23, 1958, 72 Stat. 837; Pub. L. 87–206, §15, Sept. 6, 1961, 75 Stat. 479; Pub. L. 87–615, §§6, 7, Aug. 29, 1962, 76 Stat. 410; Pub. L. 88–394, §§2, 3, Aug. 1, 1964, 78 Stat. 376; Pub. L. 89–210, §§1–5, Sept. 29, 1965, 79 Stat. 855–857; Pub. L. 89–645, §§2, 3, Oct. 13, 1966, 80 Stat. 891; Pub. L. 94–197, §§2–14, Dec. 31, 1975, 89 Stat. 1111–1115; Pub. L. 100–408, §§2–4(a), 5(c)–11(a), (c), (d)(1), 12–15, 16(a)(2), (b)(3)–(c), (d)(4)–(e), Aug. 20, 1988, 102 Stat. 1066–1068, 1070–1080; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–362, title XII, §1201(b), Nov. 10, 1998, 112 Stat. 3292; Pub. L. 107–314, div. C, title XXXI, §3171, Dec. 2, 2002, 116 Stat. 2743; Pub. L. 108–7, div. O, §101, Feb. 20, 2003, 117 Stat. 551; Pub. L. 108–375, div. C, title XXXI, §3141, Oct. 28, 2004, 118 Stat. 2171; Pub. L. 109–58, title VI, §§602–608, Aug. 8, 2005, 119 Stat. 779–781; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 117–286, §4(a)(260), Dec. 27, 2022, 136 Stat. 4334; Pub. L. 118–47, div. G, title I, §107(a)–(c), Mar. 23, 2024, 138 Stat. 857.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1) and (h), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Public Law 85–804, referred to in subsec. (d)(1)(B)(i)(I), is Pub. L. 85–804, Aug. 28, 1958, 72 Stat. 972, which is classified generally to chapter 29 (§1431 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (n)(3)(C)(v), (vi), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

In subsec. (g), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5), as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2024—Pub. L. 118–47, §107(a), substituted "December 31, 2065" for "December 31, 2025" wherever appearing.

Subsec. (d)(5). Pub. L. 118–47, §107(b)(1), substituted "$2,000,000,000" for "$500,000,000".

Subsec. (e)(4). Pub. L. 118–47, §107(b)(2), substituted "$2,000,000,000" for "$500,000,000".

Subsec. (p). Pub. L. 118–47, §107(c), substituted "December 31, 2061" for "December 31, 2021".

2022—Subsec. (l)(1). Pub. L. 117–286, §4(a)(260)(A), substituted "chapter 10 of title 5" for "the Federal Advisory Committee Act (5 U.S.C. App.)".

Subsec. (l)(4)(A). Pub. L. 117–286, §4(a)(260)(B)(i), substituted "title 5." for "the Federal Advisory Committee Act (5 U.S.C. App.) and title 5."

Subsec. (l)(4)(E), (F). Pub. L. 117–286, §4(a)(260)(B)(ii), substituted "chapter 10 of title 5" for "the Federal Advisory Committee Act (5 U.S.C. App.)".

2005—Subsec. (b)(1). Pub. L. 109–58, §603(1), substituted "$95,800,000" for "$63,000,000" and "$15,000,000 in any 1 year (subject to adjustment for inflation under subsection (t))" for "$10,000,000 in any 1 year" in second proviso of third sentence.

Subsec. (b)(5). Pub. L. 109–58, §608, added par. (5).

Subsec. (c). Pub. L. 109–58, §602(a), substituted "licensees" for "licenses" in heading and substituted "December 31, 2025" for "December 31, 2003" in text wherever appearing.

Subsec. (d)(1)(A). Pub. L. 109–58, §602(b), substituted "December 31, 2025" for "December 31, 2006".

Subsec. (d)(2). Pub. L. 109–58, §604(a), added par. (2) and struck out former par. (2) which read as follows: "In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary."

Subsec. (d)(3). Pub. L. 109–58, §604(b), added par. (3) and struck out former par. (3) which read as follows:

"(3)(A) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection (b) of this section is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall at all times remain equal to or greater than the maximum amount of financial protection required of licensees under subsection (b) of this section.

"(B) The amount of indemnity provided contractors under this subsection shall not, at any time, be reduced in the event that the maximum amount of financial protection required of licensees is reduced.

"(C) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on August 20, 1988, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on August 20, 1988."

Subsec. (d)(5). Pub. L. 109–58, §605(a), substituted "$500,000,000" for "$100,000,000".

Subsec. (e)(1)(B). Pub. L. 109–58, §604(c), struck out "the maximum amount of financial protection required under subsection (b) or" before "the amount of indemnity" and substituted "paragraph (2) of subsection (d)" for "paragraph (3) of subsection (d), whichever amount is more".

Subsec. (e)(4). Pub. L. 109–58, §605(b), substituted "$500,000,000" for "$100,000,000".

Subsec. (k). Pub. L. 109–58, §602(c), substituted "December 31, 2025" for "August 1, 2002" wherever appearing.

Subsec. (p). Pub. L. 109–58, §606, substituted "December 31, 2021" for "August 1, 1998".

Subsec. (t)(1). Pub. L. 109–58, §603(2), inserted "total and annual" before "standard deferred premium" in introductory provisions and substituted "August 20, 2003" for "August 20, 1988" in introductory provisions and subpar. (A).

Subsec. (t)(2), (3). Pub. L. 109–58, §607, added par. (2) and redesignated former par. (2) as (3).

2004—Subsec. (d)(1)(A). Pub. L. 108–375 substituted "until December 31, 2006" for "until December 31, 2004".

2003—Subsec. (c). Pub. L. 108–7 substituted "December 31, 2003" for "August 1, 2002" wherever appearing.

2002—Subsec. (d)(1)(A). Pub. L. 107–314 substituted "until December 31, 2004," for "until August 1, 2002,".

1998—Subsec. (p). Pub. L. 105–362 struck out par. (1) designation and struck out par. (2) which read as follows: "Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual

report to the Congress setting forth the activities under this section during the preceding calendar year."

1988—Subsec. (a). Pub. L. 100–408, §16(e)(1), inserted "Requirement of financial protection for licensees" as heading.

Pub. L. 100–408, §16(d)(4), substituted "section 2i." for "subsection 2i. of the Atomic Energy Act of 1954, as amended", "subsection b." for "subsection 170b.", and "subsection c." for "subsection 170c.", which for purposes of codification were translated as "section 2012(i) of this title", "subsection (b)", and "subsection (c)", respectively, thus requiring no change in text.

Pub. L. 100–408, §16(a)(2), substituted "the Nuclear Regulatory Commission (in this section referred to as the 'Commission') in the exercise" for "the Commission in the exercise".

Subsec. (b). Pub. L. 100–408, §16(e)(2), inserted "Amount and type of financial protection for licensees" as heading.

Subsec. (b)(1). Pub. L. 100–408, §2(a)–(c)(3), inserted par. (1) designation, inserted "primary" after "The amount of", "the amount of", "Such", and "of such", redesignated cls. (1) to (3) as (A) to (C), inserted "(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)", substituted "The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection," for "In prescribing such terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from December 31, 1975, include, in determining such maximum amount", substituted "That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $63,000,000 (subject to adjustment for inflation under subsection (t)), but not more than $10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection" for "That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection", inserted "(excluding legal costs subject to subsection (o)(1)(D), payment of which has not been authorized under such subsection)", and struck out "The Commission is authorized to establish a maximum amount which the aggregate deferred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard."

Subsec. (b)(2). Pub. L. 100–408, §2(c)(4), added par. (2).

Subsec. (b)(3). Pub. L. 100–408, §2(d)(1), inserted par. (3) designation.

Subsec. (b)(4). Pub. L. 100–408, §2(d)(2), added par. (4).

Subsec. (c). Pub. L. 100–408, §16(e)(3), inserted "Indemnification of licenses by Nuclear Regulatory Commission" as heading.

Pub. L. 100–408, §3, substituted "August 1, 2002" for "August 1, 1987" wherever appearing.

Subsec. (d). Pub. L. 100–408, §4(a), inserted "Indemnification of contractors by Department of Energy" as heading and completely revised and expanded subsec. (d), changing its structure from a single unnumbered subsection to one consisting of seven numbered paragraphs.

Subsec. (e). Pub. L. 100–408, §6, inserted "Limitation on aggregate public liability" as heading and completely revised and expanded subsec. (e), changing its structure from a single unnumbered subsection to one consisting of four numbered paragraphs.

Subsec. (f). Pub. L. 100–408, §16(e)(4), inserted "Collection of fees by Nuclear Regulatory Commission" as heading.

Pub. L. 100–408, §16(b)(3), inserted "or the Secretary, as appropriate," in two places.

Subsec. (g). Pub. L. 100–408, §16(e)(5), inserted "Use of services of private insurers" as heading.

Pub. L. 100–408, §16(c)(1), substituted "section 3709 of the Revised Statutes (41 U.S.C. 5)" for "section 3709 of the Revised Statutes", which for purposes of codification was translated as "section 5 of title 41", thus requiring no change in text.

Pub. L. 100–408, §16(b)(4), inserted "or the Secretary, as appropriate," after "Commission", wherever appearing.

Subsec. (h). Pub. L. 100–408, §16(e)(6), inserted "Conditions of agreements of indemnification" as heading.

Pub. L. 100–408, §16(b)(4), inserted "or the Secretary, as appropriate," after "Commission", wherever appearing.

Subsec. (i). Pub. L. 100–408, §7(a), inserted "Compensation plans" as heading and completely revised and

expanded subsec. (i), changing its structure from a single unnumbered subsection to one consisting of six numbered paragraphs.

Subsec. (j). Pub. L. 100–408, §16(e)(7), inserted "Contracts in advance of appropriations" as heading.

Pub. L. 100–408, §16(c)(2), substituted "sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31" for "section 3679 of the Revised Statutes, as amended".

Pub. L. 100–408, §16(b)(4), inserted "or the Secretary, as appropriate,".

Subsec. (k). Pub. L. 100–408, §16(e)(8), inserted "Exemption from financial protection requirement for nonprofit educational institutions" as heading.

Pub. L. 100–408, §16(d)(5), in introductory provisions substituted "subsection a" for "subsection 170a", which for purposes of codification was translated as "subsection (a)", thus requiring no change in text.

Pub. L. 100–408, §8(1), substituted "August 1, 2002" for "August 1, 1987", wherever appearing in introductory and closing provisions.

Subsec. (k)(1). Pub. L. 100–408, §8(2), substituted "including such legal costs of the licensee as are approved by the Commission" for "excluding cost of investigating and settling claims and defending suits for damage".

Subsec. (l). Pub. L. 100–408, §9, inserted "Presidential commission on catastrophic nuclear accidents" as heading and completely revised and expanded subsec. (l), changing its structure from a single unnumbered subsection to one consisting of six numbered paragraphs.

Subsec. (m). Pub. L. 100–408, §16(e)(9), inserted "Coordinated procedures for prompt settlement of claims and emergency assistance" as heading.

Pub. L. 100–408, §16(b)(4), inserted "or the Secretary, as appropriate," after "Commission" wherever appearing.

Subsec. (n). Pub. L. 100–408, §16(e)(10), inserted "Waiver of defenses and judicial procedures" as heading.

Subsec. (n)(1). Pub. L. 100–408, §§10, 16(b)(5)(A), (d)(6), redesignated existing subpars. (a), (b), and (c) as (A), (B), and (C), respectively, added subpars. (D), (E), and (F), substituted "a Department of Energy contractor" for "a Commission contractor" in subpar. (C), and, in closing provisions inserted ", or the Secretary, as appropriate," after "the Commission", struck out ", but in no event more than twenty years after the date of the nuclear incident" after "and the cause thereof", and substituted "subsection e" for "subsection 170e", which for purposes of codification was translated as "subsection (e)", requiring no change in text.

Subsec. (n)(2). Pub. L. 100–408, §16(b)(5)(B), inserted "or the Secretary, as appropriate" after "Commission".

Pub. L. 100–408, §11(a), substituted "a nuclear incident" for "an extraordinary nuclear occurrence" in two places and "the nuclear incident" for "the extraordinary nuclear occurrence", and inserted "(including any such action pending on August 20, 1988)", and "In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28 or within the 30-day period beginning on August 20, 1988, whichever occurs later."

Subsec. (n)(3). Pub. L. 100–408, §11(c), added par. (3).

Subsec. (o). Pub. L. 100–408, §11(d)(1), inserted "Plan for distribution of funds" as heading, designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added subpars. (D) and (E) and par. (2).

Subsec. (o)(1). Pub. L. 100–408, §7(b)(1), substituted "the applicable limit of liability under subparagraph (A), (B), or (C) of subsection (e)(1)" for "subsection (e)" in introductory provisions.

Subsec. (o)(1)(B). Pub. L. 100–408, §16(d)(7), substituted "subparagraph (C)" for "subparagraph (3) of this subsection (o)".

Subsec. (o)(1)(C). Pub. L. 100–408, §16(b)(6), inserted "or the Secretary, as appropriate," after first reference to "Commission" and "or the Secretary as appropriate" after second reference to "Commission".

Subsec. (o)(4). Pub. L. 100–408, §7(b)(2), struck out par. (4) which read as follows: "The Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection (i) of this section setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided."

Subsec. (p). Pub. L. 100–408, §16(e)(11), inserted "Reports to Congress" as heading.

Pub. L. 100–408, §12, designated existing provisions as par. (1), substituted "and the Secretary shall submit to the Congress by August 1, 1998, detailed reports" for "shall submit to the Congress by August 1, 1983, a detailed report", and added par. (2).

Subsec. (q). Pub. L. 100–408, §5(c), added subsec. (q).

Subsec. (r). Pub. L. 100–408, §13, added subsec. (r).

Subsec. (s). Pub. L. 100–408, §14, added subsec. (s).

Subsec. (t). Pub. L. 100–408, §15, added subsec. (t).

1975—Subsec. (a). Pub. L. 94–197, §2, inserted provision relating to the public purposes cited in section 2012(i) of this title and "in the exercise of its licensing and regulatory authority and responsibility" after "as the Commission", and substituted "required, it may" for "required, it shall".

Subsec. (b). Pub. L. 94–197, §3, inserted requirement that for facilities having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be at a reasonable cost and on reasonable terms, and requirement that financial protection be subject to such terms and conditions as the Commission, by rule, regulation or order prescribes, and established premium and funding standards and procedures for prescribing terms and conditions for licensees required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources. Notwithstanding the directory language that amendment be made to section 107 b. of the Atomic Energy Act of 1954, as amended, the amendment was executed to section 170 b. of the Atomic Energy Act of 1954, as amended, (subsec. (b) of this section) as the probable intent of Congress.

Subsec. (c). Pub. L. 94–197, §4, substituted "and August 1, 1987, for which it requires financial protection of less than $560,000,000," for "and August 1, 1977, for which it requires financial protection,", "excluding" for "including the reasonable", and "August 1, 1987" for "August 1, 1977" in text relating to any production or utilization facility.

Subsec. (d). Pub. L. 94–197, §5, substituted "until August 1, 1987," for "until August 1, 1977," and "excluding" for "including the reasonable".

Subsec. (e). Pub. L. 94–197, §6, designated existing provisions as cl. (1), added cl. (2), substituted proviso relating to Congressional review and action for proviso relating to aggregate liability exceeding the sum of $560,000,000, and substituted "*And provided further*" for "*Provided further*".

Subsec. (f). Pub. L. 94–197, §7, inserted proviso which authorized Commission to reduce the indemnity fee for persons with whom indemnification agreements have been executed in reasonable relation to increases in financial protection above a level of $60,000,000.

Subsec. (h). Pub. L. 94–197, §8, substituted "shall not include" for "may include reasonable".

Subsec. (i). Pub. L. 94–197, §9, inserted "or which will probably result in public liability claims in excess of $560,000,000," after "this section", and requirement that Commission report extent of damage caused from a nuclear incident to the Congressmen of the affected districts and the Senators of the affected state and substituted provision relating to information concerning the national defense, for provisions relating to applicability of prohibition of sections 2161 to 2166 of this title, other laws or Executive order.

Subsec. (k). Pub. L. 94–197, §10, substituted "August 1, 1987" for "August 1, 1977" wherever appearing and substituted "excluding" for "including the reasonable" in par. (1).

Subsec. (l). Pub. L. 94–197, §11, substituted "excluding" for "including the reasonable".

Subsec. (n)(1)(iii). Pub. L. 94–197, §12, substituted "twenty years" for "ten years".

Subsec. (o)(3), (4). Pub. L. 94–197, §13, in par. (3) inserted provisions authorizing the establishment, in any plan for disposition of claims, of priorities between classes of claims and claimants to extent necessary to ensure the most equitable allocation of available funds, and added par. (4).

Subsec. (p). Pub. L. 94–197, §14, added subsec. (p).

1966—Subsec. (e). Pub. L. 89–645, §2, struck out last sentence which authorized application by the Commission or any indemnified person to district court of the United States having venue in bankruptcy over location of nuclear incident and to United States District Court for the District of Columbia in cases of nuclear incidents occurring outside the United States, and upon a showing that public liability from a single nuclear incident will probably exceed the limit of imposable liability, entitled the applicant to orders for enforcement of this section, including limitation of liability of indemnified persons, staying payment of claims and execution of court judgments, apportioning payments to claimants, permitting partial payments before final determination of total claims, and setting aside part of funds for possible injuries not discovered until later time, now incorporated in subsec. (o) of this section.

Subsecs. (m) to (o). Pub. L. 89–645, §3, added subsecs. (m) to (o).

1965—Subsec. (c). Pub. L. 89–210, §1, substituted "August 1, 1977" for "August 1, 1967" wherever appearing, and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (d). Pub. L. 89–210, §2, substituted "August 1, 1977" for "August 1, 1967," and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

Subsec. (e). Pub. L. 89–210, §3, inserted proviso prohibiting the aggregate liability to exceed the sum of $560,000,000.

Subsec. (k). Pub. L. 89–210, §4, substituted "August 1, 1977" for "August 1, 1967" wherever appearing.

Subsec. (l). Pub. L. 89–210, §5, substituted "August 1, 1977" for "August 1, 1967" and "in the amount of $500,000,000" for "in the maximum amount provided by subsection (e) of this section", inserted "in the aggregate for all persons indemnified in connection with each nuclear incident", and inserted proviso requiring the amount of indemnity to be reduced by the amount that the financial protection required shall exceed $60,000,000.

1964—Subsec. (c). Pub. L. 88–394, §2, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

Subsec. (k). Pub. L. 88–394, §3, provided that with respect to any facility for which a permit is issued between Aug. 30, 1954, and Aug. 1, 1967, the requirements of the subsection shall apply to any license issued subsequent to Aug. 1, 1967.

1962—Subsec. (d). Pub. L. 87–615, §6, limited the amount of indemnity provided by the Commission for nuclear incidents occurring outside the United States to $100,000,000.

Subsec. (e). Pub. L. 87–615, §7, inserted proviso limiting the aggregate liability in cases of nuclear incidents occurring outside the United States to which an indemnification agreement entered into under subsec. (d) of this section is applicable, to $100,000,000, and substituted "occurring outside the United States, the Commission or any person indemnified may apply to the United States District Court for the District of Columbia" for "caused by ships of the United States outside of the United States, the Commission or any person indemnified may apply to the appropriate district court of the United States having venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship".

1961—Subsec. (d). Pub. L. 87–206 inserted provision for liability of contractor to extent of indemnification under this section free of defense of sovereign immunity.

1958—Subsec. (e). Pub. L. 85–602, §2[3], gave the district court that has venue in bankruptcy matters over the location of the principal place of business of the shipping company owning or operating the ship, jurisdiction in cases of nuclear incidents caused by ships of the United States outside of the United States.

Subsec. (k). Pub. L. 85–744 added subsec. (k).

Subsec. (l). Pub. L. 85–602, §2, added subsec. (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" in subsec. (l)(4)(C) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, §609, Aug. 8, 2005, 119 Stat. 781, provided that: "The amendments made by sections 603, 604, and 605 [amending this section] do not apply to a nuclear incident that occurs before the date of the enactment of this Act [Aug. 8, 2005]."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–408 effective Aug. 20, 1988, and applicable with respect to nuclear incidents occurring on or after Aug. 20, 1988, except that amendment by section 11 of Pub. L. 100–408 applicable to nuclear incidents occurring before, on, or after Aug. 20, 1988, see section 20 of Pub. L. 100–408, set out as a note under section 2014 of this title.

SHORT TITLE

This section is popularly known as the "Price-Anderson Act" and also as the "Atomic Energy Damages Act".

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section

315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

FINDINGS

Pub. L. 106–245, §2, July 10, 2000, 114 Stat. 501, provided that: "Congress finds that—

"(1) the Radiation Exposure Compensation Act [Pub. L. 101–426] (42 U.S.C. 2210 note) recognized the responsibility of the Federal Government to compensate individuals who were harmed by the mining of radioactive materials or fallout from nuclear arms testing;

"(2) a congressional oversight hearing conducted by the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate demonstrated that since enactment of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), regulatory burdens have made it too difficult for some deserving individuals to be fairly and efficiently compensated;

"(3) reports of the Atomic Energy Commission and the National Institute for Occupational Safety and Health testify to the need to extend eligibility to States in which the Federal Government sponsored uranium mining and milling from 1941 through 1971;

"(4) scientific data resulting from the enactment of the Radiation[–]Exposed Veterans Compensation Act of 1988 (38 U.S.C. 101 note) [Pub. L. 100–321, see Tables for classification], and obtained from the Committee on the Biological Effects of Ionizing Radiations, and the President's Advisory Committee on Human Radiation Experiments provide medical validation for the extension of compensable radiogenic pathologies;

"(5) above-ground uranium miners, millers and individuals who transported ore should be fairly compensated, in a manner similar to that provided for underground uranium miners, in cases in which those individuals suffered disease or resultant death, associated with radiation exposure, due to the failure of the Federal Government to warn and otherwise help protect citizens from the health hazards addressed by the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note); and

"(6) it should be the responsibility of the Federal Government in partnership with State and local governments and appropriate healthcare organizations, to initiate and support programs designed for the early detection, prevention and education on radiogenic diseases in approved States to aid the thousands of individuals adversely affected by the mining of uranium and the testing of nuclear weapons for the Nation's weapons arsenal."

AFFIDAVITS

Pub. L. 106–245, §3(e)(2), July 10, 2000, 114 Stat. 507, provided that:

"(A) IN GENERAL.—The Attorney General shall take such action as may be necessary to ensure that the procedures established by the Attorney General under section 6 of the Radiation Exposure Compensation Act [Pub. L. 101–426] (42 U.S.C. 2210 note) provide that, in addition to any other material that may be used to substantiate employment history for purposes of determining working level months, an individual filing a claim under those procedures may make such a substantiation by means of an affidavit described in subparagraph (B).

"(B) AFFIDAVITS.—An affidavit referred to under subparagraph (A) is an affidavit—

"(i) that meets such requirements as the Attorney General may establish; and

"(ii) is made by a person other than the individual filing the claim that attests to the employment history of the claimant."

GAO REPORTS

Pub. L. 106–245, §3(i), July 10, 2000, 114 Stat. 508, which required General Accounting Office, not later than 18 months after July 10, 2000, and every 18 months thereafter, to submit a report to Congress containing

a detailed accounting of the administration of the Radiation Exposure Compensation Act (Pub. L. 101–426, 42 U.S.C. 2210 note) by the Department of Justice, was repealed by Pub. L. 107–273, div. C, title I, §11007(b), Nov. 2, 2002, 116 Stat. 1818. See section 14 of Pub. L. 101–426, set out below.

RADIATION EXPOSURE COMPENSATION

Pub. L. 101–426, Oct. 15, 1990, 104 Stat. 920, as amended by Pub. L. 101–510, div. C, title XXXI, §§3139, 3140, Nov. 5, 1990, 104 Stat. 1835, 1837; Pub. L. 102–486, title XXX, §3018, Oct. 24, 1992, 106 Stat. 3131; Pub. L. 106–245, §3(a)–(e)(1), (f)–(h), July 10, 2000, 114 Stat. 502–508; Pub. L. 107–107, div. A, title X, §1063, Dec. 28, 2001, 115 Stat. 1232; Pub. L. 107–273, div. C, title I, §11007(a), Nov. 2, 2002, 116 Stat. 1817; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–375, div. C, title XXXI, §3165(b), Oct. 28, 2004, 118 Stat. 2187; Pub. L. 108–447, div. B, title I, §122, Dec. 8, 2004, 118 Stat. 2870; Pub. L. 110–161, div. H, title I, §1502(g), Dec. 26, 2007, 121 Stat. 2250; Pub. L. 117–139, §2, June 7, 2022, 136 Stat. 1258; Pub. L. 119–21, title X, §§100201–100205, July 4, 2025, 139 Stat. 394–401, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Radiation Exposure Compensation Act'.

"SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

"(a) FINDINGS.—The Congress finds that—

"(1) fallout emitted during the Government's atmospheric nuclear tests exposed individuals to radiation that is presumed to have generated an excess of cancers among these individuals;

"(2) the health of the individuals who were exposed to radiation in these tests was put at risk to serve the national security interests of the United States;

"(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

"(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

"(5) the Congress recognizes that the lives and health of uranium miners and of individuals who were exposed to radiation were subjected to increased risk of injury and disease to serve the national security interests of the United States.

"(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

"(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

"SEC. 3. TRUST FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the 'Radiation Exposure Compensation Trust Fund' (hereinafter in this Act referred to as the 'Fund'), which shall be administered by the Secretary of the Treasury.

"(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

"(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

"(d) TERMINATION.—The Fund shall terminate on December 31, 2028. If all of the amounts in the Fund have not been expended by such date, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

"(e) APPROPRIATION.—

"(1) IN GENERAL.—There are appropriated to the Fund, out of any money in the Treasury not otherwise appropriated, for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary, not to exceed the applicable maximum amount specified in paragraph (2), to carry out the purposes of the Fund.

"(2) LIMITATION.—Appropriation of amounts to the Fund pursuant to paragraph (1) is subject to the following maximum amounts:

"(A) For fiscal year 2002, $172,000,000.

"(B) For fiscal year 2003, $143,000,000.

"(C) For fiscal year 2004, $107,000,000.

"(D) For fiscal year 2005, $65,000,000.

"SEC. 4. CLAIMS RELATING TO ATMOSPHERIC NUCLEAR TESTING.

"(a) CLAIMS.—

"(1) CLAIMS RELATING TO LEUKEMIA.—

"(A) IN GENERAL.—An individual described in this subparagraph shall receive the amount specified in subparagraph (B) if the conditions described in subparagraph (C) are met. An individual referred to in the preceding sentence is an individual who—

"(i)(I) was physically present in an affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on November 6, 1962;

"(II) was physically present in an affected area for the period beginning on June 30, 1962, and ending on July 31, 1962;

"(III) was physically present in an affected area for a period of at least 1 year during the period beginning on September 24, 1944, and ending on November 6, 1962; or

"(IV) participated onsite in a test involving the atmospheric detonation of a nuclear device; and

"(ii) submits written documentation that such individual developed leukemia—

"(I) after the applicable period of physical presence described in subclause (I), (II), or (III) of clause (i) or onsite participation described in clause (i)(IV) (as the case may be); and

"(II) more that [sic] 2 years after first exposure to fallout.

"(B) AMOUNT.—If the conditions described in subparagraph (C) are met, an individual who is described in subparagraph (A) shall receive $100,000.

"(C) CONDITIONS.—The conditions described in this subparagraph are as follows:

"(i) The claim for a payment under subparagraph (B) is filed with the Attorney General by or on behalf of the individual.

"(ii) The Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(iv) [sic] No payment under this paragraph previously has been made to the individual, on behalf of the individual, or to a survivor of the individual.

"(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who—

"(A) was physically present in an affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on November 6, 1962,

"(B) was physically present in an affected area for the period beginning on June 30, 1962, and ending on July 31, 1962;

"(C) was physically present in an affected area for a period of at least 1 year during the period beginning on September 24, 1944, and ending on November 6, 1962; or

"(D) participated onsite in a test involving the atmospheric detonation of a nuclear device,

and who submits written medical documentation that he or she, after such period of physical presence or such participation (as the case may be), contracted a specified disease, shall receive $100,000 if—

"(i) the claim for such payment is filed with the Attorney General by or on behalf of such individual;

"(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act; and

"(iii) no payment under this paragraph previously has been made to the individual, on behalf of the individual, or to a survivor of the individual.

"(3) CONFORMITY WITH SECTION 6.—Payments under this section may be made only in accordance with section 6.

"(4) EXCLUSION.—No payment may be made under this section on any claim of the Government of the Marshall Islands, or of any citizen or national of the Marshall Islands, that is referred to in Article X, Section 1 of the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact of Free Association (as approved by the Compact of Free Association Act of 1985 (Public Law 99–239) [48 U.S.C. 1901 et seq., 2001 et seq.]).

"(b) DEFINITIONS.—For purposes of this section, the term—

"(1) 'affected area' means—

"(A) except as provided under subparagraph (B)—

"(i) the States of New Mexico, Utah, and Idaho;

"(ii) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and

that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

"(iii) in the State of Arizona, the counties of Coconino, Yavapai, Navajo, Apache, and Gila, and Mohave; and

"(B) with respect to a claim by an individual under subsection (a)(1)(A)(i)(III) or subsection (a)(2)(C), only New Mexico; and

"(2) 'specified disease' means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was at least 2 years after first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the: thyroid, male or female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain, colon, ovary, liver (except if cirrhosis or hepatitis B is indicated), or lung.

"SEC. 5. CLAIMS RELATING TO URANIUM MINING.

"(a) ELIGIBILITY OF INDIVIDUALS.—

"(1) IN GENERAL.—An individual shall receive $100,000 for a claim made under this Act if—

"(A) that individual—

"(i)(I) was employed in a uranium mine or uranium mill (including any individual who was employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill) located in Colorado, New Mexico, Arizona, Wyoming, South Dakota, Washington, Utah, Idaho, North Dakota, Oregon, or Texas at any time during the period beginning on January 1, 1942, and ending on December 31, 1990; or

"(II) was employed as a core driller in a State referred to in subclause (I) during the period described in such subclause; and

"(ii)(I) was a miner exposed to 40 or more working level months of radiation or worked for at least 1 year during the period described under clause (i) and submits written medical documentation that the individual, after that exposure, developed lung cancer or a nonmalignant respiratory disease or renal cancer or any other chronic renal disease, including nephritis and kidney tubal tissue injury;

"(II) was a miller, core driller, or ore transporter, or was involved in remediation efforts at such a uranium mine or uranium mill, who worked for at least 1 year during the period described under clause (i)(I) and submits written medical documentation that the individual, after that exposure, developed lung cancer or a nonmalignant respiratory disease or renal cancer or any other chronic renal disease, including nephritis and kidney tubal tissue injury; or

"(III)(aa) does not meet the conditions of subclause (I) or (II);

"(bb) worked, during the period described in clause (i)(I), in 2 or more of the following positions: miner, miller, core driller, and ore transporter;

"(cc) meets the requirements under paragraph (4) or (5); and

"(dd) submits written medical documentation that the individual developed lung cancer, a nonmalignant respiratory disease, renal cancer, or any other chronic renal disease, including nephritis and kidney tubal tissue injury after exposure to radiation through work in one or more of the positions referred to in item (bb);

"(B) the claim for that payment is filed with the Attorney General by or on behalf of that individual; and

"(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(2) INCLUSION OF ADDITIONAL STATES.—Paragraph (1)(A)(i) shall apply to a State, in addition to the States named under such clause, if—

"(A) a uranium mine was operated in such State at any time during the period beginning on January 1, 1942, and ending on December 31, 1971;

"(B) the State submits an application to the Department of Justice to include such State; and

"(C) the Attorney General makes a determination to include such State.

"(3) PAYMENT REQUIREMENT.—Each payment under this section may be made only in accordance with section 6.

"(4) SPECIAL RULE RELATING TO COMBINED WORK HISTORIES FOR INDIVIDUALS WITH AT LEAST ONE YEAR OF EXPERIENCE.—An individual meets the requirements under this paragraph if the individual worked in one or more of the positions referred to in paragraph (1)(A)(ii)(III)(bb) for a period of at least one year during the period described in paragraph (1)(A)(i)(I).

"(5) SPECIAL RULE RELATING TO COMBINED WORK HISTORIES FOR MINERS.—An individual meets the requirements of this paragraph if the individual, during the period described in paragraph (1)(A)(i)(I), worked as a miner and was exposed to such number of working level months that the

Attorney General determines, when combined with the exposure of such individual to radiation through work as a miller, core driller, or ore transporter during the period described in paragraph (1)(A)(i)(I), results in such individual being exposed to a total level of radiation that is greater or equal to the level of exposure of an individual described in paragraph (4).

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'working level month of radiation' means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

"(2) the term 'working level' means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

"(3) the term 'nonmalignant respiratory disease' means fibrosis of the lung, pulmonary fibrosis, corpulmonale related to fibrosis of the lung, silicosis, and pneumoconiosis;

"(4) the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians;

"(5) the term 'written medical documentation' for purposes of proving a nonmalignant respiratory disease means, in any case in which the claimant is living—

"(A)(i) an arterial blood gas study; or

"(ii) a written diagnosis by a physician meeting the requirements of subsection (c)(1); and

"(B)(i) a chest x-ray administered in accordance with standard techniques and the interpretive reports of a maximum of two National Institute of Occupational Health and Safety certified 'B' readers classifying the existence of the nonmalignant respiratory disease of category 1/0 or higher according to a 1989 report of the International Labor Office (known as the 'ILO'), or subsequent revisions;

"(ii) high resolution computed tomography scans (commonly known as 'HRCT scans') (including computer assisted tomography scans (commonly known as 'CAT scans'), magnetic resonance imaging scans (commonly known as 'MRI scans'), and positron emission tomography scans (commonly known as 'PET scans')) and interpretive reports of such scans;

"(iii) pathology reports of tissue biopsies; or

"(iv) pulmonary function tests indicating restrictive lung function, as defined by the American Thoracic Society;

"(6) the term 'lung cancer'—

"(A) means any physiological condition of the lung, trachea, or bronchus that is recognized as lung cancer by the National Cancer Institute; and

"(B) includes in situ lung cancers;

"(7) the term 'uranium mine' means any underground excavation, including 'dog holes', as well as open pit, strip, rim, surface, or other aboveground mines, where uranium ore or vanadium-uranium ore was mined or otherwise extracted;

"(8) the term 'uranium mill' includes milling operations involving the processing of uranium ore or vanadium-uranium ore, including both carbonate and acid leach plants; and

"(9) the term 'core driller' means any individual employed to engage in the act or process of obtaining cylindrical rock samples of uranium or vanadium by means of a borehole drilling machine for the purpose of mining uranium or vanadium.

"(c) WRITTEN DOCUMENTATION.—

"(1) DIAGNOSIS ALTERNATIVE TO ARTERIAL BLOOD GAS STUDY.—

"(A) IN GENERAL.—For purposes of this Act, the written diagnosis and the accompanying interpretive reports described in subsection (b)(5)(A) shall—

"(i) be considered to be conclusive; and

"(ii) be subject to a fair and random audit procedure established by the Attorney General.

"(B) CERTAIN WRITTEN DIAGNOSES.—

"(i) IN GENERAL.—For purposes of this Act, a written diagnosis made by a physician described under clause (ii) of a nonmalignant pulmonary disease of a claimant that is accompanied by written documentation shall be considered to be conclusive evidence of that disease.

"(ii) DESCRIPTION OF PHYSICIANS.—A physician referred to under clause (i) is a physician who—

"(I) is employed by the Indian Health Service or the Department of Veterans Affairs; or

"(II) is a board certified physician; and

"(III) has a documented ongoing physician patient relationship with the claimant.

"(2) CHEST X-RAYS.—

"(A) IN GENERAL.—For purposes of this Act, a chest x-ray and the accompanying interpretive

reports described in subsection (b)(5)(B) shall—

"(i) be considered to be conclusive; and

"(ii) be subject to a fair and random audit procedure established by the Attorney General.

"(B) CERTAIN WRITTEN DIAGNOSES.—

"(i) IN GENERAL.—For purposes of this Act, a written diagnosis made by a physician described in clause (ii) of a nonmalignant pulmonary disease of a claimant that is accompanied by written documentation that meets the definition of that term under subsection (b)(5) shall be considered to be conclusive evidence of that disease.

"(ii) DESCRIPTION OF PHYSICIANS.—A physician referred to under clause (i) is a physician who—

"(I) is employed by—

"(aa) the Indian Health Service; or

"(bb) the Department of Veterans Affairs; and

"(II) has a documented ongoing physician patient relationship with the claimant.

"SEC. 5A. CLAIMS RELATING TO MANHATTAN PROJECT WASTE.

"(a) In GENERAL.—A claimant shall receive compensation for a claim made under this Act, as described in subsection (b) or (c), if—

"(1) a claim for compensation is filed with the Attorney General—

"(A) by an individual described in paragraph (2); or

"(B) on behalf of that individual by an authorized agent of that individual, if the individual is deceased or incapacitated, such as—

"(i) an executor of estate of that individual; or

"(ii) a legal guardian or conservator of that individual;

"(2) that individual, or if applicable, an authorized agent of that individual, demonstrates that such individual—

"(A) was physically present in an affected area for a period of at least 2 years after January 1, 1949; and

"(B) contracted a specified disease after such period of physical presence;

"(3) the Attorney General certifies that the identity of that individual, and if applicable, the authorized agent of that individual, is not fraudulent or otherwise misrepresented; and

"(4) the Attorney General determines that the claimant has satisfied the applicable requirements of this Act.

"(b) LOSSES AVAILABLE TO LIVING AFFECTED INDIVIDUALS.—

"(1) IN GENERAL.—In the event of a claim qualifying for compensation under subsection (a) that is submitted to the Attorney General to be eligible for compensation under this section at a time when the individual described in subsection (a)(2) is living, the amount of compensation under this section shall be in an amount that is the greater of $50,000 or the total amount of compensation for which the individual is eligible under paragraph (2).

"(2) LOSSES DUE TO MEDICAL EXPENSES.—A claimant described in paragraph (1) shall be eligible to receive, upon submission of contemporaneous written medical records, reports, or billing statements created by or at the direction of a licensed medical professional who provided contemporaneous medical care to the claimant, additional compensation in the amount of all documented out-of-pocket medical expenses incurred as a result of the specified disease suffered by that claimant, such as any medical expenses not covered, paid for, or reimbursed through—

"(A) any public or private health insurance;

"(B) any employee health insurance;

"(C) any workers' compensation program; or

"(D) any other public, private, or employee health program or benefit.

"(3) LIMITATION.—No claimant is eligible to receive compensation under this subsection with respect to medical expenses unless the submissions described in paragraph (2) with respect to such expenses are submitted on or before December 31, 2028.

"(c) PAYMENTS TO BENEFICIARIES OF DECEASED INDIVIDUALS.—In the event that an individual described in subsection (a)(2) who qualifies for compensation under subsection (a) is deceased at the time of submission of the claim—

"(1) a surviving spouse may, upon submission of a claim and records sufficient to satisfy the requirements of subsection (a) with respect to the deceased individual, receive compensation in the amount of $25,000; or

"(2) in the event that there is no surviving spouse, the surviving children, minor or otherwise, of the

deceased individual may, upon submission of a claim and records sufficient to satisfy the requirements of subsection (a) with respect to the deceased individual, receive compensation in the total amount of $25,000, paid in equal shares to each surviving child.

"(d) AFFECTED AREAS.—For purposes of this section, the term 'affected area' means—

"(1) in the State of Missouri, the ZIP Codes of 63031, 63033, 63034, 63042, 63045, 63074, 63114, 63135, 63138, 63044, 63121, 63140, 63145, 63147, 63102, 63304, 63134, 63043, 63341, 63368, and 63367;

"(2) in the State of Tennessee, the ZIP Codes of 37716, 37840, 37719, 37748, 37763, 37828, 37769, 37710, 37845, 37887, 37829, 37854, 37830, and 37831;

"(3) in the State of Alaska, the ZIP Codes of 99546 and 99547; and

"(4) in the State of Kentucky, the ZIP Codes of 42001, 42003, and 42086.

"(e) SPECIFIED DISEASE.—For purposes of this section, the term 'specified disease' means any of the following:

"(1) Any leukemia, provided that the initial exposure occurred after 20 years of age and the onset of the disease was at least 2 years after first exposure.

"(2) Any of the following diseases, provided that the onset was at least 2 years after the initial exposure:

"(A) Multiple myeloma.

"(B) Lymphoma, other than Hodgkin's disease.

"(C) Primary cancer of the—

"(i) thyroid;

"(ii) male or female breast;

"(iii) esophagus;

"(iv) stomach;

"(v) pharynx;

"(vi) small intestine;

"(vii) pancreas;

"(viii) bile ducts;

"(ix) gall bladder;

"(x) salivary gland;

"(xi) urinary bladder;

"(xii) brain;

"(xiii) colon;

"(xiv) ovary;

"(xv) bone;

"(xvi) renal;

"(xvii) liver, except if cirrhosis or hepatitis B is indicated; or

"(xviii) lung.

"(f) Physical Presence.—

"(1) IN GENERAL.—For purposes of this section, the Attorney General may not determine that a claimant has satisfied the requirements under subsection (a) unless demonstrated by submission of—

"(A) contemporaneous written residential documentation or at least 1 additional employer-issued or government-issued document or record that the claimant, for at least 2 years after January 1, 1949, was physically present in an affected area; or

"(B) other documentation determined by the Attorney General to demonstrate that the claimant, for at least 2 years after January 1, 1949, was physically present in an affected area.

"(2) TYPES OF PHYSICAL PRESENCE.—For purposes of determining physical presence under this section, a claimant shall be considered to have been physically present in an affected area if—

"(A) the claimant's primary residence was in the affected area;

"(B) the claimant's place of employment was in the affected area; or

"(C) the claimant attended school in the affected area.

"(g) DISEASE CONTRACTION IN AFFECTED AREAS.—For purposes of this section, the Attorney General may not determine that a claimant has satisfied the requirements under subsection (a) unless the claimant submits—

"(1) written medical records or reports created by or at the direction of a licensed medical professional, created contemporaneously with the provision of medical care to the claimant, that the claimant, after a period of physical presence in an affected area, contracted a specified disease; or

"(2) other documentation determined by the Attorney General to demonstrate that the claimant

contracted a specified disease after a period of physical presence in an affected area.

"SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

"(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act. In establishing procedures under this subsection, the Attorney General shall take into account and make allowances for the law, tradition, and customs of Indian tribes (as that term is defined in section 5(b)) and members of Indian tribes, to the maximum extent practicable.

"(b) DETERMINATION OF CLAIMS.—

"(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act. All reasonable doubt with regard to whether a claim meets the requirements of this Act shall be resolved in favor of the claimant.

"(2) CONSULTATION.—The Attorney General shall—

"(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted leukemia under section 4(a)(1), a specified disease under section 4(a)(2), or other disease specified in section 5;

"(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5; and

"(C) in consultation with the Secretary of Defense and the Secretary of Energy, establish guidelines for determining what constitutes documentation that an individual participated onsite in a test involving the atmospheric detonation of a nuclear device under section 4(a)(2)(C).

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B), and with the Secretary of Defense and the Secretary of Energy with respect to making determinations pursuant to the guidelines issued under subparagraph (C)..[sic]

"(c) PAYMENT OF CLAIMS.—

"(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund (or, in the case of a payment under section 5, from the Energy Employees Occupational Illness Compensation Fund, pursuant to section 3630(d) of the Energy Employees Occupational Illness Compensation Program Act of 2000 [42 U.S.C. 7384u(d)]), claims filed under this Act which the Attorney General determines meet the requirements of this Act.

"(2) OFFSET FOR CERTAIN PAYMENTS.—(A) A payment to an individual, or to a survivor of that individual, under this section on a claim under subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4 or a claim under section 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

"(i) exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, or

"(ii) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

"(B) A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4(a)(2)(C) shall be offset by the amount of—

"(i) any payment made pursuant to a final award or settlement on a claim (other than a claim for workers' compensation), against any person, or

"(ii) any payment made by the Department of Veterans Affairs,

that is based on injuries incurred by that individual on account of exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device. The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.

"(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

"(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

"(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under

this section, such payment may be made only as follows:

"(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

"(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

"(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

"(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

"(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

"(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the 'spouse' of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

"(ii) a 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

"(iii) a 'parent' includes fathers and mothers through adoption;

"(iv) a 'grandchild' of an individual is a child of a child of that individual; and

"(v) a 'grandparent' of an individual is a parent of a parent of that individual.

"(D) APPLICATION OF NATIVE AMERICAN LAW.—In determining those individuals eligible to receive compensation by virtue of marriage, relationship, or survivorship, such determination shall take into consideration and give effect to established law, tradition, and custom of the particular affected Indian tribe.

"(d) ACTION ON CLAIMS.—

"(1) IN GENERAL.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed. For purposes of determining when the 12-month period ends, a claim under this Act shall be deemed filed as of the date of its receipt by the Attorney General. In the event of the denial of a claim, the claimant shall be permitted a reasonable period in which to seek administrative review of the denial by the Attorney General. The Attorney General shall make a final determination with respect to any administrative review within 90 days after the receipt of the claimant's request for such review. In the event the Attorney General fails to render a determination within 12 months after the date of the receipt of such request, the claim shall be deemed awarded as a matter of law and paid.

"(2) ADDITIONAL INFORMATION.—The Attorney General may request from any claimant under this Act, or from any individual or entity on behalf of any such claimant, any reasonable additional information or documentation necessary to complete the determination on the claim in accordance with the procedures established under subsection (a).

"(3) TREATMENT OF PERIOD ASSOCIATED WITH REQUEST.—

"(A) IN GENERAL.—The period described in subparagraph (B) shall not apply to the 12-month limitation under paragraph (1).

"(B) PERIOD.—The period described in this subparagraph is the period—

"(i) beginning on the date on which the Attorney General makes a request for additional information or documentation under paragraph (2); and

"(ii) ending on the date on which the claimant or individual or entity acting on behalf of that claimant submits that information or documentation or informs the Attorney General that it is not possible to provide that information or that the claimant or individual or entity will not provide that information.

"(4) PAYMENT WITHIN 6 WEEKS.—The Attorney General shall ensure that an approved claim is paid not later than 6 weeks after the date on which such claim is approved.

"(5) NATIVE AMERICAN CONSIDERATIONS.—Any procedures under this subsection shall take into consideration and incorporate, to the fullest extent feasible, Native American law, tradition, and custom

with respect to the submission and processing of claims by Native Americans.

"(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Except as otherwise authorized by law, the acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, exposure to radiation in a uranium mine, mill, or while employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill at any time during the period described in section 5(a), or exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

"(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

"(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

"(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

"(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

"(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

"(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

"(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act [Oct. 15, 1990]. Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000], the Attorney General shall issue revised regulations to carry out this Act.

"(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

"(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

"(b) CHOICE OF REMEDIES.—No individual may receive more than 1 payment under this Act.

"SEC. 8. LIMITATIONS ON CLAIMS.

"(a) IN GENERAL.—A claim to which this Act applies shall be barred unless the claim is filed not later than December 31, 2027.

"(b) RESUBMITTAL OF CLAIMS.—After the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000], any claimant who has been denied compensation under this Act may resubmit a claim for consideration by the Attorney General in accordance with this Act not more than three times. Any resubmittal made before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 shall not be applied to the limitation under the preceding sentence.

"SEC. 9. ATTORNEY FEES.

"(a) GENERAL RULE.—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than that percentage specified in subsection (b) of a payment made under this Act on such claim.

"(b) APPLICABLE PERCENTAGE LIMITATIONS.—The percentage referred to in subsection (a) is—

"(1) 2 percent for the filing of an initial claim; and

"(2) 10 percent with respect to—

"(A) any claim with respect to which a representative has made a contract for services before the date of the enactment of the Radiation Exposure Compensation Act Amendments of 2000 [July 10, 2000]; or

"(B) a resubmission of a denied claim.

"(c) PENALTY.—Any such representative who violates this section shall be fined not more than $5,000.

"SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

"A payment made under this Act shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

"SEC. 11. BUDGET ACT.

"No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

"SEC. 12. REPORT.

"(a) REPORT.—The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

"(b) COMPLETION.—Such report shall be completed not later than September 30, 1992.

"SEC. 13. REPEAL.

"Section 1631 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (42 U.S.C. 2212) is repealed."

NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES

Pub. L. 100–408, §19, Aug. 20, 1988, 102 Stat. 1083, provided that:

"(a) RULEMAKING PROCEEDING.—

"(1) PURPOSE.—The Nuclear Regulatory Commission (hereafter in this section referred to as the 'Commission') shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as 'radiopharmaceutical licensees').

"(2) FINAL DETERMINATION.—A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered by the Commission within 18 months of the date of the enactment of this Act [Aug. 20, 1988].

"(b) NEGOTIATED RULEMAKING.—

"(1) ADMINISTRATIVE CONFERENCE GUIDELINES.—For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act [see Short Title of 1988 Amendment note set out under section 2011 of this title], conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82–4, 'Procedures for Negotiating Proposed Regulations' (42 Fed. Reg. 30708, July 15, 1982).

"(2) DESIGNATION OF CONVENER.—Within 30 days of the date of the enactment of this Act [Aug. 20, 1988], the Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

"(3) SUBMISSION OF RECOMMENDATIONS OF THE CONVENER.—The convener shall, not later than 7 months after the date of the enactment of this Act, submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

"(4) PUBLICATION OF RECOMMENDATIONS AND PROPOSED RULE.—If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed

rulemaking within 30 days of the submission of such recommendations under such paragraph.

"(5) ADMINISTRATIVE PROCEDURES.—To the extent consistent with the provisions of this Act, the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12658

Ex. Ord. No. 12658, Nov. 18, 1988, 53 F.R. 47517, as amended by Ex. Ord. No. 12665, Jan. 12, 1989, 54 F.R. 1919, which established President's Commission on Catastrophic Nuclear Accidents, was revoked by Ex. Ord. No. 12774, §3(c), Sept. 27, 1991, 56 F.R. 49836, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12891

Ex. Ord. No. 12891, Jan. 15, 1994, 59 F.R. 2935, which established the Advisory Committee on Human Radiation Experiments, was revoked by Ex. Ord. No. 13062, §3(a), Sept. 29, 1997, 62 F.R. 51756, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

[1] So in original. Probably should be "Commission,".

[2] So in original. Probably should be paragraph "(6)".

[3] So in original. The period probably should be a comma.

§2210a. Conflicts of interest relating to contracts and other arrangements

(a) Disclosure requirements

The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this chapter or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to—

(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

(b) Evaluation

(1) In general

Except as provided in paragraph (2), the Nuclear Regulatory Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all information provided under subsection (a) and any other information otherwise available to the Commission that—

(A) it is unlikely that a conflict of interest would exist, or

(B) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or

arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(2) Nuclear Regulatory Commission

Notwithstanding any conflict of interest, the Nuclear Regulatory Commission may enter into a contract, agreement, or arrangement with the Department of Energy or the operator of a Department of Energy facility, if the Nuclear Regulatory Commission determines that—

(A) the conflict of interest cannot be mitigated; and

(B) adequate justification exists to proceed without mitigation of the conflict of interest.

(c) Promulgation and publication of rules

The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5 (without regard to subsection (a)(2) thereof) as soon as practicable after November 6, 1978, but in no event later than 120 days after such date.

(Aug. 1, 1946, ch. 724, title I, §170A, as added Pub. L. 95–601, §8(a), Nov. 6, 1978, 92 Stat. 2950; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 109–58, title VI, §639, Aug. 8, 2005, 119 Stat. 794.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58 inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, in introductory provisions substituted "Except as provided in paragraph (2), the Nuclear Regulatory Commission" for "The Commission", redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (1), respectively, and added par. (2).

§2210b. Uranium supply

(a) Assessment of domestic uranium industry viability; monitoring and reporting requirements; criteria; implementation by rules and regulations

The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 2231 of this title, within 9 months of January 4, 1983, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

(b) Disclosure of information

Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18.

(c) Criteria for monitoring and reporting requirements

The criteria referred to in subsection (a) shall also include, but not be limited to—

(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

(3) present and probable future use of the domestic market by foreign imports;

(4) whether domestic economic reserves can supply all future needs for a future 10 year period;

(5) present and projected domestic uranium exploration expenditures and plans;

(6) present and projected employment and capital investment in the uranium industry;

(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a 10 year period; and

(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

(d) Excessive imports; investigation by United States International Trade Commission

The Secretary or [1] Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 2251 [2] of title 19.

(e) Excessive imports for contracts or options as threatening national security; investigation by Secretary of Commerce; recommendation for further investigation

(1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 1862 of title 19 an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.

(Aug. 1, 1946, ch. 724, title I, §170B, as added Pub. L. 97–415, §23(b)(1), Jan. 4, 1983, 96 Stat. 2081; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2251 of title 19, referred to in subsec. (d), was amended generally by Pub. L. 100–418, title I, §1401(a), Aug. 23, 1988, 102 Stat. 1225, and as so amended does not relate to investigations. See section 2252 of Title 19, Customs Duties.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REVIEW OF STATUS OF DOMESTIC URANIUM MINING AND MILLING INDUSTRY; AVAILABILITY TO CONGRESSIONAL COMMITTEES; SCOPE OF REVIEW

Pub. L. 97–415, §23(a), Jan. 4, 1983, 96 Stat. 2080, directed the President to prepare and submit to Congress a comprehensive review of the status of the domestic uranium mining and milling industry by no later than 12 months after Jan. 4, 1983.

[1] So in original. Probably should be "of".

[2] See References in Text note below.

§2210c. Elimination of pension offset for certain rehired Federal retirees

(a) In general

The Commission may waive the application of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant—

(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(2) when a temporary emergency hiring need exists.

(b) Procedures

The Commission shall prescribe procedures for the exercise of authority under this section, including—

(1) criteria for any exercise of authority; and

(2) procedures for a delegation of authority.

(c) Effect of waiver

An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5.

(Aug. 1, 1946, ch. 724, title I, §170C, as added Pub. L. 109–58, title VI, §624(a), Aug. 8, 2005, 119 Stat. 783.)

§2210d. Security evaluations

(a) Security response evaluations

Not less often than once every 3 years, the Commission shall conduct security evaluations at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat.

(b) Force-on-force exercises

(1) The security evaluations shall include force-on-force exercises.

(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

(3) In conducting a security evaluation, the Commission shall mitigate any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

(c) Action by licensees

The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

(d) Facilities under heightened threat levels

The Commission may suspend a security evaluation under this section if the Commission determines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

(e) Report

Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

(Aug. 1, 1946, ch. 724, title I, §170D, as added Pub. L. 109–58, title VI, §651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

§2210e. Design basis threat rulemaking

(a) Rulemaking

The Commission shall—

(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after that date, to revise the design basis threats of the Commission; or

(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking to revise the design basis threats.

(b) Factors

When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

(Aug. 1, 1946, ch. 724, title I, §170E, as added Pub. L. 109–58, title VI, §651(a)(1), Aug. 8, 2005, 119 Stat. 799.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 109–58, which was approved August 8, 2005.

§2210f. Recruitment tools

The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.

(Aug. 1, 1946, ch. 724, title I, §170F, as added Pub. L. 109–58, title VI, §651(c)(2), Aug. 8, 2005, 119 Stat. 801.)

§2210g. Expenses authorized to be paid by the Commission

The Commission may—

(1) pay transportation, lodging, and subsistence expenses of employees who—

(A) assist scientific, professional, administrative, or technical employees of the Commission; and

(B) are students in good standing at an institution of higher education (as defined in section 1002 of title 20) pursuing courses related to the field in which the students are employed by the Commission; and

(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.

(Aug. 1, 1946, ch. 724, title I, §170G, as added Pub. L. 109–58, title VI, §651(c)(3), Aug. 8, 2005, 119 Stat. 801.)

§2210h. Radiation source protection

(a) Definitions

In this section:

(1) Code of conduct

The term "Code of Conduct" means the code entitled the "Code of Conduct on the Safety and Security of Radioactive Sources", approved by the Board of Governors of the International Atomic Energy Agency and dated September 8, 2003.

(2) Radiation source

The term "radiation source" means—

(A) a Category 1 Source or a Category 2 Source, as defined in the Code of Conduct; and

(B) any other material that poses a threat such that the material is subject to this section, as determined by the Commission, by regulation, other than spent nuclear fuel and special nuclear materials.

(b) Commission approval

Not later than 180 days after August 8, 2005, the Commission shall issue regulations prohibiting a person from—

(1) exporting a radiation source, unless the Commission has specifically determined under section 2077 or 2112 of this title, consistent with the Code of Conduct, with respect to the exportation, that—

(A) the recipient of the radiation source may receive and possess the radiation source under the laws and regulations of the country of the recipient;

(B) the recipient country has the appropriate technical and administrative capability,

resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

(C) before the date on which the radiation source is shipped—

(i) a notification has been provided to the recipient country; and

(ii) a notification has been received from the recipient country;

as the Commission determines to be appropriate;

(2) importing a radiation source, unless the Commission has determined, with respect to the importation, that—

(A) the proposed recipient is authorized by law to receive the radiation source; and

(B) the shipment will be made in accordance with any applicable Federal or State law or regulation; and

(3) selling or otherwise transferring ownership of a radiation source, unless the Commission—

(A) has determined that the licensee has verified that the proposed recipient is authorized under law to receive the radiation source; and

(B) has required that the transfer shall be made in accordance with any applicable Federal or State law or regulation.

(c) Tracking system

(1)(A) Not later than 1 year after August 8, 2005, the Commission shall issue regulations establishing a mandatory tracking system for radiation sources in the United States.

(B) In establishing the tracking system under subparagraph (A), the Commission shall coordinate with the Secretary of Transportation to ensure compatibility, to the maximum extent practicable, between the tracking system and any system established by the Secretary of Transportation to track the shipment of radiation sources.

(2) The tracking system under paragraph (1) shall—

(A) enable the identification of each radiation source by serial number or other unique identifier;

(B) require reporting within 7 days of any change of possession of a radiation source;

(C) require reporting within 24 hours of any loss of control of, or accountability for, a radiation source; and

(D) provide for reporting under subparagraphs (B) and (C) through a secure Internet connection.

(d) Penalty

A violation of a regulation issued under subsection (a) or (b) shall be punishable by a civil penalty not to exceed $1,000,000.

(e) National Academy of Sciences study

(1) Not later than 60 days after August 8, 2005, the Commission shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of industrial, research, and commercial uses for radiation sources.

(2) The study under paragraph (1) shall include a review of uses of radiation sources in existence on the date on which the study is conducted, including an identification of any industrial or other process that—

(A) uses a radiation source that could be replaced with an economically and technically equivalent (or improved) process that does not require the use of a radiation source; or

(B) may be used with a radiation source that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source.

(3) Not later than 2 years after August 8, 2005, the Commission shall submit to Congress the results of the study under paragraph (1).

(f) Task force on radiation source protection and security

(1) There is established a task force on radiation source protection and security (referred to in this section as the "task force").

(2)(A) The chairperson of the task force shall be the Chairperson of the Commission (or a designee).

(B) The membership of the task force shall consist of the following:

(i) The Secretary of Homeland Security (or a designee).

(ii) The Secretary of Defense (or a designee).

(iii) The Secretary of Energy (or a designee).

(iv) The Secretary of Transportation (or a designee).

(v) The Attorney General (or a designee).

(vi) The Secretary of State (or a designee).

(vii) The Director of National Intelligence (or a designee).

(viii) The Director of the Central Intelligence Agency (or a designee).

(ix) The Administrator of the Federal Emergency Management Agency (or a designee).

(x) The Director of the Federal Bureau of Investigation (or a designee).

(xi) The Administrator of the Environmental Protection Agency (or a designee).

(3)(A) The task force, in consultation with Federal, State, and local agencies, the Conference of Radiation Control Program Directors, and the Organization of Agreement States, and after public notice and an opportunity for comment, shall evaluate, and provide recommendations relating to, the security of radiation sources in the United States from potential terrorist threats, including acts of sabotage, theft, or use of a radiation source in a radiological dispersal device.

(B) Not later than 1 year after August 8, 2005, and not less than once every 4 years thereafter, the task force shall submit to Congress and the President a report, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

(i) a list of additional radiation sources that should be required to be secured under this chapter, based on the potential attractiveness of the sources to terrorists and the extent of the threat to public health and safety of the sources, taking into consideration—

(I) radiation source radioactivity levels;

(II) radioactive half-life of a radiation source;

(III) dispersability;

(IV) chemical and material form;

(V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for medical treatment; and

(VI) any other factor that the Chairperson of the Commission determines to be appropriate;

(ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources;

(iii) the storage of radiation sources that are not used in a safe and secure manner as of the date on which the report is submitted;

(iv) modifications to the national tracking system for radiation sources;

(v) the establishment of, or modifications to, a national system (including user fees and other methods) to provide for the proper disposal of radiation sources secured under this chapter;

(vi) modifications to export controls on radiation sources to ensure that foreign recipients of radiation sources are able and willing to adequately control radiation sources from the United States;

(vii)(I) any alternative technologies available as of the date on which the report is submitted that may perform some or all of the functions performed by devices or processes that employ radiation sources; and

(II) the establishment of appropriate regulations and incentives for the replacement of the devices and processes described in subclause (I)—

(aa) with alternative technologies in order to reduce the number of radiation sources in the

United States; or

(bb) with radiation sources that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source; and

(viii) the creation of, or modifications to, procedures for improving the security of use, transportation, and storage of radiation sources, including—

(I) periodic audits or inspections by the Commission to ensure that radiation sources are properly secured and can be fully accounted for;

(II) evaluation of the security measures by the Commission;

(III) increased fines for violations of Commission regulations relating to security and safety measures applicable to licensees that possess radiation sources;

(IV) criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources);

(V) requirements for effective and timely exchanges of information relating to the results of criminal and security background checks between the Commission and any State with which the Commission has entered into an agreement under section 2021(b) of this title;

(VI) assurances of the physical security of facilities that contain radiation sources (including facilities used to temporarily store radiation sources being transported); and

(VII) the screening of shipments to facilities that the Commission determines to be particularly at risk for sabotage of radiation sources to ensure that the shipments do not contain explosives.

(g) Action by Commission

Not later than 60 days after the date of receipt by Congress and the President of a report under subsection (f)(3)(B), the Commission, in accordance with the recommendations of the task force, shall—

(1) take any action the Commission determines to be appropriate, including revising the system of the Commission for licensing radiation sources; and

(2) ensure that States that have entered into agreements with the Commission under section 2021(b) of this title take similar action in a timely manner.

(Aug. 1, 1946, ch. 724, title I, §170H, as added Pub. L. 109–58, title VI, §651(d)(1), Aug. 8, 2005, 119 Stat. 802; amended Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(3)(B)(i), (v), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" in subsec. (f)(2)(B)(ix) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

§2210i. Secure transfer of nuclear materials

(a) The Commission shall establish a system to ensure that materials described in subsection (b), when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this chapter, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

(b) Except as otherwise provided by the Commission by regulation, the materials referred to in subsection (a) are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 10101(16) of this title).

(Aug. 1, 1946, ch. 724, title I, §170I, as added Pub. L. 109–58, title VI, §656(a), Aug. 8, 2005, 119 Stat. 813.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 109–58, title VI, §656(c), Aug. 8, 2005, 119 Stat. 814, provided that: "The amendment made by subsection (a) [enacting this section] shall take effect upon the issuance of regulations under subsection (b) [set out below], except that the background check requirement shall become effective on a date established by the Commission." [For issuance of regulations effective Feb. 23, 2007, see 72 F.R. 3025.]

REGULATIONS

Pub. L. 109–58, title VI, §656(b), Aug. 8, 2005, 119 Stat. 814, provided that: "Not later than 1 year after the date of the enactment of this Act [Aug. 8, 2005], and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170D [probably means 170I] of the Atomic Energy Act of 1954 [42 U.S.C. 2210i], as added by subsection (a) of this section."

EFFECT ON OTHER LAW

Pub. L. 109–58, title VI, §656(d), Aug. 8, 2005, 119 Stat. 814, provided that: "Nothing in this section [enacting this section and provisions set out as notes under this section] or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code."

§2211. Payment of claims or judgments for damage resulting from nuclear incident involving nuclear reactor of United States warship; exception; terms and conditions

It is the policy of the United States that it will pay claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship: *Provided*, That the injury, death, damage, or loss was not caused by the act of an armed force engaged in combat or as a result of civil

insurrection. The President may authorize, under such terms and conditions as he may direct, the payment of such claims or judgments from any contingency funds available to the Government or may certify such claims or judgments to the Congress for appropriation of the necessary funds.

(Pub. L. 93–513, Dec. 6, 1974, 88 Stat. 1611.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Atomic Energy Act of 1954 which comprises this chapter.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11918. COMPENSATION FOR DAMAGES INVOLVING NUCLEAR REACTORS OF UNITED STATES WARSHIPS

Ex. Ord. No. 11918, eff. June 1, 1976, 41 F.R. 22329, provided:

By virtue of the authority vested in me by the joint resolution approved December 6, 1974 (Public Law 93–513, 88 Stat. 1610, 42 U.S.C. 2211), and by section 301 of title 3 of the United States Code, and as President of the United States of America, in order that prompt, adequate and effective compensation will be provided in the unlikely event of injury or damage resulting from a nuclear incident involving the nuclear reactor of a United States warship, it is hereby ordered as follows:

SECTION 1. (a) With respect to the administrative settlement of claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship, the Secretary of Defense is designated and empowered to authorize, in accord with Public Law 93–513 [this section], the payment, under such terms and conditions as he may direct, of such claims and judgments from contingency funds available to the Department of Defense.

(b) The Secretary of Defense shall, when he considers such action appropriate, certify claims or judgments described in subsection (a) and transmit to the Director of the Office of Management and Budget his recommendation with respect to appropriation by the Congress of such additional sums as may be necessary.

SEC. 2. The provisions of section 1 shall not be deemed to replace, alter, or diminish, the statutory and other functions vested in the Attorney General, or the head of any other agency, with respect to litigation against the United States and judgments and compromise settlements arising therefrom.

SEC. 3. The functions herein delegated shall be exercised in consultation with the Secretary of State in the case of any incident giving rise to a claim of a foreign country or national thereof, and international negotiations relating to Public Law 93–513 [this section], shall be performed by or under the authority of the Secretary of State.

GERALD R. FORD.

§2212. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 101–510, div. C, title XXXI, §3141, Nov. 5, 1990, 104 Stat. 1837, which related to contractor liability for injury or loss of property arising out of atomic weapons testing programs, was renumbered section 4803 of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(k)(4)(A)–(C), Nov. 24, 2003, 117 Stat. 1783, and transferred to former section 2783 of Title 50, War and National Defense. See section 6324 of Title 10, Armed Forces.

PRIOR PROVISIONS

A prior section 2212, Pub. L. 98–525, title XVI, §1631, Oct. 19, 1984, 98 Stat. 2646, related to contractor liability for injury or loss of property arising out of atomic weapons testing programs, prior to repeal by Pub. L. 101–426, §13, as added Pub. L. 101–510, div. C, title XXXI, §3140, Nov. 5, 1990, 104 Stat. 1837.

§2213. Repealed. Pub. L. 109–58, title VI, §637(b), Aug. 8, 2005, 119 Stat. 791

Section, Pub. L. 99–272, title VII, §7601, Apr. 7, 1986, 100 Stat. 146; Pub. L. 100–203, title V, §5601, Dec. 22, 1987, 101 Stat. 1330–275; Pub. L. 101–239, title III, §3201, Dec. 19, 1989, 103 Stat. 2132; Pub. L. 101–508, title VI, §6101(e), Nov. 5, 1990, 104 Stat. 1388–299, related to assessment and collection of annual charges from Nuclear Regulatory Commission licensees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 109–58, title VI, §637(c), Aug. 8, 2005, 119 Stat. 791, provided that: "The amendments made by this section [amending section 2214 of this title and repealing this section] take effect on October 1, 2006."

§2214. Repealed. Pub. L. 115–439, title I, §101(b), Jan. 14, 2019, 132 Stat. 5568

Section, Pub. L. 101–508, title VI, §6101, Nov. 5, 1990, 104 Stat. 1388–298; Pub. L. 102–486, title XXIX, §2903(a), Oct. 24, 1992, 106 Stat. 3125; Pub. L. 103–66, title VII, §7001, Aug. 10, 1993, 107 Stat. 401; Pub. L. 105–245, title V, §505, Oct. 7, 1998, 112 Stat. 1856; Pub. L. 106–60, title VI, §604, Sept. 29, 1999, 113 Stat. 501; Pub. L. 106–377, §1(a)(2) [title VIII], Oct. 27, 2000, 114 Stat. 1441, 1441A–86; Pub. L. 109–58, title VI, §637(a), Aug. 8, 2005, 119 Stat. 791; Pub. L. 109–103, title IV, Nov. 19, 2005, 119 Stat. 2283; Pub. L. 115–439, title I, §101(a), Jan. 14, 2019, 132 Stat. 5567, related to NRC user fees and annual charges. See section 2215 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 115–439, title I, §101(b), Jan. 14, 2019, 132 Stat. 5568, provided that: "Effective October 1, 2020, section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is repealed."

§2215. Nuclear Regulatory Commission user fees and annual charges for fiscal year 2021 and each fiscal year thereafter

(a) Annual budget justification

(1) In general

In the annual budget justification submitted by the Commission to Congress, the Commission shall expressly identify anticipated expenditures necessary for completion of the requested activities of the Commission anticipated to occur during the applicable fiscal year.

(2) Restriction

Budget authority granted to the Commission for purposes of the requested activities of the Commission shall be used, to the maximum extent practicable, solely for conducting requested activities of the Commission.

(3) Limitation on corporate support costs

With respect to the annual budget justification submitted to Congress, corporate support costs, to the maximum extent practicable, shall not exceed the following percentages of the total budget authority of the Commission requested in the annual budget justification:

(A) 30 percent for each of fiscal years 2021 and 2022.

(B) 30 percent for fiscal year 2025 and each fiscal year thereafter.

(4) International nuclear export and innovation activities

The Commission shall identify in the annual budget justification international nuclear export and innovation activities described in section 2155b(a) of this title.

(b) Fees and charges

(1) Annual assessment

(A) In general

Each fiscal year, the Commission shall assess and collect fees and charges in accordance with paragraphs (2) and (3) in a manner that ensures that, to the maximum extent practicable, the amount assessed and collected is equal to an amount that approximates—

(i) the total budget authority of the Commission for that fiscal year; less

(ii) the budget authority of the Commission for the activities described in subparagraph (B).

(B) Excluded activities described

The activities referred to in subparagraph (A)(ii) are the following:

(i) Any fee relief activity, as identified by the Commission.

(ii) Amounts appropriated for a fiscal year to the Commission—

(I) from the Nuclear Waste Fund established under section 10222(c) of this title;

(II) for implementation of section 3116 [1] of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2601 note; Public Law 108–375);

(III) for the homeland security activities of the Commission (other than for the costs of fingerprinting and background checks required under section 2169 of this title and the costs of conducting security inspections);

(IV) for the Inspector General services of the Commission provided to the Defense Nuclear Facilities Safety Board;

(V) for research and development at universities in areas relevant to the mission of the Commission; and

(VI) for a nuclear science and engineering grant program that will support multiyear projects that do not align with programmatic missions but are critical to maintaining the discipline of nuclear science and engineering.

(iii) Costs for activities related to the development of regulatory infrastructure for advanced nuclear reactor technologies, including activities required under section 103.[1]

(iv) Costs for international nuclear export and innovation activities described in section 2155b(a) of this title.

(v) The total costs of mission-indirect program support and agency support that, under paragraph (2)(B), may not be included in the hourly rate charged for fees assessed and collected from advanced nuclear reactor applicants.

(vi) The total costs of mission-indirect program support and agency support that, under paragraph (2)(C), may not be included in the hourly rate charged for fees assessed and collected from advanced nuclear reactor pre-applicants.

(vii) Costs for—

(I) activities to review and approve or disapprove an application for an early site permit (as defined in section 52.1 of title 10, Code of Federal Regulations (or any successor regulation)) to demonstrate an advanced nuclear reactor on a Department of Energy site or critical national security infrastructure (as defined in section 327(d) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1722)) site; and

(II) pre-application activities relating to an early site permit (as defined in section 52.1 of title 10, Code of Federal Regulations (or any successor regulation)) to demonstrate an advanced nuclear reactor on a Department of Energy site or critical national security infrastructure (as defined in section 327(d) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 1722)) site.

(C) Exception

The exclusion described in subparagraph (B)(iii) shall cease to be effective on January 1,

2031.

(D) Report

Not later than December 31, 2029, the Commission shall submit to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a report describing the views of the Commission on the continued appropriateness and necessity of the funding described in subparagraph (B)(iii).

(2) Fees for service or thing of value

(A) In general

In accordance with section 9701 of title 31, the Commission shall assess and collect fees from any person who receives a service or thing of value from the Commission to cover the costs to the Commission of providing the service or thing of value.

(B) Advanced nuclear reactor applicants

The hourly rate charged for fees assessed and collected from an advanced nuclear reactor applicant under this paragraph relating to the review of a submitted application described in section 3(1) may not exceed the hourly rate for mission-direct program salaries and benefits.

(C) Advanced nuclear reactor pre-applicants

The hourly rate charged for fees assessed and collected from an advanced nuclear reactor pre-applicant under this paragraph relating to the review of submitted materials as described in the licensing project plan of an advanced nuclear reactor pre-applicant may not exceed the hourly rate for mission-direct program salaries and benefits.

(3) Annual charges

(A) In general

Subject to subparagraph (B) and except as provided in subparagraph (D), the Commission may charge to any licensee or certificate holder of the Commission an annual charge in addition to the fees assessed and collected under paragraph (2).

(B) Cap on annual charges of certain licensees

(i) Operating reactors

The annual charge under subparagraph (A) charged to an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the final rule of the Commission entitled "Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015" (80 Fed. Reg. 37432 (June 30, 2015)), as may be adjusted annually by the Commission to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(ii) Waiver

The Commission may waive, for a period of 1 year, the cap on annual charges described in clause (i) if the Commission submits to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a written determination that the cap on annual charges may compromise the safety and security mission of the Commission.

(C) Amount per licensee

(i) In general

The Commission shall establish by rule a schedule of annual charges fairly and equitably allocating the aggregate amount of charges described in subparagraph (A) among licensees and certificate holders.

(ii) Requirement

The schedule of annual charges under clause (i)—

(I) to the maximum extent practicable, shall be reasonably related to the cost of providing regulatory services; and

(II) may be based on the allocation of the resources of the Commission among licensees or certificate holders or classes of licensees or certificate holders.

(D) Exemption

(i) Definition of research reactor

In this subparagraph, the term "research reactor" means a nuclear reactor that—

(I) is licensed by the Commission under section 2134(c) of this title for operation at a thermal power level of not more than 10 megawatts; and

(II) if licensed under subclause (I) for operation at a thermal power level of more than 1 megawatt, does not contain—

(aa) a circulating loop through the core in which the licensee conducts fuel experiments;

(bb) a liquid fuel loading; or

(cc) an experimental facility in the core in excess of 16 square inches in cross-section.

(ii) Exemption

Subparagraph (A) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

(c) Performance and reporting

(1) In general

Not later than 180 days after January 14, 2019, the Commission shall develop for the requested activities of the Commission—

(A) performance metrics; and

(B) milestone schedules.

(2) Delays in issuance of final safety evaluation

The Executive Director for Operations of the Commission shall inform the Commission of a delay in issuance of the final safety evaluation for a requested activity of the Commission by the completion date required by the performance metrics or milestone schedule under paragraph (1) by not later than 30 days after the completion date.

(3) Delays in issuance of final safety evaluation exceeding 90 days

If the final safety evaluation for the requested activity of the Commission described in paragraph (2) is not completed by the date that is 90 days after the completion date required by the performance metrics or milestone schedule under paragraph (1), the Commission shall submit to the appropriate congressional committees a timely report describing the delay, including a detailed explanation accounting for the delay and a plan for timely completion of the final safety evaluation.

(4) Periodic updates to metrics and schedules

(A) Review and assessment

Not less frequently than once every 3 years, the Commission shall review and assess, based on the licensing and regulatory activities of the Commission, the performance metrics and milestone schedules established under paragraph (1).

(B) Revisions

After each review and assessment under subparagraph (A), the Commission shall revise and improve, as appropriate, the performance metrics and milestone schedules described in that subparagraph to provide the most efficient metrics and schedules reasonably achievable.

(d) Accurate invoicing

With respect to invoices for fees described in subsection (b)(2), the Commission shall—

(1) ensure appropriate review and approval prior to the issuance of invoices;

(2) develop and implement processes to audit invoices to ensure accuracy, transparency, and fairness; and

(3) modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices for those fees.

(e) Report

Not later than September 30, 2021, the Commission shall submit to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a report describing the implementation of this section, including any impacts and recommendations for improvement.

(f) Effective date

Except as provided in subsection (c), this section takes effect on October 1, 2020.

(g) Cessation of effectiveness

Paragraphs (1)(B)(vi) and (2)(C) of subsection (b) shall cease to be effective on September 30, 2030.

(Pub. L. 115–439, title I, §102, Jan. 14, 2019, 132 Stat. 5568; Pub. L. 118–67, div. B, title I, §101(c)(1), title II, §§201(b)–(d), 204(a), title V, §§503(b), 504, July 9, 2024, 138 Stat. 1450, 1456, 1460, 1476, 1477.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2601 note; Public Law 108–375), referred to in subsec. (b)(1)(B)(ii)(II), was formerly set out as a note under section 2602 of Title 50, War and National Defense, and was repealed and restated as section 6192 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(16), Dec. 18, 2025, 139 Stat. 1395, 1459.

Section 103, referred to in subsec. (b)(1)(B)(iii), is section 103 of Pub. L. 115–439, title I, Jan. 14, 2019, 132 Stat. 5571. Subsec. (a) of section 103 of Pub. L. 115–439 enacted provisions set out as a note under section 2133 of this title. Subsecs. (b) to (e) of section 103 of Pub. L. 115–439 are not classified to the Code.

Section 327(d) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, referred to in subsec. (b)(1)(B)(vii), is section 327(d) of Pub. L. 115–232, div. A, title III, Aug. 13, 2018, 132 Stat. 1722, which is not classified to the Code.

Section 3, referred to in subsec. (b)(2)(B), is section 3 of Pub. L. 115–439, which is set out as a note below.

CODIFICATION

Section was enacted as part of the Nuclear Energy Innovation and Modernization Act, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2024—Subsec. (a)(3)(B), (C). Pub. L. 118–67, §503(b), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

"(B) 29 percent for each of fiscal years 2023 and 2024.

"(C) 28 percent for fiscal year 2025 and each fiscal year thereafter."

Subsec. (a)(4). Pub. L. 118–67, §101(c)(1)(A), added par. (4).

Subsec. (b)(1)(B)(iv). Pub. L. 118–67, §101(c)(1)(B), added cl. (iv).

Subsec. (b)(1)(B)(v), (vi). Pub. L. 118–67, §201(b), added cls. (v) and (vi).

Subsec. (b)(1)(B)(vii). Pub. L. 118–67, §204(a), added cl. (vii).

Subsec. (b)(2). Pub. L. 118–67, §201(c), added par. (2) and struck out former par. (2). Prior to amendment,

text read as follows: "In accordance with section 9701 of title 31, the Commission shall assess and collect fees from any person who receives a service or thing of value from the Commission to cover the costs to the Commission of providing the service or thing of value."

Subsec. (c)(3). Pub. L. 118–67, §504(1), substituted "90" for "180" in heading and text.

Subsec. (c)(4). Pub. L. 118–67, §504(2), added par. (4).

Subsec. (g). Pub. L. 118–67, §201(d), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–67, div. B, title I, §101(c)(2), July 9, 2024, 138 Stat. 1451, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 2025."

Pub. L. 118–67, div. B, title II, §201(e), July 9, 2024, 138 Stat. 1457, provided that: "The amendments made by this section [amending this section and provisions set out as a note below] shall take effect on October 1, 2025."

Pub. L. 118–67, div. B, title II, §204(b), July 9, 2024, 138 Stat. 1460, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2025."

PURPOSE

Pub. L. 115–439, §2, Jan. 14, 2019, 132 Stat. 5565, provided that: "The purpose of this Act [see Short Title of 2019 Amendment note set out under section 2011 of this title] is to provide—

"(1) a program to develop the expertise and regulatory processes necessary to allow innovation and the commercialization of advanced nuclear reactors;

"(2) a revised fee recovery structure to ensure the availability of resources to meet industry needs without burdening existing licensees unfairly for inaccurate workload projections or premature existing reactor closures; and

"(3) more efficient regulation of uranium recovery."

[For definition of "advanced nuclear reactors" as used in section 2 of Pub. L. 115–439, set out above, see section 3 of Pub. L. 115–439, set out below.]

DEFINITIONS

Pub. L. 115–439, §3, Jan. 14, 2019, 132 Stat. 5565, as amended by Pub. L. 118–67, div. B, title II, §§201(a), 205(b)(2), title V, §503(c), July 9, 2024, 138 Stat. 1455, 1461, 1476, provided that: "In this Act [see Short Title of 2019 Amendment note set out under section 2011 of this title]:

"(1) ADVANCED NUCLEAR REACTOR.—The term 'advanced nuclear reactor' means a nuclear fission reactor or fusion machine, including a prototype plant (as defined in sections 50.2 and 52.1 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act [Jan. 14, 2019])), with significant improvements compared to commercial nuclear reactors under construction as of the date of enactment of this Act, including improvements such as—

"(A) additional inherent safety features;

"(B) significantly lower levelized cost of electricity;

"(C) lower waste yields;

"(D) greater fuel utilization;

"(E) enhanced reliability;

"(F) increased proliferation resistance;

"(G) increased thermal efficiency; or

"(H) ability to integrate into electric and nonelectric applications.

"(2) ADVANCED NUCLEAR REACTOR APPLICANT.—The term 'advanced nuclear reactor applicant' means an entity that has submitted to the Commission an application for a license for an advanced nuclear reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(3) ADVANCED NUCLEAR REACTOR FUEL.—The term 'advanced nuclear reactor fuel' means fuel for use in an advanced nuclear reactor or a research and test reactor, including fuel with a low uranium enrichment level of not greater than 20 percent.

"(4) ADVANCED NUCLEAR REACTOR PRE-APPLICANT.—The term 'advanced nuclear reactor pre-applicant' means an entity that has submitted to the Commission a licensing project plan for the purposes of submitting a future application for a license for an advanced nuclear reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(5) AGENCY SUPPORT.—The term 'agency support' has the meaning given the term 'agency

support (corporate support and the IG)' in section 170.3 of title 10, Code of Federal Regulations (or any successor regulation).

"(6) AGREEMENT STATE.—The term 'Agreement State' means any State with which the Commission has entered into an effective agreement under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)).

"(7) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives.

"(8) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

"(9) CONCEPTUAL DESIGN ASSESSMENT.—The term 'conceptual design assessment' means an early-stage review by the Commission that—

"(A) assesses preliminary design information for consistency with applicable regulatory requirements of the Commission;

"(B) is performed on a set of topic areas agreed to in the licensing project plan; and

"(C) is performed at a cost and schedule agreed to in the licensing project plan.

"(10) CORPORATE SUPPORT COSTS.—

"(A) IN GENERAL.—The term 'corporate support costs' means expenditures for acquisitions, administrative services, financial management, human resource management, information management, information technology, policy support, outreach, and training, as those categories are described and calculated in Appendix A of the Congressional Budget Justification for Fiscal Year 2018 of the Commission.

"(B) EXCLUSIONS.—The term 'corporate support costs' does not include—

"(i) costs for rent and utilities relating to any and all space in the Three White Flint North building that is not occupied by the Commission; or

"(ii) costs for salaries, travel, and other support for the Office of the Commission.

"(11) FUSION MACHINE.—The term 'fusion machine' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"(12) HOURLY RATE FOR MISSION-DIRECT PROGRAM SALARIES AND BENEFITS.—The term 'hourly rate for mission-direct program salaries and benefits' means the quotient obtained by dividing—

"(A) the full-time equivalent rate (within the meaning of the document of the Commission entitled 'FY 2023 Final Fee Rule Work Papers' (or a successor document)) for mission-direct program salaries and benefits for a fiscal year; by

"(B) the productive hours assumption for that fiscal year, determined in accordance with the formula established in the document referred to in subparagraph (A) (or a successor document).

"(13) LICENSING PROJECT PLAN.—The term 'licensing project plan' means a plan that describes—

"(A) the interactions between an applicant and the Commission; and

"(B) project schedules and deliverables in specific detail to support long-range resource planning undertaken by the Commission and an applicant.

"(14) MISSION-DIRECT PROGRAM SALARIES AND BENEFITS.—The term 'mission-direct program salaries and benefits' means the resources of the Commission that are allocated to the Nuclear Reactor Safety Program (as determined by the Commission) to perform core work activities committed to fulfilling the mission of the Commission, as described in the document of the Commission entitled 'FY 2023 Final Fee Rule Work Papers' (or a successor document).

"(15) MISSION-INDIRECT PROGRAM SUPPORT.—*The term 'mission-indirect program support' has the meaning given the term in section 170.3 of title 10, Code of Federal Regulations (or any successor regulation).*

"(16) REGULATORY FRAMEWORK.—The term 'regulatory framework' means the framework for reviewing requests for certifications, permits, approvals, and licenses for nuclear reactors.

"(17) REQUESTED ACTIVITY OF THE COMMISSION.—The term 'requested activity of the Commission' means—

"(A) the processing of applications for—

"(i) design certifications or approvals;

"(ii) licenses;

"(iii) permits;

"(iv) license amendments;

"(v) license renewals;

"(vi) certificates of compliance; and

"(vii) power uprates; and

"(B) any other activity requested by a licensee or applicant.

"(18) RESEARCH AND TEST REACTOR.—

"(A) IN GENERAL.—The term 'research and test reactor' means a reactor that—

"(i) falls within the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842); and

"(ii) is useful in the conduct of research and development activities as licensed under section 104 c. of the Atomic Energy Act [of 1954] (42 U.S.C. 2134(c)).

"(B) EXCLUSION.—The term 'research and test reactor' does not include a commercial nuclear reactor.

"(19) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(20) STANDARD DESIGN APPROVAL.—The term 'standard design approval' means the approval of a final standard design or a major portion of a final design standard as described in subpart E of part 52 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(21) TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK.—The term 'technology-inclusive regulatory framework' means a regulatory framework developed using methods of evaluation that are flexible and practicable for application to a variety of reactor technologies, including, where appropriate, the use of risk-informed and performance-based techniques and other tools and methods.

"(22) TOPICAL REPORT.—The term 'topical report' means a document submitted to the Commission that addresses a technical topic related to nuclear reactor safety or design."

[1] *See References in Text note below.*

SUBCHAPTER XIV—COMPENSATION FOR PRIVATE PROPERTY ACQUIRED

§2221. Just compensation for requisitioned property

The United States shall make just compensation for any property or interests therein taken or requisitioned pursuant to sections 2063, 2075, 2096, and 2138 of this title. Except in case of real property or any interest therein, the Commission shall determine and pay such just compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the United States Court of Federal Claims or in any district court of the United States for the district in which such claimant is a resident in the manner provided by section 1346 of title 28 to recover such further sum as added to said 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, title I, §171, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 952; amended Pub. L. 88–489, §17, Aug. 26, 1964, 78 Stat. 606; Pub. L. 97–164, title I, §160(a)(16), Apr. 2, 1982, 96 Stat. 48; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

1992—Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Pub. L. 97–164 substituted "United States Claims Court" for "Court of Claims".

1964—Pub. L. 88–489 substituted "2075" for "2072 (with respect to the material for which the United States is required to pay just compensation),".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

RETROCESSION OF LAND TO NEW MEXICO

Act Aug. 30, 1954, ch. 1073, §3, 68 Stat. 961, provided that:

"There is hereby retroceded to the State of New Mexico the exclusive jurisdiction heretofore acquired from the State of New Mexico by the United States of America over the following land of the United States Atomic Energy Commission in Bernalillo County and within the boundaries of the Sandia base, Albuquerque, New Mexico.

"Beginning at the center quarter corner of section 30, township 10 north, range 4 east, New Mexico principal meridian, Bernalillo County, New Mexico, thence south no degrees twenty-three minutes thirty seconds west one thousand nine hundred forty-seven and twenty one-hundredths feet, thence north eighty-nine degrees thirty-six minutes forty-five seconds east two thousand sixty-eight and forty one-hundredths feet, thence north eighty-nine degrees three minutes fifteen seconds east five hundred forty-six feet, thence north no degrees thirty-nine minutes no seconds east two hundred thirty-two and seventy one-hundredths feet, thence north eighty-nine degrees twenty-one minutes no seconds west eight hundred fifty-two and twenty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east five hundred and sixty one-hundredths feet, thence along the back of the south curb of West Sandia Drive, Sandia Base, Bernalillo County, New Mexico, eight hundred sixty-five and sixty one-hundredths feet, thence north no degrees thirty-nine minutes no seconds east one thousand three hundred thirty-five and three-tenths feet to a point south eighty-nine degrees twenty-seven minutes forty-five seconds west a distance of thirty feet from the quarter corner common to sections 30 and 29, township 10 north, range 4 east, thence south eighty-nine degrees, twenty-seven minutes forty-five seconds west two thousand six hundred twenty-three and forty one-hundredths feet to the point of beginning.

"This retrocession of jurisdiction shall take effect upon acceptance by the State of New Mexico."

§2222. Condemnation of real property

Proceedings for condemnation shall be instituted pursuant to the provisions of section 3113 of title 40, and section 1403 of title 28. Sections 3114 to 3116 and 3118 of title 40 shall be applicable to any such proceedings.

(Aug. 1, 1946, ch. 724, title I, §172, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 953; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

CODIFICATION

In text, "section 3113 of title 40" substituted for "the Act approved August 1, 1888, as amended," and "Sections 3114 to 3116 and 3118 of title 40" substituted for "The Act approved February 26, 1931, as amended,", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2223. Patent application disclosures

In the event that the Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid by the United States to the owner of the patent application. The Commission shall determine such compensation. If the compensation so determined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the United States Court of Federal Claims or in any district court of the United States for the district in which such claimant is a resident in a manner provided by section 1346 of title 28 to recover such further sum as added to such 75 per centum will constitute just compensation.

(Aug. 1, 1946, ch. 724, title I, §173, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 953; amended Pub. L. 97–164, title I, §160(a)(16), Apr. 2, 1982, 96 Stat. 48; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Pub. L. 97–164 substituted "United States Claims Court" for "Court of Claims".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§2224. Attorney General approval of title

All real property acquired under this chapter shall be subject to the provisions of sections 3111 and 3112 of title 40: *Provided, however*, That real property acquired by purchase or donation, or other means of transfer may also be occupied, used, and improved for the purposes of this chapter prior to approval of title by the Attorney General in those cases where the President determines that such action is required in the interest of the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §174, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 953; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

In text, "sections 3111 and 3112 of title 40" substituted for "section 355 of the Revised Statutes, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1813(b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

SUBCHAPTER XV—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

§2231. Applicability of administrative procedure provisions; definitions

(a) In general

The provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall apply to all agency action taken under this chapter, and the terms "agency" and "agency action" shall have the meaning specified in section 551 of title 5: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted Data, defense information, safeguards information protected from disclosure under the authority of section 2167 of this title or information protected from dissemination under the authority of section 2168 of this title, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title were not involved.

(b) Efficient licensing reviews

The Commission shall provide for efficient and timely reviews and proceedings for the granting, suspending, revoking, or amending of any—

(1) license or construction permit; or

(2) application to transfer control.

(Aug. 1, 1946, ch. 724, title I, §181, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 953; amended Pub. L. 96–295, title II, §207(b), June 30, 1980, 94 Stat. 789; Pub. L. 97–90, title II, §210(b), Dec. 4, 1981, 95 Stat. 1170; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 118–67, div. B, title V, §505(b), July 9, 2024, 138 Stat. 1478.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" substituted in subsec. (a) for the first reference to the Administrative Procedure Act on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. "Section 551 of title 5" substituted for the second reference to the Administrative Procedure Act to reflect the codification of the definitions of "agency" and "agency action" in that section. Prior to the enactment of Title 5, the Administrative Procedure Act was classified to sections 1001 to 1011 of Title 5.

PRIOR PROVISIONS

Provisions similar to subsec. (a) of this section were contained in section 1814(a), (c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2024—Pub. L. 118–67 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1981—Pub. L. 97–90, in proviso, substituted "involve Restricted Data, defense information, safeguards information protected from disclosure under the authority of section 2167 of this title or information protected from dissemination under the authority of section 2168 of this title, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information, such safeguards information, or information protected from dissemination under the authority of section 2168 of this title were not involved" for "involve Restricted Data, defense information, or safeguards information protected from disclosure under the authority of section 2167 of this title, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data, defense information, or such safeguards information, to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data, defense information, or such safeguards information, were not involved".

1980—Pub. L. 96–295 inserted references and made provisions applicable to safeguards information.

§2232. License applications

(a) Contents and form

Each application for a license hereunder shall be in writing and shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant, the character of the applicant, the citizenship of the applicant, or any other qualifications of the applicant as the Commission may deem appropriate for the license. In connection with applications for licenses to operate production or utilization facilities, the applicant shall state such technical specifications, including information of the amount, kind, and source of special nuclear material required, the place of the use, the specific characteristics of the facility, and such other information as the Commission may, by rule or regulation, deem necessary in order to enable it to find that the utilization or production of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. Such technical specifications shall be a part of any license issued. The Commission may at any time after the filing of the original application, and before the expiration of the license, require further written statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee. Applications for, and statements made in connection with, licenses under sections 2133 and 2134 of this title shall be made under oath or affirmation. The Commission may require any other applications or statements to be made under oath or affirmation.

(b) Review of applications by Advisory Committee on Reactor Safeguards; report

The Advisory Committee on Reactor Safeguards shall review each application under section 2133 or section 2134(b) of this title for a construction permit or an operating license for a facility, any application under section 2134(c) of this title for a construction permit or an operating license for a testing facility, any application under subsection (a) or (c) of section 2134 of this title specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission, and shall submit a report thereon which shall be made part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

(c) Commercial power; publication

The Commission shall not issue any license under section 2133 of this title for a utilization or

production facility for the generation of commercial power until it has given notice in writing to such regulatory agency as may have jurisdiction over the rates and services incident to the proposed activity; until it has published notice of the application in such trade or news publications as the Commission deems appropriate to give reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility; and until it has published notice of such application once each week for four consecutive weeks in the Federal Register, and until four weeks after the last notice.

(d) Preferred consideration

The Commission, in issuing any license for a utilization or production facility for the generation of commercial power under section 2133 of this title, shall give preferred consideration to applications for such facilities which will be located in high cost power areas in the United States if there are conflicting applications for a limited opportunity for such license. Where such conflicting applications resulting from limited opportunity for such license include those submitted by public or cooperative bodies such applications shall be given preferred consideration.

(Aug. 1, 1946, ch. 724, title I, §182, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 953; amended Aug. 6, 1956, ch. 1015, §5, 70 Stat. 1069; Pub. L. 85–256, §6, Sept. 2, 1957, 71 Stat. 579; Pub. L. 87–615, §3, Aug. 29, 1962, 76 Stat. 409; Pub. L. 91–560, §9, Dec. 19, 1970, 84 Stat. 1474; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1970—Subsec. (c). Pub. L. 91–560 substituted provisions requiring notification by publication giving reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility, for provisions requiring notice in writing to municipalities, private utilities, public bodies and cooperatives within transmission distance authorized to engage in the distribution of electric energy.

1962—Subsec. (b). Pub. L. 87–615 substituted provisions requiring review of applications under section 2133 or 2134(b) of this title for a construction permit or an operating license for a facility, or under section 2134(c) of this title for a testing facility, for provisions which required review of license applications for such facilities, and inserted provisions requiring review of any application for an amendment to a construction permit or operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission.

1957—Subsecs. (b) to (d). Pub. L. 85–256 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1956—Subsec. (a). Act Aug. 6, 1956, struck out "under oath or affirmation" from last sentence, and inserted two sentences at end requiring applications and statements in connection with sections 2133 and 2134 to be made under oath or affirmation and authorizing Commission to require any other applications or statements to be made under oath or affirmation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

§2233. Terms of licenses

Each license shall be in such form and contain such terms and conditions as the Commission may, by rule or regulation, prescribe to effectuate the provisions of this chapter, including the following

provisions:

(a) Repealed. Pub. L. 88–489, §18, Aug. 26, 1964, 78 Stat. 607.

(b) No right to the special nuclear material shall be conferred by the license except as defined by the license.

(c) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter.

(d) Every license issued under this chapter shall be subject to the right of recapture or control reserved by section 2138 of this title, and to all of the other provisions of this chapter, now or hereafter in effect and to all valid rules and regulations of the Commission.

(Aug. 1, 1946, ch. 724, title I, §183, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 954; amended Pub. L. 88–489, §18, Aug. 26, 1964, 78 Stat. 607; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1964—Par. (a). Pub. L. 88–489 struck out par. (a) which placed title to all special nuclear material utilized or produced by facilities pursuant to license in the United States at all times.

§2234. Inalienability of licenses

No license granted hereunder and no right to utilize or produce special nuclear material granted hereby shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of this chapter, and shall give its consent in writing. The Commission may give such consent to the creation of a mortgage, pledge, or other lien upon any facility or special nuclear material, owned or thereafter acquired by a licensee, or upon any leasehold or other interest to such facility, and the rights of the creditors so secured may thereafter be enforced by any court subject to rules and regulations established by the Commission to protect public health and safety and promote the common defense and security.

(Aug. 1, 1946, ch. 724, title I, §184, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 954; amended Pub. L. 88–489, §19, Aug. 26, 1964, 78 Stat. 607; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1964—Pub. L. 88–489 inserted "or special nuclear material," after "lien upon any facility" and substituted "interest in such facility" for "interest in such property".

§2235. Construction permits and operating licenses

(a) All applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. The construction permit shall state the earliest and latest dates for the completion of the construction or modification. Unless the construction or modification of the facility is completed by the completion date, the construction permit shall expire, and all rights thereunder be forfeited, unless upon good cause shown, the Commission extends the completion date. Upon the completion of the construction or modification of the facility, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of this chapter and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of this chapter, the Commission shall thereupon issue a license to the applicant. For all other purposes of this chapter, a construction permit is deemed to be a "license".

(b) After holding a public hearing under section 2239(a)(1)(A) of this title, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this chapter, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this chapter, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 2239(a)(1)(B) of this title.

(c) APPLICATION REVIEWS FOR PRODUCTION AND UTILIZATION FACILITIES OF AN EXISTING SITE.—In reviewing an application for an early site permit, construction permit, operating license, or combined construction permit and operating license for a production facility or utilization facility located at the site of a production facility or utilization facility licensed by the Commission, the Commission shall, to the extent practicable, use information that was part of the licensing basis of the licensed production facility or utilization facility.

(Aug. 1, 1946, ch. 724, title I, §185, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(8), title XXVIII, §2801, Oct. 24, 1992, 106 Stat. 2944, 3120; Pub. L. 118–67, div. B, title V, §505(c), July 9, 2024, 138 Stat. 1478.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–67 added subsec. (c).

1992—Pub. L. 102–486, §2801, inserted "and operating licenses" after "permits" in section catchline, designated existing text as subsec. (a), and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–486, title XXVIII, §2806, Oct, 24, 1992, 106 Stat. 3121, provided that: "Sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954 [subsec. (b) of this section and section 2239(a)(1)(B) of this title], as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections."

COMBINED LICENSE REVIEW PROCEDURE

Pub. L. 118–67, div. B, title II, §207, July 9, 2024, 138 Stat. 1463, provided that:

"(a) IN GENERAL.—In accordance with this section, the [Nuclear Regulatory] Commission shall establish and carry out an expedited procedure for issuing a combined license pursuant to section 185 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2235(b)).

"(b) QUALIFICATIONS.—To qualify for the expedited procedure under subsection (a), an applicant—

"(1) shall submit a combined license application for a new nuclear reactor that—

"(A) references a design for which the Commission has issued a design certification (as defined in section 52.1 of title 10, Code of Federal Regulations (or any successor regulation)); or

"(B) has a design that is substantially similar to a design of a nuclear reactor for which the Commission has issued a combined license, an operating license, or a manufacturing license under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(2) shall propose to construct the new nuclear reactor on a site—

"(A) on which a licensed commercial nuclear reactor operates or previously operated; or

"(B) that is directly adjacent to a site on which a licensed commercial nuclear reactor operates or previously operated and has site characteristics that are substantially similar to that site; and

"(3) may not be subject to an order of the Commission to suspend or revoke a license under section 2.202 of title 10, Code of Federal Regulations (or any successor regulation).

"(c) EXPEDITED PROCEDURE.—With respect to a combined license for which the applicant has satisfied the requirements described in subsection (b), the Commission shall, to the maximum extent practicable—

"(1) not later than 18 months after the date on which the application is accepted for docketing—

"(A) complete the technical review process and issue a safety evaluation report; and

"(B) issue a final environmental impact statement or environmental assessment, unless the Commission finds that the proposed agency action is excluded pursuant to a categorical exclusion in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) not later than 2 years after the date on which the application is accepted for docketing, complete any necessary public licensing hearings and related processes; and

"(3) not later than 25 months after the date on which the application is accepted for docketing, make a final decision on whether to issue the combined license.

"(d) PERFORMANCE AND REPORTING.—

"(1) DELAYS IN ISSUANCE.—Not later than 30 days after the applicable deadline, the Executive Director for Operations of the Commission shall inform the Commission of any failure to meet a deadline under subsection (c).

"(2) DELAYS IN ISSUANCE EXCEEDING 90 DAYS.—If any deadline under subsection (c) is not met by the date that is 90 days after the applicable date required under that subsection, the Commission shall submit to the appropriate committees of Congress [Committee on Energy and Commerce of the House of Representatives and Committee on Environment and Public Works of the Senate] a report describing the delay, including—

"(A) a detailed explanation accounting for the delay; and

"(B) a plan for completion of the applicable action."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12129

Ex. Ord. No. 12129, Apr. 5, 1979, 44 F.R. 21001, which established a Critical Energy Facility Program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§2236. Revocation of licenses

(a) False applications; failure of performance

Any license may be revoked for any material false statement in the application or any statement of fact required under section 2232 of this title, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to construct or operate a facility in accordance with the terms of the construction permit or license or the technical specifications in the application, or for violation of, or failure to observe any of the terms and provisions of this chapter or of any regulation of the Commission.

(b) Procedure

The Commission shall follow the provisions of section 558(c) of title 5 in revoking any license.

(c) Repossession of material

Upon revocation of the license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee or may enter upon and operate the facility prior to any of the procedures provided under subchapter II of chapter 5 and chapter 7 of title 5. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, title I, §186, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

In subsecs. (b) and (c), "section 558(c) of title 5" and "subchapter II of chapter 5 and chapter 7 of title 5" substituted for "section 9(b) of the Administrative Procedure Act [5 U.S.C. 1008(b)]" and "the Administration Procedure Act [5 U.S.C. 1001–1011]", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§2237. Modification of license

The terms and conditions of all licenses shall be subject to amendment, revision, or modification, by reason of amendments of this chapter or by reason of rules and regulations issued in accordance with the terms of this chapter.

(Aug. 1, 1946, ch. 724, title I, §187, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

§2238. Continued operation of facilities

Whenever the Commission finds that the public convenience and necessity or the production program of the Commission requires continued operation of a production facility or utilization facility the license for which has been revoked pursuant to section 2236 of this title, the Commission may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility be operated for such period of time as the public convenience and necessity or the production program of the Commission may, in the judgment of the Commission, require, or until a license for the operation of the facility shall become effective. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, title I, §188, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2239. Hearings and judicial review

(a)(1)(A) In any proceeding under this chapter, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award or royalties under sections [1] 2183, 2187, 2236(c) or 2238 of this title, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission shall hold a hearing after thirty days' notice and publication once in the Federal Register, on each application under section 2133 or 2134(b) of this title for a construction permit for a facility, and on any application under section 2134(c) of this title for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration.

(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 2235(b) of this title, the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the

anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).

(2)(A) The Commission may issue and make immediately effective any amendment to an operating license or any amendment to a combined construction and operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this chapter.

(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license or any amendment to a combined construction and operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.

(b) The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28 and chapter 7 of title 5:

(1) Any final order entered in any proceeding of the kind specified in subsection (a).

(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act [42 U.S.C. 2297h et seq.].

(4) Any final determination under section 2297f(c) of this title relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act [42 U.S.C. 2297h et seq.], are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.

(Aug. 1, 1946, ch. 724, title I, §189, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; amended Pub. L. 85–256, §7, Sept. 2, 1957, 71 Stat. 579; Pub. L. 87–615, §2, Aug. 29, 1962, 76 Stat. 409; Pub. L. 97–415, §12(a), Jan. 4, 1983, 96 Stat. 2073; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(8), title XXVIII, §§2802, 2804, 2805, Oct. 24, 1992, 106 Stat. 2944, 3120, 3121; Pub. L. 104–134, title III, §3116(c), Apr. 26, 1996, 110 Stat. 1321–349.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(A), (2)(A), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The effective date of this paragraph, referred to in subsec. (a)(2)(C), probably means the date of enactment of Pub. L. 97–415, which was approved Jan. 4, 1983.

The USEC Privatization Act, referred to in subsec. (b)(3), (4), is subchapter A (§§3101–3117) of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, which is classified principally to subchapter VIII (§2297h et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–134 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Any final order entered in any proceeding of the kind specified in subsection (a) of this section or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended."

1992—Subsec. (a)(1). Pub. L. 102–486, §2802, designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(2)(A), (C). Pub. L. 102–486, §2804, inserted "or any amendment to a combined construction and operating license" after "any amendment to an operating license".

Subsec. (b). Pub. L. 102–486, §2805, inserted "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

1983—Subsec. (a). Pub. L. 97–415 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (a). Pub. L. 87–615 substituted "construction permit for a facility" and "construction permit for a testing facility" for "license for a facility" and "license for a testing facility" respectively, and authorized the commission in cases where a permit has been issued following a hearing, and in the absence of a request therefor by anyone whose interest may be affected, to issue an operating license or an amendment to a construction permit or an operating license without a hearing upon thirty days' notice and publication once in the Federal Register of its intent to do so, and to dispense with such notice and publication with respect to any application for an amendment to a construction permit or to an operating license upon its determination that the amendment involves no significant hazards consideration.

1957—Subsec. (a). Pub. L. 85–256 required the Commission to hold a hearing after 30 days notice and publication once in the Federal Register on an application for a license for a facility or a testing facility.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Subsec. (a)(1)(B) of this section, as added by section 2802 of Pub. L. 102–486, applicable to all proceedings involving combined license for which application was filed after May 8, 1991, see section 2806 of Pub. L. 102–486, set out as a note under section 2235 of this title.

AUTHORITY TO EFFECTUATE AMENDMENTS TO OPERATING LICENSES

Pub. L. 97–415, §12(b), Jan. 4, 1983, 96 Stat. 2073, provided that: "The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a) [amending this section], to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions."

REVIEW OF NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS

No court or regulatory body to have jurisdiction to compel performance of or to review adequacy of performance of any Nuclear Proliferation Assessment Statement called for by the Atomic Energy Act of 1954 [this chapter] or by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, see section 2160a of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Atomic Energy Commission, now the Nuclear Regulatory Commission and the Secretary of Energy, made reviewable by this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

[1] So in original. Probably should be "section".

§2240. Licensee incident reports as evidence

No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report.

(Aug. 1, 1946, ch. 724, title I, §190, as added Pub. L. 87–206, §16, Sept. 6, 1961, 75 Stat. 479; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2241. Atomic safety and licensing boards; establishment; membership; functions; compensation

(a) Notwithstanding the provisions of sections 556(b) and 557(b) of title 5, the Commission is authorized to establish one or more atomic safety and licensing boards, each comprised of three members, one of whom shall be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission deems appropriate to the issues to be decided, to conduct such hearings as the Commission may direct and make such intermediate or final decisions as the Commission may authorize with respect to the granting, suspending, revoking or amending of any license or authorization under the provisions of this chapter, any other provision of law, or any regulation of the Commission issued thereunder. The Commission may delegate to a board such other regulatory functions as the Commission deems appropriate. The Commission may appoint a panel of qualified persons from which board members may be selected.

(b) Board members may be appointed by the Commission from private life, or designated from the staff of the Commission or other Federal agency. Board members appointed from private life shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of a board. The provisions of section 2203 of this title shall be applicable to board members appointed from private life.

(Aug. 1, 1946, ch. 724, title I, §191, as added Pub. L. 87–615, §1, Aug. 29, 1962, 76 Stat. 409; amended Pub. L. 91–560, §10, Dec. 19, 1970, 84 Stat. 1474; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

In subsec. (a), "sections 556(b) and 557(b) of title 5" substituted for "sections 7(a) and 8(a) of the Administrative Procedure Act [5 U.S.C. 1006(a), 1007(a)]" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–560 required that two members of the board should have such technical or other qualifications the Commission deems appropriate to the issues to be decided.

§2242. Temporary operating license

(a) Fuel loading, testing, and operation at specific power level; petition, affidavit, etc.

In any proceeding upon an application for an operating license for a utilization facility required to

be licensed under section 2133 or 2134(b) of this title, in which a hearing is otherwise required pursuant to section 2239(a) of this title, the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 2232(b) of this title; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 4332(2)(C) of this title; and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

(b) Operation at greater power level; criteria, effect, terms and conditions, etc.; procedures applicable

With respect to any petition filed pursuant to subsection (a) of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this chapter.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Natural Resources and on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28. The requirements of section 2239(a)

of this title with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

(c) Hearing for final operating license; suspension, issuance, compliance, etc., with temporary operating license

Any hearing on the application for the final operating license for a facility required pursuant to section 2239(a) of this title shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection (b) of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 2239(a) of this title; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 2239(a) of this title on the final operating license for a facility for which a temporary operating license has been issued under subsection (b), and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection (b).

(d) Administrative remedies for minimization of need for license

The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

(e) Expiration of issuing authority

The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.

(Aug. 1, 1946, ch. 724, title I, §192, as added Pub. L. 92–307, June 2, 1972, 86 Stat. 191; amended Pub. L. 97–415, §11, Jan. 4, 1983, 96 Stat. 2071; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–437, §15(f)(8), Nov. 2, 1994, 108 Stat. 4593.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted "Natural Resources and on" for "Interior and Insular Affairs and".

1983—Subsec. (a). Pub. L. 97–415 substituted provisions setting forth procedures for petitioning for a temporary operating license in any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 2133 or 2134(b) of this title in which a hearing is otherwise required pursuant to section 2239(a) of this title, for provisions setting forth procedures for petitioning for a temporary operating license in any proceeding upon an application for an operating license for a nuclear power reactor in which a hearing is otherwise required pursuant to section 2239(a) of this title.

Subsec. (b). Pub. L. 97–415 substituted provisions relating to requisite findings, effectiveness, terms and conditions, etc., with respect to petition for a temporary operating license for a utilization facility or amendment of the license to authorize temporary operation at greater power levels than authorized in the initial temporary operating license, for provisions relating to requisite findings, terms and conditions, etc., with respect to petition for a temporary operating license for a nuclear power reactor.

Subsec. (c). Pub. L. 97–415 inserted provisions relating to notification requirements on any party to the hearing and any Board member, and substituted provisions relating to suspension of the temporary operating

license, for provisions relating to vacation of the temporary operating license.

Subsec. (d). Pub. L. 97–415 substituted provisions relating to administrative remedies for minimization of need for temporary operating licenses for provisions setting forth expiration of authority under this section on Oct. 30, 1973.

Subsec. (e). Pub. L. 97–415 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§2243. Licensing of uranium enrichment facilities

(a) Environmental impact statement

(1) Major Federal action

The issuance of a license under sections 2073 and 2093 of this title for the construction and operation of any uranium enrichment facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Timing

An environmental impact statement prepared under paragraph (1) shall be prepared before the hearing on the issuance of a license for the construction and operation of a uranium enrichment facility is completed.

(b) Adjudicatory hearing

(1) In general

The Commission shall conduct a single adjudicatory hearing on the record with regard to the licensing of the construction and operation of a uranium enrichment facility under sections 2073 and 2093 of this title.

(2) Timing

Such hearing shall be completed and a decision issued before the issuance of a license for such construction and operation.

(3) Single proceeding

No further Commission licensing action shall be required to authorize operation.

(c) Inspection and operation

Prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation. The Commission shall publish notice of the inspection results in the Federal Register.

(d) Insurance and decommissioning

(1) The Commission shall require, as a condition of the issuance of a license under sections 2073 and 2093 of this title for a uranium enrichment facility, that the licensee have and maintain liability insurance of such type and in such amounts as the Commission judges appropriate to cover liability claims arising out of any occurrence within the United States, causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of

property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source or special nuclear material.

(2) The Commission shall require, as a condition for the issuance of a license under sections 2073 and 2093 of this title for a uranium enrichment facility, that the licensee provide adequate assurance of the availability of funds for the decommissioning (including decontamination) of such facility using funding mechanisms that may include, but are not necessarily limited to, the following:

(A) Prepayment (in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities).

(B) Surety (in the form of a surety or performance bond, letter of credit, or line of credit), insurance, or other guarantee (including parent company guarantee) method.

(C) External sinking fund in which deposits are made at least annually.

(e) No Price-Anderson coverage

Section 2210 of this title shall not apply to any license under section 2073 or 2093 of this title for a uranium enrichment facility constructed after November 15, 1990.

(f) Limitation

No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections [1] 2073, 2093, or 2297f of this title, if the Commission determines that—

(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(2) the issuance of such a license or certificate of compliance would be inimical to—

(A) the common defense and security of the United States; or

(B) the maintenance of a reliable and economical domestic source of enrichment services.

(Aug. 1, 1946, ch. 724, title I, §193, as added Pub. L. 101–575, §5(e), Nov. 15, 1990, 104 Stat. 2835; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 104–134, title III, §3116(b)(2), Apr. 26, 1996, 110 Stat. 1321–349.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–134 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

[1] *So in original. Probably should be "section".*

SUBCHAPTER XVI—JOINT COMMITTEE ON ATOMIC ENERGY

§§2251 to 2257. Repealed. Aug. 1, 1946, ch. 724, title I, §302(a), as added Pub. L.

95–110, §1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, §902(a)(8), 106 Stat. 2944

Section 2251, act Aug. 1, 1946, ch. 724, §201, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 956, provided for establishment of Joint Committee on Atomic Energy.

Provisions similar to section 2251 were contained in section 1815(a) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2252, act Aug. 1, 1946, ch. 724, §202, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 956; amended Sept. 6, 1961, Pub. L. 87–206, §17, 75 Stat. 479; Mar. 26, 1964, Pub. L. 88–294, 78 Stat. 172; Dec. 6, 1974, Pub. L. 93–514, 88 Stat. 1611, set out authority and duties of Joint Committee.

Provisions similar to section 2252 were contained in section 1815(b) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2253, act Aug. 1, 1946, ch. 724, §203, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 956, provided for a Chairman and a Vice Chairman of Committee.

Provisions similar to section 2253 were contained in section 1815(c) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2254, act Aug. 1, 1946, ch. 724, §204, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 957; amended Dec. 27, 1974, Pub. L. 93–554, title I, §101(2), 88 Stat. 1776, related to the powers of Committee.

Provisions similar to section 2254 were contained in section 1815(d) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2255, act Aug. 1, 1946, ch. 724, §205, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 957, related to staff and assistance for Committee.

Provisions similar to section 2255 were contained in section 1815(e) of this title prior to the general amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919.

Section 2256, act Aug. 1, 1946, ch. 724, §206, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 957, related to classification of information originating in Committee.

Section 2257, act Aug. 1, 1946, ch. 724, §207, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 957, required that Committee keep records of all Committee actions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Act Aug. 1, 1946, ch. 724, title I, §302(a), as added Pub. L. 95–110, §1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, §902(a)(8), 106 Stat. 2944, provided that the repeal of sections 2251 to 2257 is effective Sept. 20, 1977.

§2258. Joint Committee on Atomic Energy abolished

(a) Abolition

The Joint Committee on Atomic Energy is abolished.

(b) References in rules, etc., on and after September 20, 1977

Any reference in any rule, resolution, or order of the Senate or the House of Representatives or in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after September 20, 1977, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

(c) Transfer of records, data, etc.; copies

All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record, data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

(Aug. 1, 1946, ch. 724, title I, §301, as added Pub. L. 95–110, §1, Sept. 20, 1977, 91 Stat. 884;

renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2259. Information and assistance to Congressional committees

(a) Secretary of Energy and Nuclear Regulatory Commission

The Secretary of Energy and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the functions of the Secretary or the Commission, fully and currently informed with respect to the activities of the Secretary and the Commission.

(b) Department of Defense and Department of State

The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, fully and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

(c) Government agencies

Any Government agency shall furnish any information requested by the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

(d) Utilization of services, facilities, and personnel of Government agencies; reimbursement; prior written consent

The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however*, That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of Representatives, the prior written consent of the Committee on House Oversight.

(Aug. 1, 1946, ch. 724, title I, §303, as added Pub. L. 95–110, §1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 104–186, title II, §222(1), Aug. 20, 1996, 110 Stat. 1751.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–186 substituted "House Oversight" for "House Administration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

SUBCHAPTER XVII—ENFORCEMENT OF CHAPTER

§2271. General provisions

(a) Authority of President to utilize Government agencies

To protect against the unlawful dissemination of Restricted Data and to safeguard facilities, equipment, materials, and other property of the Commission, the President shall have authority to utilize the services of any Government agency to the extent he may deem necessary or desirable.

(b) Criminal violations

The Federal Bureau of Investigation of the Department of Justice shall investigate all alleged or suspected criminal violations of this chapter.

(c) Violations of this chapter

No action shall be brought against any individual or person for any violation under this chapter unless and until the Attorney General of the United States has advised the Commission with respect to such action and no such action shall be commenced except by the Attorney General of the United States: *Provided, however*, That nothing in this subsection shall be construed as applying to administrative action taken by the Commission.

(Aug. 1, 1946, ch. 724, title I, §221, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 958; amended Pub. L. 91–161, §5, Dec. 24, 1969, 83 Stat. 445; Pub. L. 101–647, title XII, §1211, Nov. 29, 1990, 104 Stat. 4833; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–647 struck out "That no action shall be brought under section 2272, 2273, 2274, 2275, or 2276 of this title except by the express direction of the Attorney General: *And provided further* ," after "*Provided however*,".

1969—Subsec. (c). Pub. L. 91–161 provided that nothing in this subsection should be construed to apply to administrative action taken by the Commission.

§2272. Violation of specific sections

(a) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of sections [1] 2077 or 2131 of this title, or whoever unlawfully interferes, attempts to interfere, or conspires to interfere with any recapture or entry under section 2138 of this title, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than ten years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be

punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(b) Any person who violates, or attempts or conspires to violate, section 2122 of this title shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 25 years or to imprisonment for life. Any person who, in the course of a violation of section 2122 of this title, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life. If the death of another results from a person's violation of section 2122 of this title, the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

(Aug. 1, 1946, ch. 724, title I, §222, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 958; amended Pub. L. 91–161, §§2, 3(a), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 108–458, title VI, §6904(b), Dec. 17, 2004, 118 Stat. 3771.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(a), (b) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

AMENDMENTS

2004—Pub. L. 108–458 designated existing provisions as subsec. (a), struck out ", 2122," after "2077", and added subsec. (b).

1969—Pub. L. 91–161 increased maximum term of imprisonment from five years to ten years for willful violation, or attempted violation of enumerated sections, and struck out applicability of death penalty for violation of same offenses committed with intent to injure the United States, or secure an advantage to any foreign nation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91–161, §7, Dec. 24, 1969, 83 Stat. 445, provided that: "The amendments contained in sections 2 and 3 of this Act [amending this section and sections 2274 and 2276 of this title] shall apply only to offenses under sections 222, 224, 225, and 226 [this section and sections 2274, 2275, and 2276 of this title] which are committed on or after the date of enactment of this Act [Dec. 24, 1969]. Nothing in section 2 or 3 of this Act shall affect penalties authorized under existing law for offenses under section 222, 224, 225, or 226 of the Atomic Energy Act of 1954, as amended, committed prior to the date of enactment of this Act."

[1] *So in original. Probably should be "section".*

§2273. Violation of sections

(a) Generally

Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 2095 or 2201(b), (i), or (o) of this title shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

(b) Construction or supply of components for utilization facilities; impairment of basic components; "basic component" defined; posting at construction sites of utilization facilities

and on premises of component fabrication plants

Any individual director, officer, or employee of a firm constructing, or supplying the components of any utilization facility required to be licensed under section 2133 or 2134(b) of this title who by act or omission, in connection with such construction or supply, knowingly and willfully violates or causes to be violated, any section of this chapter, any rule, regulation, or order issued thereunder, or any license condition, which violation results, or if undetected could have resulted, in a significant impairment of a basic component of such a facility shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after a first conviction under this subsection, punishment shall be a fine of not more than $50,000 per day of violation, or imprisonment for not more than two years, or both. For the purposes of this subsection, the term "basic component" means a facility structure, system, component or part thereof necessary to assure—

(1) the integrity of the reactor coolant pressure boundary,

(2) the capability to shut-down the facility and maintain it in a safe shut-down condition, or

(3) the capability to prevent or mitigate the consequences of accidents which could result in an unplanned offsite release of quantities of fission products in excess of the limits established by the Commission.

The provisions of this subsection shall be prominently posted at each site where a utilization facility required to be licensed under section 2133 or 2134(b) of this title is under construction and on the premises of each plant where components for such a facility are fabricated.

(c) Criminal penalties

Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 2210(d) of this title (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this chapter or any applicable nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in section 2014(q) of this title shall, upon conviction, notwithstanding section 3571 of title 18, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, notwithstanding section 3571 of title 18, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.

(Aug. 1, 1946, ch. 724, title I, §223, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 958; amended Pub. L. 90–190, §12, Dec. 14, 1967, 81 Stat. 578; Pub. L. 91–161, §6, Dec. 24, 1969, 83 Stat. 445; Pub. L. 96–295, title II, §203, June 30, 1980, 94 Stat. 786; Pub. L. 100–408, §18, Aug. 20, 1988, 102 Stat. 1083; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–408 added subsec. (c).

1980—Pub. L. 96–295 designated existing provisions as subsec. (a) and added subsec. (b).

1969—Pub. L. 91–161 limited application of section to instances where no criminal penalties have been provided.

1967—Pub. L. 90–190 substituted "(o)" for "(p)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–408 effective Aug. 20, 1988, but inapplicable to any violation occurring before Aug. 20, 1988, see section 20 of Pub. L. 100–408, set out as a note under section 2014 of this title.

§2274. Communication of Restricted Data

Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $100,000 or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $50,000 or imprisonment for not more than ten years, or both.

(Aug. 1, 1946, ch. 724, title I, §224, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 958; amended Pub. L. 91–161, §3(b), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–65, div. C, title XXXI, §3148(a), Oct. 5, 1999, 113 Stat. 938; Pub. L. 106–398, §1 [[div. A], title X, §1087(g)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294.)

EDITORIAL NOTES

AMENDMENTS

2000—Cl. (b). Pub. L. 106–398 substituted "$50,000" for "$500,000".

1999—Cl. (a). Pub. L. 106–65, §3148(a)(1), substituted "$100,000" for "$20,000".

Cl. (b). Pub. L. 106–65, §3148(a)(2), substituted "$500,000" for "$10,000".

1969—Pub. L. 91–161 made death penalty inapplicable for willful violation, or attempted violation of this section with intent to injure the United States, or secure an advantage for any foreign nation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title X, §1087(g)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294, provided that the amendment made by that section is effective as of Oct. 5, 1999.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

§2275. Receipt of Restricted Data

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data, shall upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $100,000 or both.

(Aug. 1, 1946, ch. 724, title I, §225, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 959; amended Pub. L. 91–161, §3(b), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 106–65, div. C, title XXXI, §3148(b), Oct. 5, 1999, 113 Stat. 938.)

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–65 substituted "$100,000" for "$20,000".

1969—Pub. L. 91–161 made death penalty inapplicable for willful violation, or attempted violation of this section with intent to injure the United States, or secure an advantage for any foreign nation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

§2276. Tampering with Restricted Data

Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating Restricted Data and used by any individual or person in connection with the production of special nuclear material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of special nuclear material, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both.

(Aug. 1, 1946, ch. 724, title I, §226, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 959; amended Pub. L. 91–161, §3(b), Dec. 24, 1969, 83 Stat. 444; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1969—Pub. L. 91–161 made death penalty inapplicable for willful violation, or attempted violation of this section with intent to injure the United States, or secure an advantage for any foreign nation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–161 applicable to offenses committed on or after Dec. 24, 1969, see section 7 of Pub. L. 91–161, set out as a note under section 2272 of this title.

§2277. Disclosure of Restricted Data

Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of any agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Commission, or being or having been an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data,

knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this chapter or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine of not more than $12,500.

(Aug. 1, 1946, ch. 724, title I, §227, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 959; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 106–65, div. C, title XXXI, §3148(c), Oct. 5, 1999, 113 Stat. 938.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

1999—Pub. L. 106–65 substituted "$12,500" for "$2,500".

§2278. Statute of limitations

Except for a capital offense, no individual or person shall be prosecuted, tried, or punished for any offense prescribed or defined in sections 2274 to 2276 of this title unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.

(Aug. 1, 1946, ch. 724, title I, §228, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 959; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2278a. Trespass on Commission installations

(a) Issuance and posting of regulations

(1) The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, in the custody of the Commission, or subject to the licensing authority of the Commission or certification by the Commission under this chapter or any other Act.

(2) Every such regulation of the Commission shall be posted conspicuously at the location involved.

(b) Penalty for violation of regulations

Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) shall, upon conviction thereof, be punishable by a fine of not more than $1,000.

(c) Penalty for violation of regulations regarding enclosed property

Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both.

(Aug. 1, 1946, ch. 724, title I, §229, as added Aug. 6, 1956, ch. 1015, §6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 109–58, title VI, §654, Aug. 8, 2005, 119 Stat. 812.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2005—Pub. L. 109–58, §654(1), (2), substituted "on" for "upon" in section catchline and realigned margins.

Subsec. (a). Pub. L. 109–58, §654(3), designated first sentence as par. (1), substituted "in the custody of the Commission, or subject to the licensing authority of the Commission or certification by the Commission under this chapter or any other Act" for "or in the custody of the Commission", and designated second sentence as par. (2).

§2278b. Photographing, etc., of Commission installations; penalty

It shall be an offense, punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both—

(1) to make any photograph, sketch, picture, drawing, map or graphical representation, while present on property subject to the jurisdiction, administration or in the custody of the Commission, of any installations or equipment designated by the President as requiring protection against the general dissemination of information relative thereto, in the interest of the common defense and security, without first obtaining the permission of the Commission, and promptly submitting the product obtained to the Commission for inspection or such other action as may be deemed necessary; or

(2) to use or permit the use of an aircraft or any contrivance used, or designed for navigation or flight in air, for the purpose of making a photograph, sketch, picture, drawing, map or graphical representation of any installation or equipment designated by the President as provided in the preceding paragraph, unless authorized by the Commission.

(Aug. 1, 1946, ch. 724, title I, §230, as added Aug. 6, 1956, ch. 1015, §6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2279. Applicability of other laws

Sections 2274 to 2278b of this title shall not exclude the applicable provisions of any other laws.

(Aug. 1, 1946, ch. 724, title I, §231, formerly §229, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 959; renumbered §231 and amended Aug. 6, 1956, ch. 1015, §§6, 7, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

AMENDMENTS

1956—Act Aug. 6, 1956, §7, substituted "2274 to 2278b" for "2274 to 2278".

§2280. Injunction proceedings

Whenever in the judgment of the Commission any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any regulation or order issued thereunder, the Attorney General on behalf of the United States may make application to the appropriate court for an order enjoining such acts or practices, or for an order

enforcing compliance with such provision, and upon a showing by the Commission that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(Aug. 1, 1946, ch. 724, title I, §232, formerly §230, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 959; renumbered §232, Aug. 6, 1956, ch. 1015, §6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(c) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2281. Contempt proceedings

In case of failure or refusal to obey a subpena served upon any person pursuant to section 2201(c) of this title, the district court for any district in which such person is found or resides or transacts business, upon application by the Attorney General on behalf of the United States, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both, in accordance with the subpena; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Aug. 1, 1946, ch. 724, title I, §233, formerly §231, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 960; renumbered §233, Aug. 6, 1956, ch. 1015, §6, 70 Stat. 1070; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1816(d) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

§2282. Civil penalties

(a) Violations of licensing requirements

Any person who (1) violates any licensing or certification provision of section 2073, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, 2139, or 2297f of this title or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license or certification issued thereunder, (2) violates any provision of section 2077 of this title, or (3) commits any violation for which a license may be revoked under section 2236 of this title, shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed $100,000 for each such violation. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Commission shall have the power to compromise, mitigate, or remit such penalties.

(b) Notice

Whenever the Commission has reason to believe that a person has become subject to the

imposition of a civil penalty under the provisions of this section, it shall notify such person in writing (1) setting forth the date, facts, and nature of each act or omission with which the person is charged, (2) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or license involved in the violation, and (3) advising of each penalty which the Commission proposes to impose and its amount. Such written notice shall be sent by registered or certified mail by the Commission to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the Commission, if any, the penalty may be collected by civil action.

(c) Collection of penalties

On the request of the Commission, the Attorney General is authorized to institute a civil action to collect a penalty imposed pursuant to this section. The Attorney General shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to him for collection.

(Aug. 1, 1946, ch. 724, title I, §234, as added Pub. L. 91–161, §4, Dec. 24, 1969, 83 Stat. 444; amended Pub. L. 96–295, title II, §206, June 30, 1980, 94 Stat. 787; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 104–134, title III, §3116(d), Apr. 26, 1996, 110 Stat. 1321–350; Pub. L. 115–232, div. C, title XXXI, §3116(b), Aug. 13, 2018, 132 Stat. 2291.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–232 struck out "2077," after "2073," and substituted "(2) violates any provision of section 2077 of this title, or (3)" for "or (2)".

1996—Subsec. (a). Pub. L. 104–134, in first sentence, substituted "any licensing or certification provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, 2139, or 2297f of this title" for "any licensing provision of section 2073, 2077, 2092, 2093, 2111, 2112, 2131, 2133, 2134, 2137, or 2139 of this title" and "any license or certification issued thereunder" for "any license issued thereunder".

1980—Subsec. (a). Pub. L. 96–295 substituted $100,000 penalty limitation per violation for $5,000 limit per violation and $25,000 limit for all violations taking place within any thirty consecutive day period.

§2282a. Civil monetary penalties for violation of Department of Energy safety and whistleblower regulations

(a) Persons subject to penalty

Any person who has entered into an agreement of indemnification under section 2210(d) of this title (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this chapter (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), or who violates any applicable law, rule, regulation, or order related to nuclear safety whistleblower protections, shall be subject to a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. The Secretary of Energy may carry out this section with respect to the National Nuclear Security Administration by acting through the Administrator for Nuclear Security.

(b) Determination of amount

(1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(c) Assessment and payment

(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5 before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the election under paragraph (1).

(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(d) Limitation for not-for-profit institutions

(1) Notwithstanding subsection (a), in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection (a) may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

(2) For purposes of this section, the term "not-for-profit" means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.

e [1] Nuclear safety whistleblower protections

In this section, the term "nuclear safety whistleblower protections" means the protections for employees of contractors or subcontractors from reprisals pursuant to section 4712 of title 41, section 5851 of this title, or other provisions of Federal law (including rules, regulations, or orders) affording

such protections, with respect to disclosures or other activities covered by such protections that relate to nuclear safety.

(Aug. 1, 1946, ch. 724, title I, §234A, as added Pub. L. 100–408, §17, Aug. 20, 1988, 102 Stat. 1081; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 106–65, div. C, title XXXI, §3147(c), Oct. 5, 1999, 113 Stat. 938; Pub. L. 109–58, title VI, §610(a), (b), Aug. 8, 2005, 119 Stat. 781; Pub. L. 116–92, div. C, title XXXI, §3131, Dec. 20, 2019, 133 Stat. 1958.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2019—Pub. L. 116–92, §3131(1), inserted "and whistleblower" after "safety" in section catchline.

Subsec. (a). Pub. L. 116–92, §3131(2), inserted ", or who violates any applicable law, rule, regulation, or order related to nuclear safety whistleblower protections," before "shall be subject to a civil penalty" and inserted at end "The Secretary of Energy may carry out this section with respect to the National Nuclear Security Administration by acting through the Administrator for Nuclear Security."

Subsec. (e). Pub. L. 116–92, §3131(3), added subsec. (e).

2005—Subsec. (b)(2). Pub. L. 109–58, §610(a), struck out at end "In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section."

Subsec. (d). Pub. L. 109–58, §610(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) provided that the provisions of this section would not apply to the University of Chicago for activities associated with Argonne National Laboratory; the University of California for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory; American Telephone and Telegraph Company and its subsidiaries for activities associated with Sandia National Laboratories; Universities Research Association, Inc. for activities associated with FERMI National Laboratory; Princeton University for activities associated with Princeton Plasma Physics Laboratory; the Associated Universities, Inc. for activities associated with the Brookhaven National Laboratory; and Battelle Memorial Institute for activities associated with Pacific Northwest Laboratory.

1999—Pub. L. 106–65 inserted "safety" before "regulations" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title VI, §610(c), Aug. 8, 2005, 119 Stat. 782, provided that: "The amendments made by this section [amending this section] shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section [Aug. 8, 2005]."

EFFECTIVE DATE

Section effective Aug. 20, 1988, but inapplicable to any violation occurring before Aug. 20, 1988, see section 20 of Pub. L. 100–408, set out as an Effective Date of 1988 Amendment note under section 2014 of this title.

[1] *So in original. Probably should be "(e)".*

§2282b. Civil monetary penalties for violations of Department of Energy regulations regarding security of classified or sensitive information or data

(a) Persons subject to penalty

Any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this chapter relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed $100,000 for each such violation.

(b) Fee or payment reductions for violations

The Secretary shall include in each contract with a contractor of the Department provisions which provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified or sensitive information. The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

(c) Powers and limitations

The powers and limitations applicable to the assessment of civil penalties under section 2282a of this title, except for subsection (d) of that section, shall apply to the assessment of civil penalties under this section.

(d) Application to certain entities

In the case of an entity specified in subsection (d) of section 2282a of this title—

(1) the assessment of any civil penalty under subsection (a) against that entity may not be made until the entity enters into a new contract with the Department of Energy or an extension of a current contract with the Department; and

(2) the total amount of civil penalties under subsection (a) in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.

(Aug. 1, 1946, ch. 724, title I, §234B, as added Pub. L. 106–65, div. C, title XXXI, §3147(a), Oct. 5, 1999, 113 Stat. 937.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 106–65, div. C, title XXXI, §3147(b), Oct. 5, 1999, 113 Stat. 938, provided that: "Subsection a. of section 234B of the Atomic Energy Act of 1954 [42 U.S.C. 2282b(a)], as added by subsection (a), applies to any violation after the date of the enactment of this Act [Oct. 5, 1999]."

§2282c. Worker health and safety rules for Department of Energy nuclear facilities

(a) Regulations required

(1) In general

The Secretary shall promulgate regulations for industrial and construction health and safety at Department of Energy facilities that are operated by contractors covered by agreements of indemnification under section 2210(d) of this title, after public notice and opportunity for

comment under section 553 of title 5 (commonly known as the "Administrative Procedure Act"). Such regulations shall, subject to paragraph (3), provide a level of protection for workers at such facilities that is substantially equivalent to the level of protection currently provided to such workers at such facilities.

(2) Applicability

The regulations promulgated under paragraph (1) shall not apply to any facility that is a component of, or any activity conducted under, the Naval Nuclear Propulsion Program provided for under Executive Order No. 12344, dated February 1, 1982 (as in force pursuant to section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525)).

(3) Flexibility

In promulgating the regulations under paragraph (1), the Secretary shall include flexibility—

(A) to tailor implementation of such regulations to reflect activities and hazards associated with a particular work environment;

(B) to take into account special circumstances at a facility that is, or is expected to be, permanently closed and that is expected to be demolished, or title to which is expected to be transferred to another entity for reuse; and

(C) to achieve national security missions of the Department of Energy in an efficient and timely manner.

(4) No effect on health and safety enforcement

This subsection does not diminish or otherwise affect the enforcement or the application of any other law, regulation, order, or contractual obligation relating to worker health and safety.

(b) Civil penalties

(1) In general

A person (or any subcontractor or supplier of the person) who has entered into an agreement of indemnification under section 2210(d) of this title (or any subcontractor or supplier of the person) that violates (or is the employer of a person that violates) any regulation promulgated under subsection (a) shall be subject to a civil penalty of not more than $70,000 for each such violation.

(2) Continuing violations

If any violation under this subsection is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the civil penalty under paragraph (1).

(c) Contract penalties

(1) In general

The Secretary shall include in each contract with a contractor of the Department who has entered into an agreement of indemnification under section 2210(d) of this title provisions that provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any regulation promulgated under subsection (a).

(2) Contents

The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

(d) Coordination of penalties

(1) Choice of penalties

For any violation by a person of a regulation promulgated under subsection (a), the Secretary shall pursue either civil penalties under subsection (b) or contract penalties under subsection (c), but not both.

(2) Maximum amount

In the case of an entity described in subsection (d) of section 2282a of this title, the total amount

of civil penalties under subsection (b) and contract penalties under subsection (c) in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.

(3) Coordination with section 2282a of this title

The Secretary shall ensure that a contractor of the Department is not penalized both under this section and under section 2282a of this title for the same violation.

(Aug. 1, 1946, ch. 724, title I, §234C, as added Pub. L. 107–314, div. C, title XXXI, §3173(a), Dec. 2, 2002, 116 Stat. 2743.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order No. 12344, referred to in subsec. (a)(2), is set out as a note under section 6102 of Title 10, Armed Forces.

Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525), referred to in subsec. (a)(2), was formerly set out as a note under section 7158 of this title, was renumbered section 4101 of Pub. L. 107–314 by Pub. L 108–136, div. C, title XXXI, §3141(d)(2), Nov. 24, 2003, 117 Stat. 1757, and classified to section 2511 of Title 50, War and National Defense, and was repealed and restated as section 6102 of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1340, 1458.

STATUTORY NOTES AND RELATED SUBSIDIARIES

PROMULGATION OF INITIAL REGULATIONS

Pub. L. 107–314, div. C, title XXXI, §3173(b), Dec. 2, 2002, 116 Stat. 2745, provided that:

"(1) DEADLINE FOR PROMULGATING REGULATIONS.—The Secretary of Energy shall promulgate the regulations required by subsection a. of section 234C of the Atomic Energy Act of 1954 [42 U.S.C. 2282c(a)] (as added by subsection (a)) not later than one year after the date of the enactment of this Act [Dec. 2, 2002].

"(2) EFFECTIVE DATE.—The regulations promulgated under paragraph (1) shall take effect on the date that is one year after the promulgation date of the regulations."

PROHIBITION

Pub. L. 107–314, div. C, title XXXI, §3173(c), Dec. 2, 2002, 116 Stat. 2745, provided that: "The Secretary of Energy shall not participate in or otherwise support any study or other project relating to a modification in the scope of the regulations enforceable by civil penalties under section 234A or 234C of the Atomic Energy Act of 1954 [42 U.S.C. 2282a, 2282c], or the responsibility of the Secretary to implement and enforce such regulations, until after the date on which the regulations for such purposes under such section 234C take effect in accordance with subsection (b) [set out as a note above]."

§2283. Protection of nuclear inspectors

(a) Homicide

Whoever kills any person who performs any inspections which—

(1) are related to any activity or facility licensed by the Commission, and

(2) are carried out to satisfy requirements under this chapter or under any other Federal law governing the safety of utilization facilities required to be licensed under section 2133 or 2134(b) of this title, or the safety of radioactive materials,

shall be punished as provided under sections 1111 and 1112 of title 18. The preceding sentence shall be applicable only if such person is killed while engaged in the performance of such inspection duties or on account of the performance of such duties.

(b) Assault

Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person who performs inspections as described under subsection (a) of this section, while such person is engaged in such inspection duties or on account of the performance of such duties, shall be punished as provided under section 111 of title 18.

(Aug. 1, 1946, ch. 724, title I, §235, as added Pub. L. 96–295, title II, §202(a), June 30, 1980, 94 Stat. 786; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

§2284. Sabotage of nuclear facilities or fuel

(a) Physical damage to facilities, etc.

Any person who knowingly destroys or causes physical damage to—

(1) any production facility or utilization facility licensed under this chapter;

(2) any nuclear waste treatment, storage, or disposal facility licensed under this chapter;

(3) any nuclear fuel for a utilization facility licensed under this chapter, or any spent nuclear fuel from such a facility;

(4) any uranium enrichment, uranium conversion, or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission;

(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this chapter during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

(7) any radioactive material or other property subject to regulation by the Commission that, before the date of the offense, the Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security; [1]

or attempts or conspires to do such an act, shall be fined not more than $10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(b) Unauthorized use or tampering with facilities, etc.

Any person who knowingly causes an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, or attempts or conspires to do such an act, shall be fined not more than $10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life.

(Aug. 1, 1946, ch. 724, title I, §236, as added Pub. L. 96–295, title II, §204(a), June 30, 1980, 94 Stat. 787; amended Pub. L. 97–415, §16, Jan. 4, 1983, 96 Stat. 2076; Pub. L. 101–575, §5(d), Nov. 15, 1990, 104 Stat. 2835; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 107–56, title VIII, §§810(f), 811(h), Oct. 26, 2001, 115 Stat. 380, 381; Pub. L. 109–58, title VI, §655, Aug. 8, 2005, 119 Stat. 813.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1) to (3), (5), was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58, §655(b), substituted "knowingly" for "intentionally and willfully" in introductory provisions.

Pub. L. 109–58, §655(a), substituted "treatment, storage, or disposal facility" for "storage facility" in par. (2), "a utilization facility licensed under this chapter" for "such a utilization facility" in par. (3), and ", uranium conversion, or nuclear fuel fabrication facility licensed or certified" for "facility licensed" in par. (4) and added pars. (5) to (7).

Subsec. (b). Pub. L. 109–58, §655(b), substituted "knowingly" for "intentionally and willfully".

2001—Subsec. (a). Pub. L. 107–56, §§810(f)(1), (2), 811(h)(1)(A), (C), in introductory provisions, struck out ", or who intentionally and willfully attempts to destroy or cause physical damage to" before "—", and in concluding provisions, inserted "or attempts or conspires to do such an act," before "shall be fined" and substituted "20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life." for "ten years, or both."

Subsec. (a)(4). Pub. L. 107–56, §811(h)(1)(B), substituted comma for period at end.

Subsec. (b). Pub. L. 107–56, §§810(f)(1), (3), 811(h)(2), struck out "or attempts to cause" before "an interruption of normal operation", inserted "or attempts or conspires to do such an act," before "shall be fined", and substituted "20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life." for "ten years, or both."

1990—Subsec. (a)(4). Pub. L. 101–575, which directed amendment of this section by adding par. (4) after par. (3), was executed by adding par. (4) after par. (3) of subsec. (a) of this section to reflect the probable intent of Congress.

1983—Pub. L. 97–415 designated existing provisions as subsec. (a) and added subsec. (b).

[1] *So in original. The semicolon probably should be a comma.*

SUBCHAPTER XVII–A—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

§2286. Establishment

(a) Establishment

There is hereby established an independent establishment in the executive branch, to be known as the "Defense Nuclear Facilities Safety Board" (hereafter in this subchapter referred to as the "Board").

(b) Membership

(1) The Board shall be composed of five members appointed from civilian life by the President, by and with the advice and consent of the Senate, from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than three members of the Board shall be of the same political party.

(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(3) No member of the Board may be an employee of, or have any significant financial relationship

with, the Department of Energy or any contractor of the Department of Energy.

(4) The President shall enter into an arrangement with the National Academy of Sciences under which the National Academy shall maintain a list of individuals who meet the qualifications described in paragraph (1) to assist the President in selecting individuals to nominate for positions as members of the Board.

(c) Chairperson, Vice Chairperson, and members

(1) The President shall designate a Chairperson and Vice Chairperson of the Board from among members of the Board.

(2) In accordance with paragraphs (5) and (6), the Chairperson shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

(A) the appointment and supervision of employees of the Board;

(B) the organization of any administrative units established by the Board; and

(C) the use and expenditure of funds.

(3)(A) The Chairperson may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

(B) In carrying out subparagraph (A), the Chairperson shall delegate to the Executive Director of Operations established under section 2286b(b)(3) of this title the following functions:

(i) Administrative functions of the Board.

(ii) Appointment and supervision of employees of the Board not specified under paragraph (6).

(iii) Distribution of business among the employees and administrative units and offices of the Board.

(iv) Preparation of—

(I) proposals for the reorganization of the administrative units or offices of the Board;

(II) the budget estimate for the Board; and

(III) the proposed distribution of funds according to purposes approved by the Board.

(4) The Vice Chairperson shall act as Chairperson in the event of the absence or incapacity of the Chairperson or in case of a vacancy in the office of Chairperson.

(5) Each member of the Board, including the Chairperson and Vice Chairperson, shall—

(A) have equal responsibility and authority in establishing decisions and determining actions of the Board;

(B) have full access to all information relating to the performance of the Board's functions, powers, and mission; and

(C) have one vote.

(6)(A) The Chairperson, subject to the approval of the Board, shall appoint the senior employees described in subparagraph (C). Any member of the Board may propose to the Chairperson an individual to be so appointed.

(B) The Chairperson, subject to the approval of the Board, may remove a senior employee described in subparagraph (C). Any member of the Board may propose to the Chairperson an individual to be so removed.

(C) The senior employees described in this subparagraph are the following senior employees of the Board:

(i) The Executive Director of Operations established under section 2286b(b)(3) of this title.

(ii) The general counsel.

(d) Terms

(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of five years. A member may be reappointed for a second term only if the member was confirmed by the Senate more than two years into the member's first term. A member may not be reappointed for a third term.

(2) Of the members first appointed—

(A) one shall be appointed for a term of one year;

(B) one shall be appointed for a term of two years;

(C) one shall be appointed for a term of three years;

(D) one shall be appointed for a term of four years; and

(E) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

(3)(A) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(B) A member may not serve after the expiration of the member's term, unless the departure of the member would result in the loss of a quorum for the Board. If more than one member is serving after the expiration of the member's term and a new member is appointed to the Board so that one of the members serving after the expiration of the member's term is no longer necessary to maintain a quorum, the member whose term expired first may no longer serve on the Board.

(4)(A) Not later than 180 days after the expiration of the term of a member of the Board, the President shall—

(i) submit to the Senate the nomination of an individual to fill the vacancy; or

(ii) submit to the Committee on Armed Services of the Senate a report that includes—

(I) a description of the reasons the President did not submit such a nomination; and

(II) a plan for submitting such a nomination during the 90-day period following the submission of the report.

(B) If the President does not submit to the Senate the nomination of an individual to fill a vacancy during the 90-day period described in subclause (II) of subparagraph (A)(ii), the President shall submit to the Committee on Armed Services a report described in that subparagraph not less frequently than every 90 days until the President submits such a nomination.

(e) Quorum

(1) Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(2) In accordance with paragraph (4), during a covered period, the Chairperson, in consultation with an eligible member, may carry out the functions and powers of the Board under sections 2286a through 2286e of this title, notwithstanding that a quorum does not exist.

(3) Not later than 30 days after a covered period begins, the Chairperson shall notify the congressional defense committees that a quorum does not exist.

(4) The Chairperson may make recommendations to the Secretary of Energy and initiate investigations into defense nuclear facilities under section 2286a of this title pursuant to paragraph (2) only if—

(A) a period of 30 days elapses following the date on which the Chairperson submits the notification required under paragraph (3);

(B) not later than 30 days after making any such recommendation or initiating any such investigation, the Chairperson notifies the congressional defense committees of such recommendation or investigation; and

(C) any eligible member concurs with such recommendation or investigation.

(5) In this subsection:

(A) The term "congressional defense committees" has the meaning given such term in section 101(a) of title 10.

(B) The term "covered period" means a period beginning on the date on which a quorum specified in paragraph (1) does not exist by reason of either or both a vacancy in the membership of the Board or the incapacity of a member of the Board and ending on the earlier of—

(i) the date that is one year after such beginning date; or

(ii) the date on which a quorum exists.

(C) The term "eligible member" means a member of the Board, other than the Chairperson, serving during a covered period and who is not incapacitated.

(Aug. 1, 1946, ch. 724, title I, §311, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2076; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 112–239, div. C, title XXXII, §3202(a), Jan. 2, 2013, 126 Stat. 2217; Pub. L. 114–92, div. C, title XXXII, §3202(a), (b)(1), Nov. 25, 2015, 129 Stat. 1217; Pub. L. 116–92, div. C, title XXXII, §3202(a)(1)(B)–(3), §3203(a), (b)(1), (c), Dec. 20, 2019, 133 Stat. 1964, 1966; Pub. L. 117–81, div. C, title XXXII, §3202, Dec. 27, 2021, 135 Stat. 2235; Pub. L. 117–263, div. C, title XXXII, §3202, Dec. 23, 2022, 136 Stat. 3060.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (e). Pub. L. 117–263 designated existing provisions as par. (1) and added pars. (2) to (5).

2021—Subsec. (c). Pub. L. 117–81 substituted "Chairperson, Vice Chairperson" for "Chairman, Vice Chairman" in heading and "Chairperson" for "Chairman" wherever appearing.

2019—Subsec. (b)(4). Pub. L. 116–92, §3203(a), added par. (4).

Subsec. (c)(2). Pub. L. 116–92, §3202(a)(2)(A), substituted "paragraphs (5) and (6)" for "paragraphs (5), (6), and (7)".

Subsec. (c)(3). Pub. L. 116–92, §3202(a)(1)(B), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(6). Pub. L. 116–92, §3202(a)(3), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

"(6)(A) The Chairman, subject to the approval of the Board, shall appoint the senior employees described in subparagraph (C).

"(B) The Chairman, subject to the approval of the Board, may remove a senior employee described in subparagraph (C).

"(C) The senior employees described in this subparagraph are the following senior employees of the Board:

"(i) The senior employee responsible for budgetary and general administration matters.

"(ii) The general counsel.

"(iii) The senior employee responsible for technical matters."

Pub. L. 116–92, §3202(a)(2)(B), (C), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: "In carrying out paragraph (5)(B), the Chairman may not withhold from any member of the Board any information that is made available to the Chairman regarding the Board's functions, powers, and mission (including with respect to the management and evaluation of employees of the Board)."

Subsec. (c)(7). Pub. L. 116–92, §3202(a)(2)(C), redesignated par. (7) as (6).

Subsec. (d)(1). Pub. L. 116–92, §3203(b)(1)(A), substituted "A member may be reappointed for a second term only if the member was confirmed by the Senate more than two years into the member's first term. A member may not be reappointed for a third term." for "Members of the Board may be reappointed."

Subsec. (d)(3). Pub. L. 116–92, §3203(b)(1)(B), designated existing provisions as subpar. (A), struck out at end "A member may serve after the expiration of that member's term until a successor has taken office.", and added subpar. (B).

Subsec. (d)(4). Pub. L. 116–92, §3203(c), added par. (4).

2015—Subsec. (c)(2). Pub. L. 114–92, §3202(a)(1), substituted "paragraphs (5), (6), and (7)" for "paragraph (5)" in introductory provisions.

Subsec. (c)(6). Pub. L. 114–92, §3202(a)(2), added par. (6).

Subsec. (c)(7). Pub. L. 114–92, §3202(b)(1), added par. (7).

2013—Subsec. (b)(4). Pub. L. 112–239, §3202(a)(1), struck out par. (4) which read as follows: "Not later than 180 days after September 29, 1988, the President shall submit to the Senate nominations for appointment to the Board. In the event that the President is unable to submit the nominations within such 180-day period, the President shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a report describing the reasons for such inability and a plan for submitting the nominations within the next 90 days. If the President is unable to submit the nominations

within that 90-day period, the President shall again submit to such committees and the Speaker such a report and plan. The President shall continue to submit to such committees and the Speaker such a report and plan every 90 days until the nominations are submitted."

Subsec. (c). Pub. L. 112–239, §3202(a)(2)(A), substituted ", Vice Chairman, and members" for "and Vice Chairman" in heading.

Subsec. (c)(2). Pub. L. 112–239, §3202(a)(2)(B), substituted "In accordance with paragraph (5), the Chairman" for "The Chairman".

Subsec. (c)(5). Pub. L. 112–239, §3202(a)(2)(C), added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. C, title XXXII, §3203(b)(2), Dec. 20, 2019, 133 Stat. 1966, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 20, 2019]."

CONSTRUCTION OF SECTION 3202 OF PUB. L. 112–239; SAFETY STANDARDS

Pub. L. 112–239, div. C, title XXXII, §3202(h), Jan. 2, 2013, 126 Stat. 2220, provided that: "Nothing in this section [enacting section 2286k of this title and amending this section and sections 2286a, 2286b, 2286d, 2286e, and 2286h–1 of this title] or in the amendments made by this section shall be construed to cause a reduction in nuclear safety standards."

REPORT ON EXTERNAL REGULATION OF DEFENSE NUCLEAR FACILITIES

Pub. L. 105–85, div. C, title XXXII, §3202, Nov. 18, 1997, 111 Stat. 2054, provided that:

"(a) REPORTING REQUIREMENT.—The Defense Nuclear Facilities Safety Board (in this section referred to as the 'Board') shall prepare a report and make recommendations on its role in the Department of Energy's decision to establish external regulation of defense nuclear facilities. The report shall include the following:

"(1) An assessment of the value of and the need for the Board to continue to perform the functions specified under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

"(2) An assessment of the relationship between the functions of the Board and a proposal by the Department of Energy to place Department of Energy defense nuclear facilities under the jurisdiction of external regulatory agencies.

"(3) An assessment of the functions of the Board and whether there is a need to modify or amend such functions.

"(4) An assessment of the relative advantages and disadvantages to the Department and the public of continuing the functions of the Board with respect to Department of Energy defense nuclear facilities and replacing the activities of the Board with external regulation of such facilities.

"(5) A list of all existing or planned Department of Energy defense nuclear facilities that are similar to facilities under the regulatory jurisdiction of the Nuclear Regulatory Commission.

"(6) A list of all Department of Energy defense nuclear facilities that are in compliance with all applicable Department of Energy orders, regulations, and requirements relating to the design, construction, operation, and decommissioning of defense nuclear facilities.

"(7) A list of all Department of Energy defense nuclear facilities that have implemented, pursuant to an implementation plan, recommendations made by the Board and accepted by the Secretary of Energy.

"(8) A list of Department of Energy defense nuclear facilities that have a function related to Department weapons activities.

"(9)(A) A list of each existing defense nuclear facility that the Board determines—

"(i) should continue to stay within the jurisdiction of the Board for a period of time or indefinitely; and

"(ii) should come under the jurisdiction of an outside regulatory authority.

"(B) An explanation of the determinations made under subparagraph (A).

"(10) For any existing facilities that should, in the opinion of the Board, come under the jurisdiction of an outside regulatory authority, the date when this move would occur and the period of time necessary for the transition.

"(11) A list of any proposed Department of Energy defense nuclear facilities that should come under the Board's jurisdiction.

"(12) An assessment of regulatory and other issues associated with the design, construction, operation,

and decommissioning of facilities that are not owned by the Department of Energy but which would provide services to the Department of Energy.

"(13) An assessment of the role of the Board, if any, in privatization projects undertaken by the Department.

"(14) An assessment of the role of the Board, if any, in any tritium production facilities.

"(15) An assessment of the comparative advantages and disadvantages to the Department of Energy in the event some or all Department of Energy defense nuclear facilities were no longer included in the functions of the Board and were regulated by the Nuclear Regulatory Commission.

"(16) A comparison of the cost, as identified by the Nuclear Regulatory Commission, that would be incurred at a gaseous diffusion plant to comply with regulations issued by the Nuclear Regulatory Commission, with the cost that would be incurred by a gaseous diffusion plant if such a plant was considered to be a Department of Energy defense nuclear facility as defined by chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

"(b) COMMENTS ON REPORT.—Before submission of the report to Congress under subsection (c), the Board shall transmit the report to the Secretary of Energy and the Nuclear Regulatory Commission. The Secretary and the Commission shall provide their comments on the report to both the Board and to Congress.

"(c) SUBMISSION TO CONGRESS.—Not later than six months after the date of the enactment of this Act [Nov. 18, 1997], the Board shall provide to Congress an interim report on the status of the implementation of this section. Not later than one year after the date of the enactment of this Act, and not earlier than 30 days after receipt of comments from the Secretary of Energy and the Nuclear Regulatory Commission under subsection (b), the Board shall submit to Congress the report required under subsection (a).

"(d) DEFINITION.—In this section, the term 'Department of Energy defense nuclear facility' has the meaning provided by section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)."

§2286a. Mission and functions of Board

(a) Mission

The mission of the Board shall be to provide independent analysis, advice, and recommendations to the Secretary of Energy to inform the Secretary, in the role of the Secretary as operator and regulator of the defense nuclear facilities of the Department of Energy, in providing adequate protection of public health and safety at such defense nuclear facilities, including with respect to the health and safety of employees and contractors at such facilities.

(b) Functions

The Board shall perform the following functions:

(1) Review and evaluation of standards

The Board shall review and evaluate the content and implementation of the standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at each Department of Energy defense nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected. The Board shall include in its recommendations necessary changes in the content and implementation of such standards, as well as matters on which additional data or additional research is needed.

(2) Investigations

(A) The Board shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety.

(B) The purpose of any Board investigation under subparagraph (A) shall be—

(i) to determine whether the Secretary of Energy is adequately implementing the standards described in paragraph (1) of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at the facility;

(ii) to ascertain information concerning the circumstances of such event or practice and its

implications for such standards;

(iii) to determine whether such event or practice is related to other events or practices at other Department of Energy defense nuclear facilities; and

(iv) to provide to the Secretary of Energy such recommendations for changes in such standards or the implementation of such standards (including Department of Energy orders, regulations, and requirements) and such recommendations relating to data or research needs as may be prudent or necessary.

(3) Analysis of design and operational data

The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy defense nuclear facility.

(4) Review of facility design and construction

The Board shall review the design of a new Department of Energy defense nuclear facility before construction of such facility begins and shall recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Board shall periodically review and monitor the construction and shall submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety. An action of the Board, or a failure to act, under this paragraph may not delay or prevent the Secretary of Energy from carrying out the construction of such a facility.

(5) Recommendations

The Board shall make such recommendations to the Secretary of Energy with respect to Department of Energy defense nuclear facilities, including operations of such facilities, standards, and research needs, as the Board determines are necessary to ensure adequate protection of public health and safety. In making its recommendations the Board shall consider, and specifically assess risk (whenever sufficient data exists), the technical and economic feasibility of implementing the recommended measures.

(c) Excluded functions

The functions of the Board under this subchapter do not include functions relating to the safety of atomic weapons. However, the Board shall have access to any information on atomic weapons that is within the Department of Energy and is necessary to carry out the functions of the Board.

(Aug. 1, 1946, ch. 724, title I, §312, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2077; amended Pub. L. 102–190, div. C, title XXXII, §3202(b)(2), Dec. 5, 1991, 105 Stat. 1582; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 112–239, div. C, title XXXII, §3202(b)(1), Jan. 2, 2013, 126 Stat. 2218; Pub. L. 116–92, div. C, title XXXII, §3202(b), Dec. 20, 2019, 133 Stat. 1965.)

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92 inserted ", including with respect to the health and safety of employees and contractors at such facilities" before period at end.

2013—Pub. L. 112–239, §3202(b)(1)(A), substituted "Mission and functions" for "Functions" in section catchline.

Subsec. (a). Pub. L. 112–239, §3202(b)(1)(C), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 112–239, §3202(b)(1)(B), (D)(i), redesignated subsec. (a) as (b) and substituted "Functions" for "In general" in heading. Former subsec. (b) redesignated (c).

Subsec. (b)(5). Pub. L. 112–239, §3202(b)(1)(D)(ii), inserted ", and specifically assess risk (whenever sufficient data exists)," after "shall consider".

Subsec. (c). Pub. L. 112–239, §3202(b)(1)(B), redesignated subsec. (b) as (c).

1991—Pub. L. 102–190 designated existing provisions as subsec. (a), inserted heading, and added subsec.

(b).

§2286b. Powers of Board

(a) Hearings

(1) The Board or a member authorized by the Board may, for the purpose of carrying out this subchapter, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

(2)(A) Subpoenas may be issued only under the signature of the Chairperson or any member of the Board designated by him and shall be served by any person designated by the Chairperson, any member, or any person as otherwise provided by law. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(C) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt of the court.

(D) The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(E) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(b) Staff

(1) The Board may, for the purpose of performing its responsibilities under this subchapter—

(A) in accordance with section 2286(c)(6) of this title, hire such staff as it considers necessary to perform the functions of the Board, including such scientific and technical personnel as the Board may determine necessary, but not more than the equivalent of 130 full-time employees; and

(B) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5 at rates the Board determines to be reasonable.

(2) The authority and requirements provided in section 2201(d) of this title with respect to officers and employees of the Commission shall apply with respect to scientific and technical personnel hired under paragraph (1)(A).

(3)(A) The Board shall have an Executive Director of Operations who shall be appointed under section 2286(c)(6) of this title.

(B) The Executive Director of Operations shall report to the Chairperson.

(C) The Executive Director of Operations shall be the senior employee of the Board responsible for—

(i) general administration and technical matters;

(ii) ensuring that the members of the Board are fully and currently informed with respect to matters for which the members are responsible; and

(iii) the functions delegated by the Chairperson pursuant to section 2286(c)(3)(B) of this title.

(4) Subject to the approval of the Board, the Chairperson may organize the staff of the Board as the Chairperson considers appropriate to best accomplish the mission of the Board described in section 2286a(a) of this title.

(c) Regulations

The Board may prescribe regulations to carry out the responsibilities of the Board under this subchapter.

(d) Reporting requirements

The Board may establish reporting requirements for the Secretary of Energy which shall be binding upon the Secretary. The information which the Board may require the Secretary of Energy to report under this subsection may include any information designated as classified information, or any information designated as safeguards information and protected from disclosure under section 2167 or 2168 of this title.

(e) Use of Government facilities, etc.

The Board may, for the purpose of carrying out its responsibilities under this subchapter, use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such department or agency and, in the case of a contractor, with the consent of the contractor.

(f) Assistance from certain agencies of Federal Government

With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

(g) Assistance from organizations outside Federal Government

Notwithstanding any other provision of law relating to the use of competitive procedures, the Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to assist the Board in carrying out its responsibilities under this subchapter.

(h) Resident inspectors

The Board may assign staff to be stationed at any Department of Energy defense nuclear facility to carry out the functions of the Board.

(i) Special studies

The Board may conduct special studies pertaining to adequate protection of public health and safety at any Department of Energy defense nuclear facility.

(j) Evaluation of information

The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

(1) events or practices at any Department of Energy defense nuclear facility; or

(2) suggestions for specific measures to improve the content of standards described in section 2286a(b)(1) of this title, the implementation of such standards, or research relating to such standards at Department of Energy defense nuclear facilities.

(k) Nonpublic collaborative discussions

(1) In general

Notwithstanding section 552b of title 5, a quorum of the members of the Board may hold a meeting that is not open to public observation to discuss official business of the Board if—

(A) no formal or informal vote or other official action is taken at the meeting;

(B) each individual present at the meeting is a member or an employee of the Board;

(C) at least one member of the Board from each political party is present at the meeting, unless all members of the Board are of the same political party at the time of the meeting; and

(D) the general counsel of the Board, or a designee of the general counsel, is present at the meeting.

(2) Disclosure of nonpublic collaborative discussions

(A) In general

Except as provided by subparagraph (B), not later than two business days after the conclusion of a meeting described in paragraph (1), the Board shall make available to the public, in a place easily accessible to the public—

(i) a list of the individuals present at the meeting; and

(ii) a summary of the matters, including key issues, discussed at the meeting, except for any matter the Board properly determines may be withheld from the public under section 552b(c) of title 5.

(B) Information about matters withheld from public

If the Board properly determines under subparagraph (A)(ii) that a matter may be withheld from the public under section 552b(c) of title 5, the Board shall include in the summary required by that subparagraph as much general information as possible with respect to the matter.

(3) Rules of construction

Nothing in this subsection may be construed—

(A) to limit the applicability of section 552b of title 5 with respect to—

(i) a meeting of the members of the Board other than a meeting described in paragraph (1); or

(ii) any information that is proposed to be withheld from the public under paragraph (2)(A)(ii); or

(B) to authorize the Board to withhold from any individual any record that is accessible to that individual under section 552a of title 5.

(Aug. 1, 1946, ch. 724, title I, §313, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2079; amended Pub. L. 101–510, div. C, title XXXII, §3202, Nov. 5, 1990, 104 Stat. 1844; Pub. L. 102–190, div. C, title XXXII, §3202(a), Dec. 5, 1991, 105 Stat. 1582; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 112–239, div. C, title XXXII, §3202(g), Jan. 2, 2013, 126 Stat. 2220; Pub. L. 113–291, div. C, title XXXII, §3203(a), Dec. 19, 2014, 128 Stat. 3903; Pub. L. 114–92, div. C, title XXXII, §3202(b)(2), Nov. 25, 2015, 129 Stat. 1218; Pub. L. 116–92, div. C, title XXXII, §3202(a)(1)(A), (4), Dec. 20, 2019, 133 Stat. 1963, 1964; Pub. L. 116–283, div. C, title XXXII, §3202, Jan. 1, 2021, 134 Stat. 4394; Pub. L. 117–81, div. C, title XXXII, §3202(2), Dec. 27, 2021, 135 Stat. 2235.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(2)(D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2021—Pub. L. 117–81 substituted "Chairperson" for "Chairman" wherever appearing.

Subsec. (k). Pub. L. 116–283 added subsec. (k).

2019—Subsec. (b)(1)(A). Pub. L. 116–92, §3202(a)(4)(A), substituted "section 2286(c)(6)" for "section 2286(c)(7)".

Subsec. (b)(3). Pub. L. 116–92, §3202(a)(1)(A), added par. (3).

Subsec. (b)(4). Pub. L. 116–92, §3202(a)(4)(B), added par. (4).

2015—Subsec. (b)(1)(A). Pub. L. 114–92 substituted "in accordance with section 2286(c)(7) of this title, hire" for "hire".

2014—Subsec. (b)(1)(A). Pub. L. 113–291 substituted "130 full-time employees" for "150 full-time employees".

2013—Subsec. (j)(2). Pub. L. 112–239 substituted "section 2286a(b)(1) of this title, the implementation" for "section 2286a(1) of this title, the implementation".

1991—Subsec. (b)(1)(A). Pub. L. 102–190, §3202(a)(1), substituted "150" for "100".

Subsec. (g). Pub. L. 102–190, §3202(a)(2), substituted "Notwithstanding any other provision of law relating to the use of competitive procedures, the Board may" for "The Board may".

1990—Subsec. (b). Pub. L. 101–510 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, inserted "including such scientific and technical personnel as the Board may determine necessary," after "Board," in subpar. (A), and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. C, title XXXII, §3203(b), Dec. 19, 2014, 128 Stat. 3903, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2015."

§2286c. Responsibilities of Secretary of Energy

(a) Cooperation

Except as specifically provided by this section, the Secretary of Energy shall fully cooperate with the Board and provide the Board with prompt and unfettered access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this subchapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with prompt and unfettered access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this subchapter. The access provided to defense nuclear facilities, personnel, and information under this subsection shall be provided without regard to the hazard or risk category assigned to a facility by the Secretary.

(b) Authority of Secretary to deny information

(1) The Secretary may deny access to information under subsection (a) only to any person who—

(A) has not been granted an appropriate security clearance or access authorization by the Secretary; or

(B) does not need such access in connection with the duties of such person.

(2) If the Board requests access to information under subsection (a) in written form, and the Secretary denies access to such information pursuant to paragraph (1)—

(A) the Secretary shall provide the Board notice of such denial in written form; and

(B) not later than January 1 and July 1 of each year beginning in 2020—

(i) the Board shall submit to the congressional defense committees a report identifying each request for access to information under subsection (a) submitted to the Secretary in written form during the preceding six-month period and denied by the Secretary; and

(ii) the Secretary shall submit to the congressional defense committees a report identifying—

(I) each such request denied by the Secretary during that period; and

(II) the reason for the denial.

(3) In this subsection, the term "congressional defense committees" has the meaning given that term in section 101(a) of title 10.

(c) Application of nondisclosure protections by Board

The Board may not publicly disclose information provided under this section if such information is otherwise protected from disclosure by law, including deliberative process information.

(Aug. 1, 1946, ch. 724, title I, §314, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2080; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 116–92, div. C, title XXXII, §3202(c), Dec. 20, 2019, 133 Stat.

1965.)

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92, §3202(c)(1), substituted "Except as specifically provided by this section, the Secretary of Energy" for "The Secretary of Energy" and "prompt and unfettered access" for "ready access" in two places, and inserted at end "The access provided to defense nuclear facilities, personnel, and information under this subsection shall be provided without regard to the hazard or risk category assigned to a facility by the Secretary."

Subsecs. (b), (c). Pub. L. 116–92, §3202(c)(2), added subsecs. (b) and (c) and struck out former subsec. (b) which authorized the Secretary of Energy to deny access to unauthorized persons to information provided to the Board.

§2286d. Board recommendations

(a) Submission of recommendations

(1) Subject to subsections (h) and (i), not later than 30 days before the date on which the Board transmits a recommendation to the Secretary of Energy under section 2286a of this title, the Board shall transmit to the Secretary in writing a draft of such recommendation and any related findings, supporting data, and analyses to ensure the Secretary is adequately informed of a formal recommendation and to provide the Secretary an opportunity to provide input to the Board before such recommendation is finalized.

(2) The Secretary may provide to the Board comments on a draft recommendation transmitted by the Board under paragraph (1) by not later than 30 days after the date on which the Secretary receives the draft recommendation. The Board may grant, upon request by the Secretary, additional time for the Secretary to transmit comments to the Board.

(3) After the period of time in which the Secretary may provide comments under paragraph (2) elapses, the Board may transmit a final recommendation to the Secretary.

(b) Public availability and comment

Subject to subsections (h) and (i), after the Secretary of Energy receives a recommendation from the Board under subsection (a)(3), the Board shall promptly make available to the public such recommendation and any related correspondence from the Secretary by—

(1) providing such recommendation and correspondence to the public in the regional public reading rooms of the Department of Energy; and

(2) publishing in the Federal Register—

(A) such recommendation and correspondence; and

(B) a request for the submission to the Board of public comments on such recommendation that provides interested persons with 30 days after the date of the publication in which to submit comments, data, views, or arguments to the Board concerning the recommendation.

(c) Response by Secretary

(1) The Secretary of Energy shall transmit to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under section 2286a of this title, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (b), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (i), shall publish such response, together with a request for public comment on his response, in the Federal Register.

(3) Interested persons shall have 30 days after the date of the publication of the Secretary of

Energy's response in which to submit comments, data, views, or arguments to the Board concerning the Secretary's response.

(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

(d) Provision of information to Secretary

The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (b) or (c).

(e) Final decision

If the Secretary of Energy, in a response under subsection (c)(1), rejects (in whole or part) any recommendation made by the Board under section 2286a of this title, the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision on whether to implement all or part of the Board's recommendations. Subject to subsection (i), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate a written report containing that decision and reasoning.

(f) Implementation plan

The Secretary of Energy shall prepare a plan for the implementation of each Board recommendation, or part of a recommendation, that is accepted by the Secretary in his final decision. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Secretary may have an additional 45 days to transmit the plan if the Secretary submits to the Board and to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate a notification setting forth the reasons for the delay and describing the actions the Secretary is taking to prepare an implementation plan under this subsection. The Secretary may implement any such recommendation (or part of any such recommendation) before, on, or after the date on which the Secretary transmits the implementation plan to the Board under this subsection.

(g) Implementation

(1) Subject to paragraph (2), not later than one year after the date on which the Secretary of Energy transmits an implementation plan with respect to a recommendation (or part thereof) under subsection (f), the Secretary shall carry out and complete the implementation plan. If complete implementation of the plan takes more than 1 year, the Secretary of Energy shall submit a report to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate setting forth the reasons for the delay and when implementation will be completed.

(2) If the Secretary of Energy determines that the implementation of a Board recommendation (or part thereof) is impracticable because of budgetary considerations, or that the implementation would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 2121 of this title, the Secretary shall submit to the President and to such committees a report containing the recommendation and the Secretary's determination.

(h) Imminent or severe threat

(1) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 2286a of this title relates to an imminent or severe threat to public health and safety, the Board and the Secretary of Energy shall proceed under this subsection in lieu of subsections (a) through (e).

(2) At the same time that the Board transmits a recommendation relating to an imminent or severe threat to the Secretary of Energy, the Board shall also transmit the recommendation to the President and for information purposes to the Secretary of Defense. The Secretary of Energy shall submit his recommendation to the President. The President shall review the Secretary of Energy's recommendation and shall make the decision concerning acceptance or rejection of the Board's recommendation.

(3) After receipt by the President of the recommendation from the Board under this subsection, the Board promptly shall make such recommendation available to the public and shall transmit such recommendation to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate. The President shall promptly notify such committees of his decision and the reasons for that decision.

(i) Limitation

Notwithstanding any other provision of this section, the requirements to make information available to the public under this section—

(1) shall not apply in the case of information that is classified; and

(2) shall be subject to the orders and regulations issued by the Secretary of Energy under sections 2167 and 2168 of this title to prohibit dissemination of certain information.

(Aug. 1, 1946, ch. 724, title I, §315, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2080; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 112–239, div. C, title XXXII, §3202(c), Jan. 2, 2013, 126 Stat. 2218.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (a). Pub. L. 112–239, §3202(c)(1)(B), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 112–239, §3202(c)(1)(A), (C), redesignated subsec. (a) as (b) and amended it generally. Prior to amendment, text read as follows: "Subject to subsections (g) and (h) of this section and after receipt by the Secretary of Energy of any recommendations from the Board under section 2286a of this title, the Board promptly shall make such recommendations available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a request for the submission to the Board of public comments on such recommendations. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations." Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 112–239, §3202(c)(1)(A), (2)(A), redesignated subsec. (b) as (c) and substituted "subsection (b)" for "subsection (a)" in par. (1) and "subsection (i)" for "subsection (h)" in par. (2). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 112–239, §3202(c)(1)(A), (2)(B), redesignated subsec. (c) as (d) and substituted "subsection (b) or (c)" for "subsection (a) or (b)". Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112–239, §3202(c)(1)(A), (2)(C), (F), redesignated subsec. (d) as (e) and substituted "subsection (c)(1)" for "subsection (b)(1)", "subsection (i)" for "subsection (h)", and "Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate" for "Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112–239, §3202(c)(1)(A), (2)(F), redesignated subsec. (e) as (f) and substituted "Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate" for "Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 112–239, §3202(c)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 112–239, §3202(c)(2)(D)(i), (F), substituted "subsection (f)" for "subsection (e)" and

"Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate" for "Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives".

Subsec. (g)(2). Pub. L. 112–239, §3202(c)(2)(D)(ii), substituted "and to such committees" for ", to the Committees on Armed Services and on Appropriations of the Senate, and to the Speaker of the House of Representatives".

Subsec. (h). Pub. L. 112–239, §3202(c)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 112–239, §3202(c)(2)(E)(i), substituted "through (e)" for "through (d)".

Subsec. (h)(3). Pub. L. 112–239, §3202(c)(2)(E)(ii), (F), substituted "Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate" for "Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives" and struck out "and the Speaker" after "notify such committees".

Subsec. (i). Pub. L. 112–239, §3202(c)(1)(A), redesignated subsec. (h) as (i).

§2286e. Reports

(a) Board report

(1) The Board shall submit to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, a written report concerning its activities under this subchapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities.

(2) The annual report under paragraph (1) shall include an assessment of—

(A) the improvements in the safety of Department of Energy defense nuclear facilities during the period covered by the report;

(B) the improvements in the safety of Department of Energy defense nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

(C) the outstanding safety problems, if any, of Department of Energy defense nuclear facilities.

(b) DOE report

The Secretary of Energy shall submit to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, a written report concerning the activities of the Department of Energy under this subchapter during the year preceding the year in which the report is submitted.

(Aug. 1, 1946, ch. 724, title I, §316, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2082; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; amended Pub. L. 112–239, div. C, title XXXII, §3202(d), Jan. 2, 2013, 126 Stat. 2220.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsecs. (a)(1), (b). Pub. L. 112–239 substituted "Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate" for "Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CERTIFICATION OF BUDGET SUFFICIENCY

Pub. L. 115–91, div. C, title XXXII, §3201(b), Dec. 12, 2017, 131 Stat. 1908, provided that: "Not later than 10 days after the date on which the budget of the President for fiscal year 2019 or any fiscal year thereafter is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the Defense Nuclear Facilities Safety Board shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a letter certifying that the requested budget is sufficient to carry out the mission of the Defense Nuclear Facilities Safety Board during the fiscal year covered by the budget request."

REPORTING REQUIREMENTS

Pub. L. 100–456, div. A, title XIV, §1441(c), (d), Sept. 29, 1988, 102 Stat. 2084, provided that:

"(c) REQUIREMENTS FOR FIRST ANNUAL REPORT.—(1) Before submission of the first annual report by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 [subsec. (a) of this section] (as added by subsection (a)), the Board shall conduct a study on whether nuclear facilities of the Department of Energy that are excluded from the definition of 'Department of Energy defense nuclear facility' in section 318(1)(C) of such Act [section 2286g(1)(C) of this title] (hereafter in this subsection referred to as 'non-defense nuclear facilities') should be subject to independent external oversight. The Board shall include in such first annual report the results of such study and the recommendation of the Board on whether non-defense nuclear facilities should be subject to independent external oversight.

"(2) If the Board recommends in the report that non-defense nuclear facilities should be subject to such oversight, the report shall include a discussion of alternative mechanisms for implementing such oversight, including mechanisms such as a separate executive agency and oversight as a part of the Board's responsibilities. The discussion of alternative mechanisms of oversight also shall include considerations of budgetary costs, protection of the security of sensitive nuclear weapons information, and the similarities and differences in the design, construction, operation, and decommissioning of defense and non-defense nuclear facilities of the Department of Energy.

"(d) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 [subsec. (a) of this section] (as added by subsection (a)) shall include—

"(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

"(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

"(3) recommendations for appropriate transition requirements in the event that modifications are recommended."

§2286f. Judicial review

Chapter 7 of title 5 shall apply to the activities of the Board under this subchapter.

(Aug. 1, 1946, ch. 724, title I, §317, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2286g. "Department of Energy defense nuclear facility" defined

As used in this subchapter, the term "Department of Energy defense nuclear facility" means any of the following:

(1) A production facility or utilization facility (as defined in section 2014 of this title) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

(B) any facility or activity involved with the transportation of nuclear explosives or nuclear material;

(C) any facility that does not conduct atomic energy defense activities; or

(D) any facility owned by the United States Enrichment Corporation.

(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

(Aug. 1, 1946, ch. 724, title I, §318, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; amended Pub. L. 102–190, div. C, title XXXII, §3202(b)(1), Dec. 5, 1991, 105 Stat. 1582; renumbered title I and amended Pub. L. 102–486, title IX, §902(a)(7), (8), Oct. 24, 1992, 106 Stat. 2944.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order No. 12344, referred to in par. (1)(A), is set out as a note under section 6102 of Title 10, Armed Forces.

The Nuclear Waste Policy Act of 1982, referred to in par. (2), is Pub. L. 97–425, Jan. 7, 1983, 96 Stat. 2201, which is classified generally to chapter 108 (§10101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10101 of this title and Tables.

AMENDMENTS

1992—Par. (1)(D). Pub. L. 102–486, §902(a)(7), added subpar. (D).

1991—Par. (1)(B). Pub. L. 102–190 struck out "with the assembly or testing of nuclear explosives or" after "involved".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the United States Enrichment Corporation deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

§2286h. Contract authority subject to appropriations

The authority of the Board to enter into contracts under this subchapter is effective only to the extent that appropriations (including transfers of appropriations) are provided in advance for such purpose.

(Aug. 1, 1946, ch. 724, title I, §319, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2083; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

§2286h–1. Transmittal of certain information to Congress

Whenever the Board submits or transmits to the President or the Director of the Office of Management and Budget any legislative recommendation, or any statement or information in preparation of a report to be submitted to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate pursuant to section 2286e(a) of this title, the Board shall submit at the same time a copy thereof to such committees.

(Aug. 1, 1946, ch. 724, title I, §320, as added Pub. L. 103–160, div. C, title XXXII, §3202(a)(2),

Nov. 30, 1993, 107 Stat. 1959; amended Pub. L. 112–239, div. C, title XXXII, §3202(e), Jan. 2, 2013, 126 Stat. 2220.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 320 of act Aug. 1, 1946, was renumbered section 321 and is classified to section 2286i of this title.

AMENDMENTS

2013—Pub. L. 112–239 substituted "submitted to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate" for "submitted to the Congress" and "such committees." for "the Congress."

§2286i. Annual authorization of appropriations

Authorizations of appropriations for the Board for fiscal years beginning after fiscal year 1989 shall be provided annually in authorization Acts.

(Aug. 1, 1946, ch. 724, title I, §321, formerly §320, as added Pub. L. 100–456, div. A, title XIV, §1441(a)(1), Sept. 29, 1988, 102 Stat. 2084; renumbered title I, Pub. L. 102–486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; renumbered §321, Pub. L. 103–160, div. C, title XXXII, §3202(a)(1), Nov. 30, 1993, 107 Stat. 1959.)

§2286j. Procurement of inspector general services

Within 90 days of December 23, 2011, the Defense Nuclear Facilities Safety Board shall enter into an agreement for inspector general services with the Office of Inspector General for the Nuclear Regulatory Commission for fiscal years 2012 and 2013: *Provided*, That at the expiration of such agreement, the Defense Nuclear Facilities Safety Board shall procure inspector general services annually thereafter.

(Pub. L. 112–74, div. B, title IV, Dec. 23, 2011, 125 Stat. 880.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2286k. Inspector General

(a) In general

The Inspector General of the Nuclear Regulatory Commission shall serve as the Inspector General of the Board, in accordance with chapter 4 of title 5.

(b) Budget

In the budget materials submitted to the President by the Board in connection with the submission to Congress, pursuant to section 1105 of title 31, of the budget for each fiscal year, the Board shall ensure that a separate, dedicated procurement line item is designated for the services of an Inspector General under subsection (a).

(Aug. 1, 1946, ch. 724, title I, §322, as added Pub. L. 112–239, div. C, title XXXII, §3202(f)(1), Jan.

2, 2013, 126 Stat. 2220; amended Pub. L. 113–291, div. C, title XXXII, §3202, Dec. 19, 2014, 128 Stat. 3902; Pub. L. 117–286, §4(b)(80), Dec. 27, 2022, 136 Stat. 4351.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–286 substituted "chapter 4 of title 5." for "the Inspector General Act of 1978 (5 U.S.C. App.)."

2014—Subsec. (a). Pub. L. 113–291 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Not later than October 1, 2013, the Board shall enter into an agreement with an agency of the Federal Government to procure the services of the Inspector General of such agency for the Board, in accordance with the Inspector General Act of 1978 (5 U.S.C. App.). Such Inspector General shall have expertise relating to the mission of the Board."

§2286*l*. Authority of Inspector General

Notwithstanding any other provision of law, in this fiscal year and each fiscal year thereafter, the Inspector General of the Nuclear Regulatory Commission is authorized to exercise the same authorities with respect to the Defense Nuclear Facilities Safety Board, as determined by the Inspector General of the Nuclear Regulatory Commission, as the Inspector General exercises under chapter 4 of title 5 with respect to the Nuclear Regulatory Commission.

(Pub. L. 113–235, div. D, title IV, Dec. 16, 2014, 128 Stat. 2330; Pub. L. 117–286, §4(b)(81), Dec. 27, 2022, 136 Stat. 4351.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the appropriation act cited in the credit of this section, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2022—Pub. L. 117–286 substituted "chapter 4 of title 5" for "the Inspector General Act of 1978 (5 U.S.C. App.)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Provisions similar to the text of this section were contained in the following prior appropriation act:
Pub. L. 113–76, div. D, title IV, §401, Jan. 17, 2014, 128 Stat. 182.

SUBCHAPTER XVIII—EURATOM COOPERATION

§2291. Definitions

As used in this subchapter—

(a) "The Community" means the European Atomic Energy Community (EURATOM).

(b) The "Commission" means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) "Joint program" means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title, to bring into operation in the territory of the

members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this subchapter shall have the same meaning as terms described in section 2014 of this title.

(Pub. L. 85–846, §2, Aug. 28, 1958, 72 Stat. 1084.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2292. Authorization of appropriations for research and development program; authority to enter into contracts; period of contracts; equivalent amounts for research and development program

There is authorized to be appropriated to the Commission, in accordance with the provisions of section 2017(a)(2) of this title, the sum of $3,000,000 as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided*, That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

(Pub. L. 85–846, §3, Aug. 28, 1958, 72 Stat. 1084.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2293. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 85–846, §4, Aug. 28, 1958, 72 Stat. 1084; Pub. L. 87–206, §18, Sept. 6, 1961, 75 Stat. 479, related to guarantee contracts between the Atomic Energy Commission and operators of reactors under the cooperation program which were to extend no later than Dec. 31, 1975.

§2294. Authorization for sale or lease of uranium and plutonium; amounts; lien for nonpayment; uranium enrichment services

Pursuant to the provisions of section 2074 of this title, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;

one thousand five hundred kilograms of plutonium; and

thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 2153 of this title: *Provided*, That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the above-mentioned contained uranium 235 pursuant to the provisions of section 2201(v)(B) of this title in lieu of sale or lease thereof.

(Pub. L. 85–846, §5, Aug. 28, 1958, 72 Stat. 1085; Pub. L. 87–206, §19, Sept. 6, 1961, 75 Stat. 479; Pub. L. 88–394, §5, Aug. 1, 1964, 78 Stat. 376; Pub. L. 90–190, §13, Dec. 14, 1967, 81 Stat. 578; Pub. L. 93–88, Aug. 14, 1973, 87 Stat. 296.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1973—Pub. L. 93–88 substituted "an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium for other purposes" for "two hundred fifteen thousand kilograms of contained uranium 235".

1967—Pub. L. 90–190 increased from seventy thousand to two hundred fifteen thousand kilograms of contained uranium 235 and from five hundred to one thousand five hundred kilograms of plutonium respectively the amount of material authorized to be sold or leased to the Community, and inserted provision authorizing the Commission, after Dec. 31, 1968, to perform uranium enrichment services for the Community, pursuant to the provisions of section 2201(v)(B) of this title, in lieu of the sale or lease of such material.

1964—Pub. L. 88–394 increased the amount of contained uranium 235 from thirty thousand kilograms to seventy thousand kilograms, and plutonium, from nine kilograms to five hundred kilograms.

1961—Pub. L. 87–206 substituted "Nine kilograms" for "One kilogram" of plutonium and inserted item reading "Thirty kilograms of uranium 233" and "or agreements".

§2295. Acquisition of nuclear materials

(a) Authorization; restriction of amounts of plutonium or uranium; amount and use of plutonium authorized to be acquired

The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 2153 of this title: *Provided*, That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Terms and periods of contracts to acquire plutonium

Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided*, That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2291(c) of this title, whichever is earlier: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Terms and periods of contracts to acquire uranium

Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided*, That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U–235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Contracts for purchase of special nuclear materials

Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31.

(e) Certification by Commission

Any contract made under this section may be made without regard to section 6101 of title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable.

(Pub. L. 85–846, §6, Aug. 28, 1958, 72 Stat. 1085.)

EDITORIAL NOTES

CODIFICATION

In subsec. (d), "sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31" substituted for "section 3679 of the Revised Statutes, as amended [31 U.S.C. 665]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (e), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2296. Nonliability of United States; indemnification

The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided, however*, That nothing in this section shall deprive any person of any rights under section 2210 of this title: *And provided further*, That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 2292 of this title. The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.

(Pub. L. 85–846, §7, Aug. 28, 1958, 72 Stat. 1086; Pub. L. 87–206, §20, Sept. 6, 1961, 75 Stat. 479.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the EURATOM Cooperation Act of 1958 which comprises this subchapter, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1961—Pub. L. 87–206 inserted proviso making provisions of section inapplicable to arrangements made by the Commission under a research and development program authorized by section 2292 of this title.

SUBCHAPTER XIX—REMEDIAL ACTION AND URANIUM REVITALIZATION

PART A—REMEDIAL ACTION AT ACTIVE PROCESSING SITES

§2296a. Remedial action program

(a) In general

Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 2092 or 2111 of this title for any activity at such site which results or has resulted in the production of byproduct material.

(b) Reimbursement

(1) In general

The Secretary of Energy shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) either—

(i) incurred by such licensee not later than December 31, 2007; or

(ii) incurred by a licensee after December 31, 2007, in accordance with a plan for subsequent decontamination, decommissioning, reclamation, and other remedial action approved by the Secretary.

(2) Amount

(A) To individual active site uranium licensees

The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 2296a–1 of this title

and, for uranium mill tailings only, shall not exceed an amount equal to $6.25 multiplied by the dry short tons of byproduct material located on October 24, 1992, at the site of the activities of such licensee described in subsection (a), and generated as an incident of sales to the United States.

(B) To all active site uranium licensees

Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $350,000,000.

(C) To thorium licensees

Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $365,000,000, and may only be made for off-site disposal. Such payments shall not exceed the following amounts:

(i) $90,000,000 in fiscal year 2002.
(ii) $55,000,000 in fiscal year 2003.
(iii) $20,000,000 in fiscal year 2004.
(iv) $20,000,000 in fiscal year 2005.
(v) $20,000,000 in fiscal year 2006.
(vi) $20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.

(D) Inflation escalation index

The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) Additional reimbursement

(i) Determination of excess

The Secretary shall determine as of December 31, 2008, whether the amount authorized to be appropriated pursuant to section 2296a–2 of this title, when considered with the $6.25 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2).

(ii) In the event of excess

If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $6.25 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) exceed the $6.25 per dry short ton limitation described in paragraph (2) of such subsection.

(3) Byproduct location

Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on October 24, 1992, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

(Pub. L. 102–486, title X, §1001, Oct. 24, 1992, 106 Stat. 2946; Pub. L. 104–259, §3(a), Oct. 9, 1996, 110 Stat. 3173; Pub. L. 105–388, §11(a), Nov. 13, 1998, 112 Stat. 3484; Pub. L. 106–317, §1, Oct. 19, 2000, 114 Stat. 1277; Pub. L. 107–222, §1(a), Aug. 21, 2002, 116 Stat. 1336.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2002—Subsec. (b)(2)(C). Pub. L. 107–222 substituted "$365,000,000" for "$140,000,000" and inserted at end "Such payments shall not exceed the following amounts:

"(i) $90,000,000 in fiscal year 2002.

"(ii) $55,000,000 in fiscal year 2003.

"(iii) $20,000,000 in fiscal year 2004.

"(iv) $20,000,000 in fiscal year 2005.

"(v) $20,000,000 in fiscal year 2006.

"(vi) $20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years."

2000—Subsec. (b)(1)(B)(i). Pub. L. 106–317, §1(1), substituted "2007" for "2002".

Subsec. (b)(1)(B)(ii). Pub. L. 106–317, §1(2), substituted "incurred by a licensee after December 31, 2007," for "placed in escrow not later than December 31, 2002,".

Subsec. (b)(2)(E)(i). Pub. L. 106–317, §1(3), substituted "December 31, 2008" for "July 31, 2005".

1998—Subsec. (b)(2)(C). Pub. L. 105–388 substituted "$140,000,000" for "$65,000,000".

1996—Subsec. (b)(2)(A). Pub. L. 104–259, §3(a)(1), substituted "$6.25" for "$5.50".

Subsec. (b)(2)(B). Pub. L. 104–259, §3(a)(2), substituted "$350,000,000" for "$270,000,000".

Subsec. (b)(2)(C). Pub. L. 104–259, §3(a)(3), substituted "$65,000,000" for "$40,000,000".

Subsec. (b)(2)(E). Pub. L. 104–259, §3(a)(4), (5), substituted "$6.25" for "$5.50" wherever appearing.

§2296a–1. Regulations

Within 180 days of October 24, 1992, the Secretary shall issue regulations governing reimbursement under section 2296a of this title. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 2296a of this title.

(Pub. L. 102–486, title X, §1002, Oct. 24, 1992, 106 Stat. 2947.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2296a–2. Authorization of appropriations

(a) In general

There is authorized to be appropriated $715,000,000 to carry out this part. The aggregate amount authorized in the preceding sentence shall be increased annually as provided in section 2296a of this title, based upon an inflation index to be determined by the Secretary.

(b) Source

Funds described in subsection (a) shall be provided from the Fund established under section 2297g of this title.

(Pub. L. 102–486, title X, §1003, Oct. 24, 1992, 106 Stat. 2947; Pub. L. 104–259, §3(b), Oct. 9, 1996, 110 Stat. 3174; Pub. L. 105–388, §11(b), Nov. 13, 1998, 112 Stat. 3485; Pub. L. 107–222, §1(b), Aug. 21, 2002, 116 Stat. 1336.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–222 substituted "$715,000,000" for "$490,000,000".
1998—Subsec. (a). Pub. L. 105–388 substituted "$490,000,000" for "$415,000,000".
1996—Subsec. (a). Pub. L. 104–259 substituted "$415,000,000" for "$310,000,000".

§2296a–3. Definitions

For purposes of this part:

(1) The term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Secretary or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) The term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954,[1] (42 U.S.C. 2014(e)(2)); and

(3) The term "decontamination, decommissioning, reclamation, and other remedial action" means work performed prior to or subsequent to October 24, 1992, which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

(Pub. L. 102–486, title X, §1004, Oct. 24, 1992, 106 Stat. 2947.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in par. (1)(A), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Uranium Mill Tailings Radiation Control Act of 1978, referred to in par. (3), is Pub. L. 95–604, Nov. 8, 1978, 92 Stat. 3021, which is classified principally to chapter 88 (§7901 et seq.) of this title. For complete classification of this act to the Code, see Short Title note set out under section 7901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of

1954 which comprises this chapter.

[1] *So in original. The comma probably should not appear.*

PART B—URANIUM REVITALIZATION

§2296b. Overfeed program

(a) Uranium purchases

To the maximum extent permitted by sound business practice, the Corporation shall purchase uranium in accordance with subsection (b) and overfeed it into the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by enrichment services customers, taking into account costs associated with depleted tailings.

(b) Use of domestic uranium

Uranium purchased by the Corporation for purposes of this section shall be of domestic origin and purchased from domestic uranium producers to the extent permitted under the multilateral trade agreements (as defined in section 3501(4) of title 19) and the USMCA (as defined in section 4502 of title 19).

(Pub. L. 102–486, title X, §1011, Oct. 24, 1992, 106 Stat. 2948; Pub. L. 106–36, title I, §1002(g)(1), June 25, 1999, 113 Stat. 133; Pub. L. 116–260, div. O, title VI, §602(e), Dec. 27, 2020, 134 Stat. 2153.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2020—Subsec. (b). Pub. L. 116–260 substituted "USMCA (as defined in section 4502 of title 19)" for "North American Free Trade Agreement".

1999—Subsec. (b). Pub. L. 106–36 substituted "multilateral trade agreements (as defined in section 3501(4) of title 19) and the North American Free Trade Agreement" for "General Agreement on Tariffs and Trade and the United States-Canada Free Trade Agreement".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–260 effective July 1, 2020, see section 602(g) of div. O of Pub. L. 116–260, set out as a note under section 2578b of Title 19, Customs Duties.

§2296b–1. National Strategic Uranium Reserve

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of natural uranium and uranium equivalents contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on October 24, 1992, and for 6 years thereafter, use of the Reserve shall be restricted to military purposes and government research. Use of the Department of Energy's stockpile of enrichment tails existing on October 24, 1992, shall be restricted to military purposes for 6 years thereafter.

(Pub. L. 102–486, title X, §1012, Oct. 24, 1992, 106 Stat. 2948.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2296b–2. Sale of remaining DOE inventories

The Secretary, after making the transfer required under section 2297c–6 [1] of this title, may sell, from time to time, portions of the remaining inventories of raw or low-enriched uranium of the Department that are not necessary to national security needs, to the Corporation, at a fair market price. Sales under this section may be made only if such sales will not have a substantial adverse impact on the domestic uranium mining industry. Proceeds from sales under this subsection shall be deposited into the general fund of the United States Treasury.

(Pub. L. 102–486, title X, §1013, Oct. 24, 1992, 106 Stat. 2949.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2297c–6 of this title, referred to in text, was repealed by Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

[1] *See References in Text note below.*

§2296b–3. Responsibility for the industry

(a) Continuing Secretarial responsibility

The Secretary shall have a continuing responsibility for the domestic uranium industry to encourage the use of domestic uranium. The Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) Encourage export

The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within 180 days after October 24, 1992, the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

(Pub. L. 102–486, title X, §1014, Oct. 24, 1992, 106 Stat. 2949.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2296b–4. Annual uranium purchase reports

(a) In general

By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) Congressional access

The information provided to the Secretary pursuant to this section shall be made available to the Congress by March 1 of each year.

(Pub. L. 102–486, title X, §1015, Oct. 24, 1992, 106 Stat. 2949.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2296b–5. Uranium inventory study

Within 1 year after October 24, 1992, the Secretary shall submit to the Congress a study and report that includes—

(1) a comprehensive inventory of all Government owned uranium or uranium equivalents, including natural uranium, depleted tailings, low-enriched uranium, and highly enriched uranium available for conversion to commercial use;

(2) a plan for the conversion of inventories of foreign and domestic highly enriched uranium to low-enriched uranium for commercial use;

(3) an estimation of the potential need of the United States for inventories of highly enriched uranium;

(4) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to low-enriched uranium, including the construction of facilities if necessary;

(5) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium;

(6) recommendations for implementing a plan to convert highly enriched uranium to low-enriched uranium; and

(7) recommendations for the future use and disposition of such inventories.

(Pub. L. 102–486, title X, §1016, Oct. 24, 1992, 106 Stat. 2949.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2296b–6. Regulatory treatment of uranium purchases

(a) Encouragement

The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Report

Within 1 year after October 24, 1992, and annually thereafter, the Secretary shall report to the Congress on the progress of the Secretary in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) Savings provision

This section may not be construed to authorize the Secretary to take any action in violation of the multilateral trade agreements (as defined in section 3501(4) of title 19) or the USMCA (as defined in section 4502 of title 19).

(Pub. L. 102–486, title X, §1017, Oct. 24, 1992, 106 Stat. 2950; Pub. L. 106–36, title I, §1002(g)(2), June 25, 1999, 113 Stat. 133; Pub. L. 116–113, title V, §507(a), Jan. 29, 2020, 134 Stat. 78.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2020—Subsec. (c). Pub. L. 116–113 substituted "USMCA (as defined in section 4502 of title 19)" for "North American Free Trade Agreement".

1999—Subsec. (c). Pub. L. 106–36 substituted "multilateral trade agreements (as defined in section 3501(4) of title 19) or the North American Free Trade Agreement" for "General Agreement on Tariffs and Trade or the United States-Canada Free Trade Agreement".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–113, title V, §507(b), Jan. 29, 2020, 134 Stat. 78, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date on which the USMCA enters into force [July 1, 2020]."

§2296b–7. Definitions

For purposes of this part:

(1) The term "Corporation" means the United States Enrichment Corporation established under section 2297b [1] of this title or its successor.

(2) The term "country of origin" means—

(A) with respect to uranium, that country where the uranium was mined;

(B) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(C) with respect to enrichment services, that country where the enrichment services were performed.

(3) The term "domestic origin" refers to any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States.

(4) The term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment.

(5) The term "non-affiliated" refers to a seller who does not control, and is not controlled by or under common control with, the buyer.

(6) The term "overfeed" means to use uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(7) The term "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer. For purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the respective meanings given such terms in section 2602 of title 16.

(Pub. L. 102–486, title X, §1018, Oct. 24, 1992, 106 Stat. 2950; Pub. L. 104–134, title III, §3117(b), Apr. 26, 1996, 110 Stat. 1321–350.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2297b of this title, referred to in par. (1), was repealed by Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1996—Par. (1). Pub. L. 104–134 inserted "or its successor" before period at end.

[1] *See References in Text note below.*

Division B—United States Enrichment Corporation

SUBCHAPTER I—GENERAL PROVISIONS

§§2297, 2297a. Repealed. Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297, act Aug. 1, 1946, ch. 724, title II, §1201, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2923, defined terms for purposes of this division.

Section 2297a, act Aug. 1, 1946, ch. 724, title II, §1202, as added Oct. 24, 1992, Pub. L. 102–486, title IX, §901, 106 Stat. 2924, related to purposes of United States Enrichment Corporation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349, provided that: "Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date [July 28, 1998, see 42 U.S.C. 2297h(9) for definition of privatization date as date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors]."

SEVERABILITY

Pub. L. 102–486, title IX, §904, Oct. 24, 1992, 106 Stat. 2946, provided that: "If any provision of this title [see Tables for classification], or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected."

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

Pub. L. 104–134, title III, §3116(e), Apr. 26, 1996, 110 Stat. 1321–350, provided that: "Following the privatization date [July 28, 1998, see Effective Date of Repeal note above], all references in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] to the United States Enrichment Corporation shall be deemed to be references to the private corporation."

SUBCHAPTER II—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

§§2297b to 2297b–15. Repealed. Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297b, act Aug. 1, 1946, ch. 724, title II, §1301, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2925, related to establishment of United States Enrichment Corporation.

Section 2297b–1, act Aug. 1, 1946, ch. 724, title II, §1302, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2925, related to offices of Corporation and service of process.

Section 2297b–2, act Aug. 1, 1946, ch. 724, title II, §1303, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2925, related to powers of Corporation.

Section 2297b–3, act Aug. 1, 1946, ch. 724, title II, §1304, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2926, related to Board of Directors of Corporation.

Section 2297b–4, act Aug. 1, 1946, ch. 724, title II, §1305, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2927, related to employees of Corporation.

Section 2297b–5, act Aug. 1, 1946, ch. 724, title II, §1306, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2928, related to independent and Comptroller General audits of Corporation's financial statements.

Section 2297b–6, act Aug. 1, 1946, ch. 724, title II, §1307, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2929, related to annual reports by Corporation to President and Congress.

Section 2297b–7, act Aug. 1, 1946, ch. 724, title II, §1308, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2929, related to accounts and transfer of unexpended balances.

Section 2297b–8, act Aug. 1, 1946, ch. 724, title II, §1309, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2930, related to bonds, notes, and other evidences of indebtedness.

Section 2297b–9, act Aug. 1, 1946, ch. 724, title II, §1310, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2931, related to exemption from State and local taxes and payments in lieu of such taxes.

Section 2297b–10, act Aug. 1, 1946, ch. 724, title II, §1311, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2931, related to cooperation with other agencies.

Section 2297b–11, act Aug. 1, 1946, ch. 724, title II, §1312, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2932, related to applicability of certain Federal laws.

Section 2297b–12, act Aug. 1, 1946, ch. 724, title II, §1313, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2933, related to security of Corporation facilities, equipment, etc.

Section 2297b–13, act Aug. 1, 1946, ch. 724, title II, §1314, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2933, related to control of information.

Section 2297b–14, act Aug. 1, 1946, ch. 724, title II, §1315, as added Pub. L. 102–486, title IX, §901, Oct.

24, 1992, 106 Stat. 2933, related to governance of Corporation during transition period prior to appointment of Board.

Section 2297b–15, act Aug. 1, 1946, ch. 724, title II, §1316, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2934, related to establishment of Working Capital Account.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER III—RIGHTS, PRIVILEGES, AND ASSETS OF CORPORATION

§§2297c to 2297c–7. Repealed. Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297c, act Aug. 1, 1946, ch. 724, title II, §1401, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2934; amended Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, related to marketing and contracting authority of United States Enrichment Corporation.

Section 2297c–1, act Aug. 1, 1946, ch. 724, title II, §1402, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2934, related to Corporation pricing policy for Department of Energy and other customers.

Section 2297c–2, act Aug. 1, 1946, ch. 724, title II, §1403, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2935, related to leasing of gaseous diffusion facilities of Department of Energy.

Section 2297c–3, act Aug. 1, 1946, ch. 724, title II, §1404, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2935, related to capital structure of Corporation.

Section 2297c–4, act Aug. 1, 1946, ch. 724, title II, §1405, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2936, authorized Corporation to apply for licenses for use of patented inventions and discoveries.

Section 2297c–5, act Aug. 1, 1946, ch. 724, title II, §1406, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2936, related to liability for acts committed before and after transition date.

Section 2297c–6, act Aug. 1, 1946, ch. 724, title II, §1407, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2937, related to transfer of uranium inventories to Corporation.

Section 2297c–7, act Aug. 1, 1946, ch. 724, title II, §1408, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2937, related to purchase of highly enriched uranium from former Soviet Union.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER IV—PRIVATIZATION OF CORPORATION

§§2297d, 2297d–1. Repealed. Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297d, act Aug. 1, 1946, ch. 724, title II, §1501, as added Pub. L. 102–486, title IX, §901, Oct. 24,

1992, 106 Stat. 2937, related to strategic plan for privatization of United States Enrichment Corporation.

Section 2297d–1, act Aug. 1, 1946, ch. 724, title II, §1502, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2938, related to implementation of privatization plan of Corporation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER V—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

§§2297e to 2297e–7. Repealed. Pub. L. 104–134, title III, §3116(a)(1), Apr. 26, 1996, 110 Stat. 1321–349

Section 2297e, act Aug. 1, 1946, ch. 724, title II, §1601, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2939, related to assessment by United States Enrichment Corporation of viability of commercialization of AVLIS (atomic vapor laser isotope separation technology) and alternative uranium enrichment technologies.

Section 2297e–1, act Aug. 1, 1946, ch. 724, title II, §1602, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2939, related to transfer of rights and property to Corporation.

Section 2297e–2, act Aug. 1, 1946, ch. 724, title II, §1603, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2940, related to predeployment activities by Corporation.

Section 2297e–3, act Aug. 1, 1946, ch. 724, title II, §1604, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2940; amended Pub. L. 102–572, title IX, §902(b)(2), Oct. 29, 1992, 106 Stat. 4516, related to Corporation sponsorship of private for-profit corporation to construct AVLIS and alternative technologies.

Section 2297e–4, act Aug. 1, 1946, ch. 724, title II, §1605, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to AVLIS Commercialization Fund within Corporation.

Section 2297e–5, act Aug. 1, 1946, ch. 724, title II, §1606, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to Department research and development assistance.

Section 2297e–6, act Aug. 1, 1946, ch. 724, title II, §1607, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to site selection.

Section 2297e–7, act Aug. 1, 1946, ch. 724, title II, §1608, as added Pub. L. 102–486, title IX, §901, Oct. 24, 1992, 106 Stat. 2942, related to exclusion from Price-Anderson coverage.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective as of date on which 100 percent of ownership of United States Enrichment Corporation has been transferred to private investors (July 28, 1998), see section 3116(a)(1) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER VI—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

§2297f. Gaseous diffusion facilities

(a) Issuance of standards

Within 2 years after October 24, 1992, the Nuclear Regulatory Commission shall establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety from radiological hazard and provide for the common defense and security. Regulations promulgated pursuant to this subsection shall, among other things, require that adequate safeguards (within the meaning of section 2167 of this title) are in place.

(b) Annual report

(1) In general

Not later than the date on which a certificate of compliance is issued under subsection (c), the Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report to the Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

(2) Required determination

Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) and all applicable laws.

(c) Certification process

(1) Establishment

The Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

(2) Periodic application for certificate of compliance

The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

(3) Treatment of certificate of compliance

The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

(4) NRC review

(A) In general

The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

(B) Access to facilities and information

The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

(C) Limitation

The Nuclear Regulatory Commission shall limit its finding under subsection (b)(2) to a determination of whether the facilities are in compliance with the standards established under subsection (a).

(d) Requirement for operation

The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) or approves a plan prepared by the Department for achieving compliance required under subsection (b).

(Aug. 1, 1946, ch. 724, title II, §1701, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2951; amended Pub. L. 104–134, title III, §3116(b)(3), Apr. 26, 1996, 110 Stat. 1321–349; Pub. L. 105–362, title XII, §1202, Nov. 10, 1998, 112 Stat. 3292.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–362 substituted "Not later than the date on which a certificate of compliance is issued under subsection (c), the Nuclear" for "The Nuclear" and struck out "at least annually" after "report".

1996—Subsec. (c)(2). Pub. L. 104–134 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) of this section shall be based on the results of any such review."

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

§2297f–1. Licensing of other technologies

(a) In general

Corporation facilities using alternative technologies for uranium enrichment, including AVLIS, shall be licensed under sections 2073, 2093, and 2243 of this title.

(b) Costs for decontamination and decommissioning

The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

(Aug. 1, 1946, ch. 724, title II, §1702, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2953; amended Pub. L. 104–134, title III, §3116(b)(4), Apr. 26, 1996, 110 Stat. 1321–349.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990, referred to in subsec. (b), is section 5 of Pub. L. 101–575, Nov. 15, 1990, 104 Stat. 2835, which enacted section 2243 of this title and amended sections 2014, 2061, 2201, and 2284 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134 substituted "including" for "other than" and "sections 2073, 2093, and 2243" for "sections 2073 and 2093".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

§2297f–2. Regulation of Restricted Data

The Corporation shall be subject to this chapter with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

(Aug. 1, 1946, ch. 724, title II, §1703, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2953.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, known as the Atomic Energy Act of 1954, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES TO UNITED STATES ENRICHMENT CORPORATION

References to the Corporation, meaning the United States Enrichment Corporation, deemed, as of the privatization date (July 28, 1998), to be references to the private corporation, see section 3116(e) of Pub. L. 104–134, set out as a note under former section 2297 of this title.

SUBCHAPTER VII—DECONTAMINATION AND DECOMMISSIONING

§2297g. Uranium Enrichment Decontamination and Decommissioning Fund

(a) Establishment

There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this subchapter as the "Fund"). The Fund, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this subchapter.

(b) Administration

(1) In general

The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

(2) Investments

The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

(Aug. 1, 1946, ch. 724, title II, §1801, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2953.)

§2297g–1. Deposits

(a) Amount

The Fund shall consist of deposits in the amount of $518,233,333 per fiscal year (to be annually adjusted for inflation beginning on October 24, 1992, using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

(b) Source

Deposits described in subsection (a) shall be from the following sources:

(1) Sums collected pursuant to subsection (c).

(2) Appropriations made pursuant to subsection (d).

(c) Special assessment

The Secretary shall collect a special assessment from domestic utilities. The total amount collected for a fiscal year shall not exceed $150,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor). The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) to be deposited for such fiscal year as the total amount of separative work units such utility has purchased from the Department of Energy for the purpose of commercial electricity generation, before October 24, 1992, bears to the total amount of separative work units purchased from the Department of Energy for all purposes (including units purchased or produced for defense purposes) before October 24, 1992. For purposes of this subsection—

(1) a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source; and

(2) a utility shall not be considered to have purchased a separative work unit from the Department if such separative work unit was purchased by the utility, but sold to another source.

(d) Authorization of appropriations

There are authorized to be appropriated to the Fund, for the period encompassing 15 years after October 24, 1992, such sums as are necessary to ensure that the amount required under subsection (a) is deposited for each fiscal year.

(e) Termination of assessments

The collection of amounts under subsection (c) shall cease after the earlier of—

(1) 15 years after October 24, 1992; or

(2) the collection of $2,250,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

(f) Continuation of deposits

Except as provided in subsection (e), deposits shall continue to be made into the Fund under subsection (d) for the period specified in such subsection.

(g) Treatment of assessment

Any special assessment levied under this section on domestic utilities for the decontamination and decommissioning of the Department's gaseous diffusion enrichment facilities shall be deemed a necessary and reasonable current cost of fuel and shall be fully recoverable in rates in all jurisdictions in the same manner as the utility's other fuel cost.

(Aug. 1, 1946, ch. 724, title II, §1802, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2953; amended Pub. L. 105–388, §11(c), Nov. 13, 1998, 112 Stat. 3485; Pub. L. 107–222, §1(c), Aug. 21, 2002, 116 Stat. 1336.)

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–222 substituted "$518,233,333" for "$488,333,333" and inserted "beginning on October 24, 1992," after "inflation".

1998—Subsec. (a). Pub. L. 105–388 substituted "$488,333,333" for "$480,000,000".

§2297g–2. Department facilities

(a) Study by National Academy of Sciences

The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after October 24, 1992. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

(b) Payment of decontamination and decommissioning costs

The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

(c) Payment of remedial action costs

The annual cost of remedial action at the Department's gaseous diffusion facilities shall be paid from the Fund to the extent the amount available in the Fund is sufficient. To the extent the amount in the Fund is insufficient, the Department shall be responsible for the cost of remedial action. No provision of this division may be construed to relieve in any way the responsibility or liability of the Department for remedial action under applicable Federal and State laws and regulations.

(Aug. 1, 1946, ch. 724, title II, §1803, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2954.)

§2297g–3. Employee provisions

All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and section 3145 of title 40. This section may not be construed to require the contracting out of activities associated with the decontamination or decommissioning of uranium enrichment facilities.

(Aug. 1, 1946, ch. 724, title II, §1804, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106

Stat. 2955.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.)" and "section 3145 of title 40" substituted for "the Act of June 13, 1934 (40 U.S.C. 276c)", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§2297g–4. Reports to Congress

Within 3 years after October 24, 1992, and at least once every 3 years thereafter, the Secretary shall report to the Congress on progress under this subchapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this division.

(Aug. 1, 1946, ch. 724, title II, §1805, as added Pub. L. 102–486, title XI, §1101, Oct. 24, 1992, 106 Stat. 2955.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under this section is listed in item 7 on page 83), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

SUBCHAPTER VIII—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

§2297h. Definitions

Except as provided in section 2297h–10a of this title, for purposes of this subchapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2021b(9) of this title.

(7) The term "private corporation" means the corporation established under section 2297h–3 of this title.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 2297h–2 of this title.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

(Pub. L. 104–134, title III, §3102, Apr. 26, 1996, 110 Stat. 1321–335; Pub. L. 110–329, div. C, title VIII, §8118(1), Sept. 30, 2008, 122 Stat. 3647.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, means subchapter A of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110–329 substituted "Except as provided in section 2297h–10a of this title, for purposes" for "For purposes" in introductory provisions.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13085. ESTABLISHMENT OF ENRICHMENT OVERSIGHT COMMITTEE

Ex. Ord. No. 13085, May 26, 1998, 63 F.R. 29335, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

SECTION 1. *Establishment*. There is hereby established an Enrichment Oversight Committee (EOC).

SEC. 2. *Objectives*. The EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 ("HEU Agreement"), and related contracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium

enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

SEC. 3. *Organization*. (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semiannually, or more frequently as appropriate. The EOC shall prepare annually the report for the President's transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104–134, title III, 3112(b)(10), 110 Stat. 1321–344, 1321–346 (1996) [42 U.S.C. 2297h–10(b)(10)].

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy, and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC's oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

SEC. 4. *HEU Agreement Oversight*. The EOC shall form an HEU Agreement Oversight Subcommittee (the "Subcommittee") in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence Community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

SEC. 5. *Foreign Ownership, Control, or Influence (FOCI)*. The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 [50 U.S.C. 3161 note] with respect to the USEC and any successor entities (*see* National Industrial Security Program Operating Manual, Department of Defense 2–3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq*. (1994), and the USEC Privatization Act, Public Law 104–134, title III, 110 Stat. 1321–335 *et seq*. (1996) [42 U.S.C. 2297h et seq.];

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

SEC. 6. *Domestic Enrichment Services*. The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act [42 U.S.C. 2297h–10], as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provided that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of Directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

SEC. 7. *Coordination with the Nuclear Regulatory Commission*. Upon notification by the NRC that it seeks the views of other agencies of the executive branch regarding determinations necessary for the issuance, reissuance, or renewal of a certificate of compliance or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

WILLIAM J. CLINTON.

§2297h–1. Sale of Corporation

(a) Authorization

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) Proceeds

Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

(Pub. L. 104–134, title III, §3103, Apr. 26, 1996, 110 Stat. 1321–336.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–2. Method of sale

(a) Authorization

The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 2297h–3 of this title (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) Board determination

The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) Adequate proceeds

The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 2297h–1(a) of this title.

(d) Application of securities laws

Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) Expenses

Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

(Pub. L. 104–134, title III, §3104, Apr. 26, 1996, 110 Stat. 1321–336.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–3. Establishment of private corporation

(a) Incorporation

(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors)

acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18.

(b) Status of private corporation

(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28 shall be allowable against the United States based on actions of the private corporation.

(c) Application of post-Government employment restrictions

Beginning on the privatization date, the restrictions stated in section 207(a), (b), (c), and (d) of title 18 shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) Dissolution

In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

(Pub. L. 104–134, title III, §3105, Apr. 26, 1996, 110 Stat. 1321–337.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(2) and (b)(2), means subchapter A of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–4. Transfers to private corporation

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 2297h–5 of this title,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 2297h–6(a) of this title,

(4) the Corporation's right to purchase power from the Secretary under section 2297h–6(b) of this title,

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

(Pub. L. 104–134, title III, §3106, Apr. 26, 1996, 110 Stat. 1321–338.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–5. Leasing of gaseous diffusion facilities

(a) Transfer of lease

Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) Renewal

The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) Exclusion of facilities for production of highly enriched uranium

The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE responsibility for preexisting conditions

The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) Environmental audit

For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) Treatment under Price-Anderson provisions

Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) Waiver of EIS requirement

The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 4332 of this title.

(h) Maintenance of security

(1) In general

With respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines relating to the authority of the Department of Energy's contractors (including any Federal agency, or private entity operating a gaseous diffusion plant under a contract or lease with the Department of Energy) and any subcontractor (at any tier) to carry firearms and make arrests in providing security at Federal installations, issued under section 2201(k) of this title shall require, at a minimum, the presence of all security police officers carrying sidearms at all times to ensure maintenance of security at the gaseous diffusion plants (whether a gaseous diffusion plant is operated directly by a Federal agency or by a private entity under a contract or lease with a Federal agency).

(2) Funding

(A) The costs of arming and providing arrest authority to the security police officers required under paragraph (1) shall be paid as follows:

(i) the Department of Energy (the "Department") shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are: (I) employees of the Department or the contractor or subcontractors of the Department; or (II) employees of the private entity leasing the gaseous diffusion plant who perform work on behalf of the Department (including employees of a contractor or subcontractor of the private entity); and

(ii) the private entity leasing the gaseous diffusion plant shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are employees of the private entity (including employees of a contractor or subcontractor) other than those employees who perform work for the Department.

(B) Neither the private entity leasing the gaseous diffusion plant nor the Department shall reduce its payments under any contract or lease or take other action to offset its share of the costs referred to in subparagraph (A), and the Department shall not reimburse the private entity for the entity's share of these costs.

(C) Nothing in this subsection shall alter the Department's responsibilities to pay the safety, safeguards and security costs associated with the Department's highly enriched uranium activities.

(Pub. L. 104–134, title III, §3107, Apr. 26, 1996, 110 Stat. 1321–338; Pub. L. 105–62, title V, §511, Oct. 13, 1997, 111 Stat. 1341; Pub. L. 105–245, title III, §310, Oct. 7, 1998, 112 Stat. 1853.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (c), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–245 substituted "all security police officers" for "an adequate number of security guards" in par. (1) and added par. (2).

1997—Subsec. (h). Pub. L. 105–62 added subsec. (h).

§2297h–6. Transfer of contracts

(a) Transfer of contracts

Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 2297c(b) of this title, or

(2) entered into by the Corporation before the privatization date.

(b) Nontransferable power contracts

The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the

Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) Effect of transfer

(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) Pricing

The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

(Pub. L. 104–134, title III, §3108, Apr. 26, 1996, 110 Stat. 1321–339.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–7. Liabilities

(a) Liability of United States

(1) Except as otherwise provided in this subchapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) Liability of Corporation

Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 2297h–6 of this title or any other action the Corporation is required to take under this subchapter.

(c) Liability of private corporation

Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) Liability of officers and directors

(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

(Pub. L. 104–134, title III, §3109, Apr. 26, 1996, 110 Stat. 1321–339.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1), (b), and (c), means subchapter A of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

The Securities Act of 1933, referred to in subsec. (d)(2), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d)(2), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–8. Employee protections

(a) Contractor employees

(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets

and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).[1]

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 185 [1] of title 29.

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege

a violation of the National Labor Relations Act [29 U.S.C. 151 et seq.], may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(8) CONTINUITY OF BENEFITS.—To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than 30 days after August 8, 2005, the Secretary shall implement such actions as are necessary to ensure that any employee who—

(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

(B) has been an employee of the Department of Energy's predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.

(b) Former Federal employees

(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5 for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required or authorized by sections 8432 and 8351 of title 5 for employees who elect to retain their coverage under CSRS or FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall

have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5 for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5 for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

(Pub. L. 104–134, title III, §3110, Apr. 26, 1996, 110 Stat. 1321–340; Pub. L. 104–206, title III, Sept. 30, 1996, 110 Stat. 2995; Pub. L. 109–58, title VI, §633, Aug. 8, 2005, 119 Stat. 790.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Labor Relations Act, referred to in subsec. (a)(3), (7)(C), is act July 5, 1935, ch. 372, 49 Stat. 449, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (a)(5), were formerly classified to sections 7274h and 7274i, respectively, of this title and were renumbered sections 4604 and 4643, respectively, of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, §3141(i)(5)(A)–(C), (14)(A)–(C), Nov. 24, 2003, 117 Stat. 1777, 1779, 1780, and classified to sections 2704 and 2733, respectively, of Title 50, War and National Defense, and was repealed and restated as sections 6243 and 6263, respectively, of Title 10, Armed Forces, by Pub. L. 119–60, div. C, title XXXI, §3111(a), (b)(1), Dec. 18, 2025, 139 Stat. 1415, 1421, 1458.

Section 185 of title 29, referred to in subsec. (a)(7)(A), was in the original "section 301 of the Labor Management Relations Act (29 U.S.C. 185)", and has been translated as reading section 301 of the Labor Management Relations Act, 1947, to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2005—Subsec. (a)(8). Pub. L. 109–58 added par. (8).

1996—Subsec. (b)(3). Pub. L. 104–206 which directed the amendment of subsec. (b) by inserting par. (3), was executed to reflect the probable intent of Congress by substituting par. (3) for former par. (3) which read as follows: "The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5 for those employees who elect to retain their coverage under FERS pursuant to paragraph (1)."

[1] *See References in Text note below.*

§2297h–9. Ownership limitations

(a) Securities limitations

No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) Ownership limitation

Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

(Pub. L. 104–134, title III, §3111, Apr. 26, 1996, 110 Stat. 1321–343.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–10. Uranium transfers and sales

(a) Transfers and sales by Secretary

The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) Russian HEU

(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of April 26, 1996, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,[1]

(D) in calendar year 2001 for consumption by end users in the United States not prior to January

1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual Maximum Deliveries to End Users

	(millions lbs. U_3O_8 equivalent)
Year:	
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14

2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20.

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) Transfers to Corporation

(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) Inventory sales

(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) Government transfers

Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) Savings provision

Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

(Pub. L. 104–134, title III, §3112, Apr. 26, 1996, 110 Stat. 1321–344.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (f), means subchapter A of chapter 1 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–335, known as the USEC Privatization Act, which is classified principally to this subchapter. For complete classification of subchapter A to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

[1] *So in original.*

§2297h–10a. Incentives for additional downblending of highly enriched uranium by the Russian Federation

(a) Definitions

In this section:

(1) Completion of the Russian HEU Agreement

The term "completion of the Russian HEU Agreement" means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

(2) Downblending

The term "downblending" means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

(3) Highly enriched uranium

The term "highly enriched uranium" has the meaning given that term in section 2297h(4) of this title.

(4) Highly enriched uranium of weapons origin

The term "highly enriched uranium of weapons origin" means highly enriched uranium that—

(A) contains 90 percent or more uranium-235; and

(B) is verified by the Secretary of Energy to be of weapons origin.

(5) Low-enriched uranium

The term "low-enriched uranium" means a uranium product in any form, including uranium hexafluoride (UF_6) and uranium oxide (UO_2), in which the uranium contains less than 20 percent uranium-235, including natural uranium, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

(6) Russian HEU Agreement

The term "Russian HEU Agreement" has the meaning given that term in section 2297h(11) of this title.

(7) Suspension Agreement

The term "Suspension Agreement" has the meaning given that term in section 2297h(13) of this title.

(8) Uranium-235

The term "uranium-235" means the isotope ^{235}U.

(b) Statement of policy

It is the policy of the United States—

(1) to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons;

(2) to reduce reliance on uranium imports in order to protect essential national security interests;

(3) to revive and strengthen the supply chain for nuclear fuel produced and used in the United States; and

(4) to expand production of nuclear fuel in the United States.

(c) Promotion of downblending of Russian highly enriched uranium

(1) Completion of the Russian HEU Agreement

Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement, may not exceed the following amounts:

(A) In the 4-year period beginning with calendar year 2008, 16,559 kilograms.

(B) In calendar year 2012, 24,839 kilograms.

(C) In calendar year 2013 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, 41,398 kilograms.

(2) Incentives to continue downblending Russian highly enriched uranium after the completion of the Russian HEU Agreement

(A) In general

After the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

(i) in calendar year 2014, 485,279 kilograms;
(ii) in calendar year 2015, 455,142 kilograms;
(iii) in calendar year 2016, 480,146 kilograms;
(iv) in calendar year 2017, 490,710 kilograms;
(v) in calendar year 2018, 492,731 kilograms;
(vi) in calendar year 2019, 509,058 kilograms;
(vii) in calendar year 2020, 514,754 kilograms;
(viii) in calendar year 2021, 596,682 kilograms;
(ix) in calendar year 2022, 489,617 kilograms; and
(x) in calendar year 2023, 578,877 kilograms.

(B) Administration

(i) In general

The Secretary of Commerce shall administer the import limitations described in subparagraph (A) in accordance with the provisions of the Suspension Agreement, including—

(I) the limitations on sales of enriched uranium product and separative work units plus conversion, in amounts determined in accordance with Section IV.B.1 of the Suspension Agreement (as amended by the amendment published in the Federal Register on October 9, 2020 (85 Fed. Reg. 64112));

(II) the export limit allocations set forth in Appendix 5 of the Suspension Agreement (as so amended);

(III) the requirements for natural uranium returned feed associated with imports of low-enriched uranium, including pursuant to sales of enrichment, with or without conversion, from the Russian Federation, as set forth in Section IV.B.1 of the Suspension Agreement (as so amended);

(IV) any other provisions of the Suspension Agreement (as so amended); and

(V) any related administrative guidance issued by the Department of Commerce.

(ii) Effect of termination of Suspension Agreement

Clause (i) shall remain in effect if the Suspension Agreement is terminated.

(C) Additional imports in exchange for a commitment to downblend an additional 300 metric tons of highly enriched uranium

(i) In general

In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), if the Russian Federation enters into a bilateral agreement with the United States under which the Russian Federation agrees to downblend an additional 300 metric tons of highly enriched uranium after the completion of the Russian HEU Agreement, 4 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin and including low-enriched uranium obtained under contracts for separative work units, may be imported in a calendar year for every 1 kilogram of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (9).

(ii) Maximum annual imports

Not more than 120,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

(3) Exceptions

The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for processing and to be certified for reexportation and not for consumption in the United States.

(4) Limited waiver authority

(A) In general

Notwithstanding paragraph (1)(C), if the completion of the Russian HEU Agreement does not occur before December 31, 2013, the import limitations under paragraph (1)(C) shall be waived, and low-enriched uranium may be imported into the United States in the quantities specified in paragraph (2) in a calendar year after 2013, if—

(i) the Secretary of Energy and the Secretary of State jointly determine that—

(I) the failure of the completion of the Russian HEU Agreement arises from causes beyond the control and without the fault or negligence of the Government of the Russian Federation; and

(II) the Government of the Russian Federation has made reasonable efforts to avoid and mitigate the effects of the failure of the completion of the Russian HEU Agreement; and

(ii) the Secretary of Energy and the Secretary of State jointly notify Congress of, and publish in the Federal Register, the determination under clause (i) and the reasons for the determination.

(B) Notice and wait

A waiver under subparagraph (A) may not take effect until the date that is 180 days after the date on which Secretary of Energy and the Secretary of State notify Congress under subparagraph (A)(ii).

(C) Termination

A waiver under subparagraph (A) shall terminate on December 31 of the calendar year with respect to which the Secretary makes the determination under subparagraph (A)(i).

(5) Authority for additional adjustment

The Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

(6) Equivalent quantities of low-enriched uranium imports

(A) In general

The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

(B) Adjustment for other uranium

Imports of low-enriched uranium under paragraphs (1) and (2), including low-enriched uranium obtained under contracts for separative work units, shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

(7) Downblending of other highly enriched uranium

(A) In general

The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(C), subject to verification under paragraph (9), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

(B) Equivalent quantities of highly enriched uranium

For purposes of determining the additional low-enriched uranium imports allowed under

paragraph (2)(C), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

(8) Termination of import restrictions

The provisions of this subsection shall terminate on the date described in subsection (d)(1).

(9) Technical verifications by Secretary of Energy

(A) In general

The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(C) and (7).

(B) Methods of verification

In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures and access provisions agreed to under the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

(10) Enforcement of import limitations

The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

(11) Effect on other agreements

(A) Russian HEU Agreement

Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

(B) Other agreements

If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement or the Suspension Agreement, relating to the importation of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

(d) Prohibition on imports of low-enriched uranium

(1) Prohibition

Beginning on the date that is 90 days after May 13, 2024, and subject to paragraphs (2) and (3), the following may not be imported into the United States:

(A) Unirradiated low-enriched uranium that is produced in the Russian Federation or by a Russian entity.

(B) Unirradiated low-enriched uranium that is determined to have been exchanged with, swapped for, or otherwise obtained in lieu of unirradiated low-enriched uranium described in subparagraph (A) in a manner designed to circumvent the restrictions under this section.

(2) Waiver

(A) In general

Subject to subparagraphs (B) and (C), the Secretary of Energy, in consultation with the Secretary of State and the Secretary of Commerce, may waive the application of paragraph (1) to authorize the importation of low-enriched uranium described in that paragraph if the Secretary of Energy determines that—

(i) no alternative viable source of low-enriched uranium is available to sustain the

continued operation of a nuclear reactor or a United States nuclear energy company; or

(ii) importation of low-enriched uranium described in paragraph (1) is in the national interest.

(B) Limitation on amounts of imports of low-enriched uranium

(i) In general

The importation into the United States of low-enriched uranium described in paragraph (1), including low-enriched uranium obtained under contracts for separative work units, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

(I) in calendar year 2024, 476,536 kilograms;

(II) in calendar year 2025, 470,376 kilograms;

(III) in calendar year 2026, 464,183 kilograms; and

(IV) in calendar year 2027, 459,083 kilograms.

(ii) Administration

The Secretary of Commerce shall—

(I) administer the import limitations described in clause (i) in accordance with the provisions of the Suspension Agreement, including the provisions described in subsection (c)(2)(B)(i);

(II) be responsible for enforcing the import limitations described in clause (i); and

(III) enforce the import limitations described in clause (i) in a manner that imposes a minimal burden on the commercial nuclear industry.

(C) Termination

Any waiver issued under subparagraph (A) shall terminate not later than January 1, 2028.

(D) Notification to Congress

(i) In general

Upon issuing a waiver under subparagraph (A), the Secretary of Energy shall submit to the committees specified in clause (ii) a notification that a waiver has been issued, which shall include identification of the recipient of the waiver.

(ii) Committees specified

The committees specified in this clause are—

(I) the Committee on Energy and Natural Resources and the Committee on Finance of the Senate; and

(II) the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives.

(3) Applicability

This subsection does not apply to imports—

(A) by or under contract to the Department of Energy for national security or nonproliferation purposes; or

(B) of non-uranium isotopes.

(4) Termination

The provisions of this subsection shall terminate on December 31, 2040.

(5) Russian entity defined

In this subsection, the term "Russian entity" means an entity organized under the laws of or otherwise subject to the jurisdiction of the Government of the Russian Federation.

(Pub. L. 104–134, title III, §3112A, as added Pub. L. 110–329, div. C, title VIII, §8118(2), Sept. 30, 2008, 122 Stat. 3647; amended Pub. L. 116–260, div. Z, title II, §2007(a), Dec. 27, 2020, 134 Stat. 2472; Pub. L. 118–62, §2(a), (b)(1), May 13, 2024, 138 Stat. 1022, 1023.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2024—Subsec. (c)(2)(A)(xi) to (xxvii). Pub. L. 118–62, §2(b)(1)(A)(i), struck out cls. (xi) to (xxvii) which provided limitations on importation of Russian low-enriched uranium for calendar years 2024 to 2040.

Subsec. (c)(2)(C)(i). Pub. L. 118–62, §2(b)(1)(A)(ii), substituted "paragraph (9)" for "paragraph (10)".

Subsec. (c)(3). Pub. L. 118–62, §2(b)(1)(B), substituted "United States" for "United States—" and struck out subpar. (B) designation before "for processing" and subpar. (A) which read as follows: "for use in the initial core of a new nuclear reactor; or".

Subsec. (c)(5). Pub. L. 118–62, §2(b)(1)(E), substituted "The" for "In addition to the adjustment under paragraph (5)(A), the" in introductory provisions.

Pub. L. 118–62, §2(b)(1)(C), (D), redesignated par. (6) as (5) and struck out former par. (5) which related to adjustments to import limitations.

Subsec. (c)(6). Pub. L. 118–62, §2(b)(1)(D), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (c)(7). Pub. L. 118–62, §2(b)(1)(D), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Subsec. (c)(7)(A). Pub. L. 118–62, §2(b)(1)(F), substituted "paragraph (9)" for "paragraph (10)".

Subsec. (c)(8). Pub. L. 118–62, §2(b)(1)(G), substituted "the date described in subsection (d)(1)" for "December 31, 2040".

Pub. L. 118–62, §2(b)(1)(D), redesignated par. (9) as (8). Former par. (8) redesignated (7).

Subsec. (c)(9). Pub. L. 118–62, §2(b)(1)(D), redesignated par. (10) as (9). Former par. (9) redesignated (8).

Subsec. (c)(9)(A). Pub. L. 118–62, §2(b)(1)(H), substituted "paragraphs (2)(C) and (7)" for "paragraphs (2)(C) and (8)".

Subsec. (c)(10) to (12). Pub. L. 118–62, §2(b)(1)(D), redesignated pars. (11) and (12) as (10) and (11), respectively. Former par. (10) redesignated (9).

Subsec. (d). Pub. L. 118–62, §2(a), added subsec. (d).

2020—Subsec. (a)(7), (8). Pub. L. 116–260, §2007(a)(1), added par. (7) and redesignated former par. (7) as (8).

Subsec. (b). Pub. L. 116–260, §2007(a)(2), substituted "United States—" and "(1) to support" for "United States to support" and added pars. (2) to (4).

Subsec. (c). Pub. L. 116–260, §2007(a)(3)(F), substituted "(2)(C)" for "(2)(B)" wherever appearing.

Subsec. (c)(2)(A)(viii) to (xxvi). Pub. L. 116–260, §2007(a)(3)(A)(i), added cls. (viii) to (xxvi).

Subsec. (c)(2)(B), (C). Pub. L. 116–260, §2007(a)(3)(A)(ii), (iii), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(3)(C). Pub. L. 116–260, §2007(a)(3)(B), struck out subpar. (C) which read as follows: "to be added to the inventory of the Department of Energy".

Subsec. (c)(5)(A). Pub. L. 116–260, §2007(a)(3)(C)(i), substituted "lower scenario data in the report of the World Nuclear Association entitled 'The Nuclear Fuel Report: Global Scenarios for Demand and Supply Availability 2019–2040'. In each of calendar years 2023, 2029, and 2035" for "reference data in the 2005 Market Report on the Global Nuclear Fuel Market Supply and Demand 2005–2030 of the World Nuclear Association. In each of calendar years 2016 and 2019".

Subsec. (c)(5)(B) to (D). Pub. L. 116–260, §2007(a)(3)(C)(ii)–(iv), added subpar. (B), redesignated former subpars. (B) and (C) as (C) and (D), respectively, and, in subpar. (D), as redesignated, substituted "subparagraph (C)" for "subparagraph (B)".

Subsec. (c)(9). Pub. L. 116–260, §2007(a)(3)(D), substituted "2040" for "2020".

Subsec. (c)(12)(B). Pub. L. 116–260, §2007(a)(3)(E), inserted "or the Suspension Agreement" after "the Russian HEU Agreement".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–62, §2(b)(2), May 13, 2024, 138 Stat. 1024, provided that: "The amendment to section

3112A(c)(2)(A)(xi) of the USEC Privatization Act (42 U.S.C. 2297h–10a(c)(2)(A)(xi)) made by paragraph (1)(A) of this subsection shall take effect on the date that is 90 days after the date of the enactment of this Act [May 13, 2024]."

APPLICABILITY

Pub. L. 116–260, div. Z, title II, §2007(b), Dec. 27, 2020, 134 Stat. 2474, provided that: "The amendments made by subsection (a) [amending this section] apply with respect to uranium imported from the Russian Federation on or after January 1, 2021."

§2297h–10b. Secretarial determinations; congressional notification

(a) Secretarial determinations

In this fiscal year, and in each subsequent fiscal year, any determination (including a determination made prior to December 16, 2014) by the Secretary of Energy under section 2297h–10(d)(2)(B) of this title shall be valid for not more than 2 calendar years subsequent to such determination.

(b) Congressional notification

In this fiscal year, and in each subsequent fiscal year, not less than 30 days prior to the provision of uranium in any form the Secretary of Energy shall notify the Committees on Appropriations of the House of Representatives and the Senate of the following—

(1) the provisions of law (including regulations) authorizing the provision of uranium;

(2) the amount of uranium to be provided;

(3) an estimate by the Secretary of Energy of the gross fair market value of the uranium on the expected date of the provision of the uranium;

(4) the expected date of the provision of the uranium;

(5) the recipient of the uranium;

(6) the value the Secretary of Energy expects to receive in exchange for the uranium, including any adjustments to the gross fair market value of the uranium; and

(7) whether the uranium to be provided is encumbered by any restriction on use under an international agreement or otherwise.

(Pub. L. 113–235, div. D, title III, §306, Dec. 16, 2014, 128 Stat. 2324.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–11. Low-level waste

(a) Responsibility of DOE

(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 2073, 2093, and 2243 of this title.

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the

disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(4) In the event that a licensee requests the Secretary to accept for disposal depleted uranium pursuant to this subsection, the Secretary shall be required to take title to and possession of such depleted uranium at an existing DUF6 storage facility.

(b) Agreements with other persons

The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) State or interstate compacts

Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

(Pub. L. 104–134, title III, §3113, Apr. 26, 1996, 110 Stat. 1321–347; Pub. L. 108–447, div. C, title III, §311, Dec. 8, 2004, 118 Stat. 2959.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

2004—Subsec. (a)(4). Pub. L. 108–447, §311, which directed the addition of par. (4) to subsec. (a) of section 3113 of Public Law 102–486 (42 U.S.C. 2297h–11), was executed by adding par. (4) to subsec. (a) of this section, which is section 3113 of Pub. L. 104–134, to reflect the probable intent of Congress.

§2297h–12. AVLIS

(a) Exclusive right to commercialize

The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) Transfer of related property to Corporation

(1) In general

To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration

activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) Exception

Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) Expiration of transfer authority

The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) Liability for patent and related claims

With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

(Pub. L. 104–134, title III, §3114, Apr. 26, 1996, 110 Stat. 1321–348.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(1), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§2297h–13. Application of certain laws

(a) OSHA

(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after April 26, 1996, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) Antitrust laws

For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) Energy Reorganization Act requirements

(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 5851 of this title to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 5846 of

this title shall apply to the directors and officers of the private corporation.

(Pub. L. 104–134, title III, §3115, Apr. 26, 1996, 110 Stat. 1321–348.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (a)(1), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

CHAPTER 24—DISPOSAL OF ATOMIC ENERGY COMMUNITIES

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SUBCHAPTER I—GENERAL PROVISIONS

§2301. Congressional declaration of policy

It is declared to be the policy of the United States of America that Government ownership and management of the communities owned by the Atomic Energy Commission shall be terminated in an expeditious manner which is consistent with and will not impede the accomplishment of the purposes and programs established by the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]. To that end, it is desired at each community to—

(a) facilitate the establishment of local self-government;

(b) provide for the orderly transfer to local entities of municipal functions, municipal installations, and utilities; and

(c) provide for the orderly sale to private purchasers of property within those communities with a minimum of dislocation.

(Aug. 4, 1955, ch. 543, ch. 1, §11, 69 Stat. 472.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Act Aug. 4, 1955, ch. 543, §1, 69 Stat. 471, provided that: "This Act [enacting this chapter and amending section 1715n of Title 12, Banks and Banking, and section 243 of Title 20, Education] may be cited as the 'Atomic Energy Community Act of 1955'."

SEPARABILITY

Act Aug. 4, 1955, ch. 543, ch. 11, §119, 69 Stat. 484, provided that: "If any provisions of this Act [see Short Title note above], or the application of such provision to any person or circumstances, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2302. Congressional findings

The Congress of the United States makes the following findings concerning the communities owned by the Atomic Energy Commission:

(a) The continued morale of project-connected persons is essential to the common defense and security of the United States.

(b) In issuing rules and regulations required or permitted under this chapter for the disposal of the communities and in disposing of the communities in accordance with the provisions of this chapter and in accordance with the rules and regulations required or permitted by this chapter, the Commission is acting under authority delegated to it by the Congress.

(c) Funds of the United States may be provided for the disposal of the communities and for assistance in the operation of the communities thereafter under conditions which will provide for the common defense and promote the general welfare.

(Aug. 4, 1955, ch. 543, ch. 1, §12, 69 Stat. 472.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2303. Purpose of chapter

It is the purpose of this chapter to effectuate the policies set forth above by providing for—

(a) the maintenance of conditions which will not impede the recruitment and retention of personnel essential to the atomic energy program;

(b) the obligation of the United States to contribute to the support of municipal functions in a manner commensurate with—

(1) the fiscal problems peculiar to the communities by reason of their construction as national defense installations, and

(2) the municipal and other burdens imposed on the governmental or other entities at the communities by the United States in its operations at or near the communities;

(c) the opportunity for the residents of the communities to assume the obligations and privileges of local self-government; and

(d) the encouragement of the construction of new homes at the communities.

(Aug. 4, 1955, ch. 543, ch. 1, §13, 69 Stat. 472.)

§2304. Definitions

The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this chapter—

(a) The term "Commission" means the Atomic Energy Commission.

(b) The term "community" means that area at—

(1) Oak Ridge, Tennessee, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Oak Ridge, Tennessee", bearing the legend "Boundary Line, Minimum Geographic Area, Oak Ridge, Tennessee" and marked "Approved, 21 April 1955, K. D. Nichols, General Manager"; or

(2) Richland, Washington, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Richland, Washington", bearing the legend "Boundary Line, Minimum Geographic Area, Richland, Washington" and marked "Approved, 21 April 1955, K. D. Nichols, General Manager;" or

(3) Los Alamos, New Mexico, designated on a map on file at the principal office of the Commission, entitled "Minimum Geographic Area, Los Alamos, New Mexico," bearing the legend "Boundary Line, Minimum Geographic Area, Los Alamos, New Mexico" and marked "Approved, April 5, 1962, A. R. Luedecke, General Manager."

(c) The term "house" includes the lot on which the house stands.

(d) The term "member of a family" means any person who, on the first offering date, resides in the same dwelling unit with one or more of the following relatives (including those having the same relationship through marriage or legal adoption): spouse, father, mother, grandfather, grandmother, brother, sister, son, daughter, uncle, aunt, nephew, niece, or first cousin.

(e) The term "mortgage" shall include deeds of trust and such other classes of lien as are given to secure advances on, or the unpaid purchase price of real estate under the laws of the State in which the real estate is located.

(f) The term "municipal installation" includes, without limitation, schools, hospitals, police and fire protection systems, sewerage and refuse disposal plants, water supply and distribution installations, streets and roads, libraries, parks, playgrounds and recreational means, municipal government buildings, other properties suitable for municipal or comparable local public service purposes, and any fixtures, equivalent, or other property appropriate to the operation, maintenance or repair of the foregoing.

(g) The term "occupant" means a person who, on the date on which the property in question is first offered for sale, is entitled to residential occupancy of the Government-owned house in question, or of a family dwelling unit in such house, in accordance with a lease or license agreement with the Commission or its property-management contractor.

(h) The term "offering date" means the date the property in question is offered for sale.

(i) The term "project area" means that area which on August 4, 1955, constitutes the Federal area at Oak Ridge, Tennessee, or Hanford, Washington, or that area which, on the date Los Alamos is included within this chapter, constitutes the County of Los Alamos, New Mexico, excluding therefrom, however, that land which is, on said date, under the administrative control of the National Park Service of the Department of the Interior.

(j) The term "project-connected person" means any person who, on the first offering date, is regularly employed at the project area in one of the following capacities:

(1) An officer or employee of the Commission or any of its contractors or subcontractors, or of the United States or any agency thereof (including members of the Armed Forces), or of a State or political subdivision or agency thereof;

(2) An officer or employee employed at a school or hospital located in the project area;

(3) A person engaged in or employed in the project area by any professional, commercial, or industrial enterprise occupying premises located in the project area; or

(4) An officer or employee of any church or nonprofit organization occupying premises located in the project area.

(k) The term "resident" means any person who, on the date on which the property in question is first offered for sale is either—

(1) an occupant in a residential unit designated for sale at the community, or

(2) a project-connected person who is entitled, in accordance with a lease or similar agreement, to residential occupancy of privately owned rental housing in the community.

(l) The term "utility" means any electrical distribution system, any natural gas distribution system, any public transportation system, or any public communication system, and any fixtures, equipment, or other property appropriate to the operation, maintenance or repair of the foregoing.

(m) The terms "single" and "single family" when used in connection with "house" or "residential property" shall include each separate unit of a residential structure which the Commission has classified as a residential structure containing two or more separate single family units pursuant to section 2331(c) of this title.

(Aug. 4, 1955, ch. 543, ch. 2, §21, 69 Stat. 473; Pub. L. 87–719, §§1–4, Sept. 28, 1962, 76 Stat. 664.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719, §1, added cl. (3).

Subsec. (i). Pub. L. 87–719, §2, included in definition of "project area" the County of Los Alamos, New Mexico, excluding land under administrative control of the National Park Service.

Subsec. (l). Pub. L. 87–719, §3, included in definition of "utility" any natural gas distribution system.

Subsec. (m). Pub. L. 87–719, §4, added subsec. (m).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2305. Powers of Atomic Energy Commission

The Commission shall have all powers conferred by the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], including the power to make, promulgate, issue, rescind, and amend such rules, regulations, and delegations as may be appropriate to carry out the provisions of this chapter and shall be subject to the limitations contained in chapter 14 of that Act [42 U.S.C. 2201 et seq.]. Nothing contained in this chapter shall impair the powers vested in the Commission by the Atomic Energy Act of 1954, as amended, or any other law.

(Aug. 4, 1955, ch. 543, ch. 11, §111, 69 Stat. 483.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. Chapter 14 of that Act, referred to in text, is classified to subchapter XIII (§2201 et seq.) of division A of chapter 23 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2306. Qualification to purchase

No officer or employee of the Commission or of any other Federal agency (including officers and members of the Armed Forces) shall be disqualified from purchasing any property or exercising any right or privilege under this chapter, but no such officer or employee shall make any determination as to his own eligibility or priority, or as to valuation, price, or terms of sale and financing of property sold to him.

(Aug. 4, 1955, ch. 543, ch. 11, §112, 69 Stat. 483.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2307. Form and contents of contracts, mortgages, and other instruments

Contracts entered into pursuant to this chapter and other instruments executed pursuant to this chapter shall be in such form and contain such provisions, consistent with this chapter, as the Commission shall prescribe; and shall be as simple and concise as possible. Any mortgage shall contain terms which will place the United States in the same position, with respect to any mortgages it may hold under the provisions of subchapter V, as that occupied by a private lender under the applicable State laws for the relief of mortgagors with respect to deficiency judgments.

(Aug. 4, 1955, ch. 543, ch. 11, §113, 69 Stat. 483.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2308. Conclusive evidence of compliance with chapter

A deed, lease, contract, or other instrument executed by or on behalf of the Commission purporting to transfer title or any other interest in property disposed of pursuant to this chapter shall be conclusive evidence of compliance with the provisions of this chapter and rules and regulations promulgated thereunder, insofar as concerns title or other interest of any bona fide grantee or transferee for value without notice of lack of such compliance, and his successors in title.

(Aug. 4, 1955, ch. 543, ch. 11, §114, 69 Stat. 483.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See

also Transfer of Functions notes set out under those sections.

§2309. Administrative review

Determinations authorized by this chapter to be made by the Commission as to classification, priorities, prices, and terms and conditions of sale of property disposed under this chapter shall be subject to review only in accordance with such provisions for administrative review or reconsideration as the Commission may prescribe.

(Aug. 4, 1955, ch. 543, ch. 11, §115, 69 Stat. 483.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2310. Repossession of property; powers of Commission

The Commission is authorized to repossess any property sold by it in accordance with the terms of any contract to purchase, mortgage or other instrument, and to sell or make any other disposition of any property so repossessed and any property purchased by it pursuant to section 2366 of this title. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Commission shall have power to deal with, complete, operate, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties acquired pursuant to this chapter, and to pursue to final collection, by way of compromise or otherwise, all claims arising pursuant to this section: *Provided,* That expenses authorized by this section shall be considered nonadministrative expenses: *Provided further,* That section 6101 of title 41 shall not apply to any contract entered into pursuant to this section if the amount thereof does not exceed $1,000.

(Aug. 4, 1955, ch. 543, ch. 11, §116, 69 Stat. 483; July 25, 1956, ch. 731, §3, 70 Stat. 653.)

EDITORIAL NOTES

CODIFICATION

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1956—Act July 25, 1956, specifically enumerated powers of the Commission in relation to properties acquired pursuant to this chapter, authorized final collection of claims by way of compromise or otherwise, to provide that expenses authorized by this section shall be considered nonadministrative expenses, and excepted contracts that do not exceed $1,000 from provisions of section 5 of title 41.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2311. Community Disposal Operations Fund

(a) Establishment

There is established as of June 30, 1956, a Community Disposal Operations Fund, and the Commission (or the head of such agency as may be carrying out the sales and financing functions of the Commission pursuant to a delegation by the President under section 2313 of this title) is authorized to credit said fund with all moneys hereafter obtained or now held by it and to account under said fund for all assets and liabilities held or acquired by it in connection with its sales and financing functions under this chapter, and to make temporary advances to such fund, from any other funds available for expenses of operations of such Commission or agency, as may be required to carry out such functions pending the realization of sufficient proceeds under the provisions of this chapter: *Provided*, That any such advances shall be repaid to the source appropriation or fund, to the extent of any unobligated balances available in the Community Disposal Operations Fund, prior to the close of the fiscal year during which such advances are made.

(b) Availability

The Community Disposal Operations Fund shall be available to pay for all necessary costs, expenses (including administrative expenses), losses or obligations incurred in connection with the aforesaid functions, including expenses incident to sale, or other transfer and any financing under section 2362 of this title, indemnities under sections 2363 to 2366 of this title, and expenses authorized by section 2310 of this title, and expenses in connection with the defense and payment of any claims for breaches of warranties and covenants of title of any property disposed of pursuant to this chapter.

(c) Liquidating dividends

Any amount in said fund which is determined to be in excess of requirements for the purposes thereof shall be declared and paid as liquidating dividends to the Treasury, not less often than annually.

(Aug. 4, 1955, ch. 543, ch. 11, §117, 69 Stat. 483; July 25, 1956, ch. 731, §4, 70 Stat. 654.)

EDITORIAL NOTES

AMENDMENTS

1956—Act July 25, 1956, amended section generally to establish the Community Disposal Operations Fund, to provide for its availability, and to require excess amounts to be paid as liquidating dividends to the Treasury. Former provisions of this section required that the net proceeds derived by the Commission from the disposal of property pursuant to this chapter were to be covered into the Treasury.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2312. Authorization of appropriations

(a) No appropriation shall be made to carry out the provisions and purposes of this chapter unless previously authorized by legislation enacted by Congress.

(b) There are authorized to be appropriated the sum of $518,000 at Oak Ridge, the sum of $2,215,000 at Richland and the sum of $8,719,000 at Los Alamos for construction, modification, or expansion of municipal installations and utilities authorized to be transferred pursuant to subchapters VI and VII of this chapter.

(Aug. 4, 1955, ch. 543, ch. 11, §118, 69 Stat. 484; July 25, 1956, ch. 731, §§5, 6, 70 Stat. 654; Pub. L. 87–719, §24, Sept. 28, 1962, 76 Stat. 666; Pub. L. 90–190, §4, Dec. 14, 1967, 81 Stat. 576.)

EDITORIAL NOTES

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–190 substituted provisions prohibiting making of appropriations to carry out provisions and purposes of this chapter unless previously authorized by legislation enacted by Congress for provisions granting authority to appropriate such sums as may be necessary and appropriate to carry out provisions and purposes of this chapter.

1962—Subsec. (b). Pub. L. 87–719 authorized an appropriation of $8,719,000 at Los Alamos and use of appropriations for utilities.

1956—Subsec. (b). Act July 25, 1956, §6, substituted "$2,215,000" for "$2,165,000".

Subsec. (c). Act July 25, 1956, §5, repealed subsec. (c) which appropriated funds derived from disposal of property to pay any costs, losses, expenses, or obligations incurred by Commission. See section 2311(b) of this title.

§2313. Transfer of functions

The President is authorized to delegate the duties and responsibilities placed on the Commission by this chapter to such other agencies of the United States Government as are reasonably qualified to perform those duties and responsibilities. The President may delegate any or all of the duties and responsibilities of the Commission in the operation of the communities to such other agencies of the United States Government that are reasonably qualified to perform those duties and responsibilities. The Commission shall retain no financing duties and responsibilities.

(Aug. 4, 1955, ch. 543, ch. 10, §101, 69 Stat. 482.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 10657

Ex. Ord. No. 10657, eff. Feb. 14, 1956, 21 F.R. 1063, as amended by Ex. Ord. No. 10734, eff. Oct. 17, 1957, 22 F.R. 8275; Ex. Ord. No. 11105, eff. Apr. 18, 1963, 28 F.R. 3909, which related to the transfer of certain functions of the Atomic Energy Commission under this chapter to the Housing and Home Finance Administrator, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 11105

Ex. Ord. No. 11105, eff. Apr. 18, 1963, 28 F.R. 3909, which provided for the transfer of certain functions of the Atomic Energy Commission under this chapter to the Housing and Home Finance Administrator, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§2314. Repealed. Pub. L. 93–608, §1(22), Jan. 2, 1975, 88 Stat. 1970

Section, act Aug. 4, 1955, ch. 543, ch. 10, §102, 69 Stat. 483, required a triennial report to the Joint Committee on Atomic Energy by the Commission reviewing its activities under this chapter.

§2315. Repealed. Aug. 1, 1946, ch. 724, title I, §302(b), as added Pub. L. 95–110, §1, Sept. 20, 1977, 91 Stat. 884; renumbered title I, Oct. 24, 1992, Pub. L. 102–486, title IX, §902(a)(8), 106 Stat. 2944

Section, act Aug. 4, 1955, ch. 543, ch. 10, §103, 69 Stat. 483, provided that sections 2251 to 2257 of this title were applicable to all matters coming under this chapter.

SUBCHAPTER II—LOTS, APPRAISALS, AND PRICES

§2321. Lots; establishment of boundaries

The Commission is authorized to plat each community immediately upon passage of this chapter, or immediately upon the inclusion of the community within the provisions of this chapter. The Commission may establish lot boundaries, and realine, divide, or enlarge existing tracts as it deems appropriate.

(Aug. 4, 1955, ch. 543, ch. 3, §31, 69 Stat. 474.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2322. Appraisal of property

The Commission shall proceed to secure appraisals of all property at the community which is to be sold pursuant to this chapter. The appraisals shall be made by the Secretary of Housing and Urban Development or his designee. The Secretary of Housing and Urban Development shall be reimbursed from the Community Disposal Operations Fund for the cost of such appraisals. Appraisals made under this section shall be the appraisals on which the Secretary of Housing and Urban Development may insure any mortgage or loan under the National Housing Act [12 U.S.C. 1701 et seq.] until such time as he finds that the appraisal values generally in the community no longer represent the fair market values of the properties.

(Aug. 4, 1955, ch. 543, ch. 3, §32, 69 Stat. 474; Pub. L. 87–719, §5, Sept. 28, 1962, 76 Stat. 664; Pub. L. 90–19, §11, May 25, 1967, 81 Stat. 23.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing.

1962—Pub. L. 87–719 substituted "The Federal Housing Commissioner shall be reimbursed from the Community Disposal Operations Fund for the cost of such appraisals" for "The Commission shall reimburse the Federal Housing Commissioner for the cost of such appraisals".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2323. Basis of appraisal

Except for lots sold pursuant to the provisions of section 2347(a) of this title, the appraised value shall be the current fair market value of the Government's interest in the property.

(Aug. 4, 1955, ch. 543, ch. 3, §33, 69 Stat. 474.)

§2324. Posting of lists showing appraised value

Lists showing the appraised value of each parcel of property to be offered for sale to priority purchasers shall, prior to the offering of such property for sale, be made available for public inspection, at reasonable times, at the offices of the Commission at the community.

(Aug. 4, 1955, ch. 543, ch. 3, §34, 69 Stat. 474.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2325. Sales price

(a) Government-owned single or duplex houses

In the sale to priority purchasers of properties on which are located Government-owned single or duplex houses, the sales price shall be the appraised value less a deduction of 15 per centum of the appraised value and less the deductions provided by section 2326 of this title.

(b) Other properties

In all other cases the sales price to priority purchasers shall be the appraised value less the deductions provided by section 2326 of this title, except that sales made under sections 2343(b) and 2343(c) of this title shall be made at the prices set forth therein.

(c) Appraised value of interest in commercial property

The appraised value of the Government's interest in commercial property shall, in the cases where renegotiation of the lease is requested by the lessee under the provisions of section 2201(e) of this title be based upon the renegotiated lease if any is agreed on. Where such renegotiations are requested, the sales proceedings shall not be initiated until the completion of the renegotiation.

(Aug. 4, 1955, ch. 543, ch. 3, §35, 69 Stat. 474; Pub. L. 85–162, title II, §202, Aug. 21, 1957, 71 Stat. 410.)

EDITORIAL NOTES

AMENDMENTS

1957—Subsec. (c). Pub. L. 85–162 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPORT WITH RESPECT TO RENEGOTIATIONS, REAPPRAISALS, AND SALES PROCEEDINGS

Pub. L. 85–162, title II, §203, Aug. 21, 1957, 71 Stat. 410, required Atomic Energy Commission, Federal Housing Administration, and Housing and Home Finance Agency to report to Joint Committee by Jan. 31, 1958, with respect to renegotiations, reappraisals, and sales proceedings authorized under subsec. (c) of this section.

§2326. Deductions from sales price

(a) Improvements

In addition to any other deduction which may be permitted from the sales price for property, there shall, upon application by the prospective purchaser, be deducted the amount by which the current fair market value of the Government's interest in the premises is enhanced as a result of improvements to the premises made by, or at the expense of, the prospective purchaser: *Provided*, That, with reference to commercial property, the improvement credit allowed shall be the value of the enhancement of the Government's interest in the property, as determined by the Commission on the basis of the appraisal provided for under section 2322 of this title: *Provided further*, That such credit shall be reduced to the extent that lessee has been previously compensated therefor, as determined by the Commission, under the terms of the lease or otherwise.

(b) Improvements by occupant of single family or duplex house

An occupant of a single family or duplex house shall, upon application therefor, be entitled to a credit, against the purchase price of any residential property purchased through the exercise of a priority right established under the provisions of section 2332 of this title, for the amount by which the current fair market value of the Government's interest in the single family or duplex house of which he was an occupant is enhanced as a result of improvements to the premises of such single family or duplex house made by, or at the expense of, such occupant.

(c) Determination of value of improvements

The value of the improvements as specified in subsections (a) and (b) shall be determined in accordance with the provisions of section 2322 of this title.

(d) Additional deduction to persons purchasing property without benefit of indemnity provisions

Persons purchasing property pursuant to the provisions of section 2342 of this title, who do not desire to avail themselves of the indemnity provisions contained in sections 2363 to 2366 of this title, shall be entitled to an additional deduction of 10 per centum of the appraised value of the property in addition to any other deduction set forth in this section.

(Aug. 4, 1955, ch. 543, ch. 3, §36, 69 Stat. 474; July 25, 1956, ch. 731, §1, 70 Stat. 653; Pub. L. 87–719, §6, Sept. 28, 1962, 76 Stat. 664.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719 substituted authorization of a credit for improvements by occupant of single family or duplex house for such improvements by junior occupant of duplex house.

1956—Subsec. (a). Act July 25, 1956, authorized an improvement credit for commercial property.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

SUBCHAPTER III—CLASSIFICATION OF PROPERTY AND PRIORITIES

§2331. Classification of property

(a) Property within each community

Immediately upon passage of this chapter, or, in the case of Los Alamos, upon its inclusion within this chapter, the Commission shall classify all real property (including such improvements and such fixtures, equipment and other personal property incident thereto as it may deem appropriate) within each community in accordance with such classifications as shall insure reasonably similar treatment for reasonably similar property. The classification shall be made by such procedures, consistent with this subchapter, as it shall determine.

(b) Property at or in vicinity of each community

The Commission may, but shall not be required to, classify any other real property at or in the vicinity of the community, whether within or outside of that community.

(c) Residential structures within each community

Prior to the date any residential property is first offered for sale at Los Alamos, the Commission shall further classify each residential structure within the community of Los Alamos either as a single family house, a duplex house, an apartment house, a dormitory, or as a residential structure containing two or more separate single family units and shall post, at the offices of the Commission at Los Alamos, a list, available for public inspection at reasonable times, showing the classification of each such residential structure. For the purposes of this chapter, each such residential structure will thereafter be deemed to be a single family house, a duplex house, an apartment house, a dormitory, or a residential structure containing two or more separate single family units in accordance with its classification. In determining the classification of each such residential structure containing two or more single family units, the Commission shall consider (1) the practicability of selling separately the single family units, and (2) the insurability of mortgages under section 1715n(a) of title 12.

(Aug. 4, 1955, ch. 543, ch. 4, §41, 69 Stat. 475; Pub. L. 87–719, §§7, 8, Sept. 28, 1962, 76 Stat. 664.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–719, §7, inserted ", or, in the case of Los Alamos, upon its inclusion within this chapter" after "chapter".

Subsec. (c). Pub. L. 87–719, §8, added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2332. Priorities; uniformity; preferences; impairment of rights

The Commission shall establish, by rule or regulation, a detailed system of reasonable and fair priority rights applicable to the sale of Government-owned property to private purchasers at each community. The priorities shall—

(a) be uniform in each class or subclass of property;

(b) give such preference to occupants and project-connected persons and to incoming employees of the Commission, of a contractor, or of a licensee as the Commission finds necessary or desirable, giving due consideration to the following factors:

(1) The retention and recruitment of personnel essential to the atomic energy program;

(2) The minimization of dislocations within the community;

(3) The expeditious accomplishment of the disposal program; and

(4) The desirability of encouraging private firms to locate or remain in the community;

(c) give the occupant of a Government-owned single family house, and the senior occupant of a duplex house, at least ninety days in which to exercise the first right of priority;

(d) permit persons who have formerly been occupants, project-connected persons, or inhabitants of the community, upon application therefor, to have such priority as the Commission finds to be fair and equitable; and

(e) not impair any rights, including purchase rights, conferred by existing leases and covenants.

(Aug. 4, 1955, ch. 543, ch. 4, §42, 69 Stat. 475.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2333. Transfer of priorities

No priority shall be transferable, except—

(a) a husband and wife may exercise a priority in their joint names;

(b) a religious organization may exercise the priority which would otherwise belong to its priest, minister, or rabbi, regardless of whether that position happens to be filled at the time of the exercise of the priority;

(c) two or more priority holders having a common interest in a building or location may assign their interests to a single assignee; and

(d) the Commission may permit such other transfers as it finds to be fair and equitable.

(Aug. 4, 1955, ch. 543, ch. 4, §43, 69 Stat. 476.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

SUBCHAPTER IV—SALES OF PROPERTY FOR PRIVATE USE

§2341. Applicability of subchapter

The provisions of this subchapter shall be made applicable at each community as soon as the Commission makes a finding in writing that there is a reasonable possibility that the Government-owned real property at such community can be disposed of in accordance with the provisions of this subchapter.

(Aug. 4, 1955, ch. 543, ch. 5, §51, 69 Stat. 476.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2342. Disposal of property

(a) Property under lease or license agreement

The Commission shall offer for disposal all real property (including such improvements thereon and such fixtures, equipment, and other personal property incident thereto as it may deem appropriate) within the community which is presently under lease or license agreement with the Commission or its community management contractor for residential, commercial or industrial, agricultural, church or other nonprofit use, or which, in the opinion of the Commission, is appropriate for such use, other than—

(1) structures which in the opinion of the Commission should be removed from the community because of their unsatisfactory type of construction, condition, or location; or

(2) property which in the opinion of the Commission should be transferred pursuant to subchapters VI or VII; or

(3) property which in the opinion of the Commission should be retained by the Commission for its own use.

(b) Discretionary disposal of other real property

The Commission may, but shall not be required to, dispose of any other real property at the community, whether within or outside of that community.

(c) Terms and conditions; impairment of rights

Such property shall be disposed of on such terms and conditions, consistent with this subchapter, as the Commission shall prescribe in the national interest, and without regard to any preferences or priorities whatever except those provided for pursuant to this chapter. Transfers by the Commission of such property shall not impair rights under existing leases and covenants, including any purchase rights therein conferred.

(Aug. 4, 1955, ch. 543, ch. 5, §52, 69 Stat. 476; Pub. L. 87–719, §9, Sept. 28, 1962, 76 Stat. 665.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–719 added cl. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2343. Sales

(a) Notice to priority holders

Where rights of priority have been granted pursuant to the provisions of this chapter to Government-owned property, it shall be offered for sale to priority purchaser by giving notice to those eligible for such priority. Such notice shall (1) be in such manner as the Commission shall prescribe, (2) identify the property to be sold, and (3) state the terms and conditions of sale and the date of the offer which, in the case of occupants of single family or duplex houses, shall expire not less than ninety days after the date of the offer.

(b) Sale of property to highest bidder

Any property (other than church property) classified for sale under section 2331 of this title and offered for sale under section 2342 of this title, as to which no priority right has been conferred, or as to which all priority rights have expired, shall be advertised for sale to the highest bidder, subject to

the right of the Commission to reject any or all bids. No bid shall be accepted which is below the appraised value or, in the case of Government-owned single and duplex houses is below 85 per centum of the appraised value.

(c) Disposal of property not sold at auction

As to any property which has not been sold under subsection (b) within ninety days after the first advertisement for sale under such subsection the Commission may make such disposition, on such terms and conditions, as it may deem appropriate.

(d) Church property

Property for use of churches, in respect of which all priority rights have expired, may be disposed of by advertising and competitive bid, or by negotiated sale or other transfer at such prices, terms, and conditions as the Commission shall determine to be fair and equitable.

(Aug. 4, 1955, ch. 543, ch. 5, §53, 69 Stat. 476; Pub. L. 87–174, Aug. 30, 1961, 75 Stat. 409; Pub. L. 87–719, §§10, 11, Sept. 28, 1962, 76 Stat. 665.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719, §10, struck out ", and also subject to the right of an occupant of a Government-owned single family or duplex house to buy such house by paying an amount equal to the highest bid" after "bids" in first sentence.

Subsec. (c). Pub. L. 87–719, §11, struck out ", but the Commission shall give an occupant of a Government-owned single family or duplex house such further opportunity to purchase such house as shall be fair and equitable".

1961—Subsec. (c). Pub. L. 87–174 substituted "ninety days" for "one year".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2344. Cash sales

All sales shall be for cash, and the buyer shall arrange for the necessary financing, except as provided in subchapter V of this chapter.

(Aug. 4, 1955, ch. 543, ch. 5, §54, 69 Stat. 477.)

§2345. Deeds; form and provisions

Deeds executed in connection with the disposal of property pursuant to the provisions of this chapter—

(a) shall be as simple as the Commission shall find to be appropriate, and may contain such warranties or covenants of title and other provisions (including any indemnity) as the Commission may deem appropriate;

(b) with respect to any dormitories or apartment houses and any property used or to be used for construction of housing developments for rental purposes, may retain or acquire such rights to the Commission to designate the future occupants of part or all of such properties as it may deem appropriate to insure the availability of housing for employees of the Commission and its contractors;

(c) may require that the transferee, his heirs, successors, and assigns shall compensate the Commission for any municipal services provided by the Commission at rates which will not be in

excess of the average tax for such services in the immediate vicinity of the community; and any amounts due and unpaid for such compensation (together with interest and costs thereon) shall, as of the date on which such amounts become delinquent, be a lien in favor of the United States upon the premises sold by the Commission, though not valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed in accordance with the laws of the State in which the property is situated or in the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, if such State has not by law provided for the filing of such notice;

(d) in transferring any property pursuant to sections 2321 and 2342 of this title, may impose such restrictions and requirements relating to the use of the premises and to public health and safety, as the Commission may deem appropriate, which restrictions and requirements shall not be valid beyond one year after the incorporation of the city at the community or after June 30, 1966, in the case of Los Alamos; and

(e) may require that any payments in lieu of property taxes or assessments for local improvements made by the Commission with respect to the property shall be equitably prorated.

(Aug. 4, 1955, ch. 543, ch. 5, §55, 69 Stat. 477; Pub. L. 87–719, §12, Sept. 28, 1962, 76 Stat. 665.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (d). Pub. L. 87–719 inserted "or after June 30, 1966, in the case of Los Alamos" after "community".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2346. Occupancy by existing tenants

Upon application by any occupant of a single or duplex house made within the period of the first priority when such house is first offered for sale under this chapter, the Commission shall execute a lease to such occupant for a period not to exceed one year from the date on which such property is first offered for sale, or for such period as he remains a project-connected person, whichever is shorter. In selling any house with respect to which a lease executed under this section is in effect, the Commission may provide that the purchaser shall assume any or all obligations of the lessor, but the Commission shall guarantee the lessee's performance under the terms of the lease.

(Aug. 4, 1955, ch. 543, ch. 5, §56, 69 Stat. 478.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2347. Sale of lots to lessees or individual owners

(a) Notwithstanding any other provision of this chapter, the Commission is authorized, immediately upon passage of this chapter, or immediately upon the inclusion of the community

within the provisions of this chapter, to offer for sale to the lessees single residential lots, which were leased by competitive bid and which do not have a Government-owned building thereon, at a price equal to the initial valuation of the lot as stated in the lease.

(b) The Commission is authorized to offer for sale, as soon as possible, other lots, to individual owners, upon which single family or duplex houses may be erected, taking into consideration the zoning restrictions the new city is likely to enact with respect to those lots. The zoning restrictions to be taken into account at Los Alamos shall be those which the local government is likely to enact with respect to those lots.

(Aug. 4, 1955, ch. 543, ch. 5, §57, 69 Stat. 478; Pub. L. 87–719, §13, Sept. 28, 1962, 76 Stat. 665.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–719 inserted provision that zoning restrictions to be taken into account at Los Alamos shall be those which the local government is likely to enact with respect to those lots.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2348. Priority sale of apartment houses

(a) Grantees eligible; priorities; applicability of deduction, financing and indemnity provisions

The Commission is authorized at Los Alamos to grant to occupants project-connected persons, and persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, and to any of the foregoing persons acting together, such priority interests and priority rights for the purchase of the apartment house as the Commission determines to be fair and reasonable: *Provided*, That a first priority right to purchase may be granted only to an occupant or a group of occupants, or an assignee (whose membership or ownership is composed of occupants, or project-connected persons, or persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, or any of the foregoing persons) of the priority interests of such occupants, who or which has obtained the priority interest of at least 60 per centum of the occupants of the apartment house: *Provided further*, That a second priority right to purchase may be granted only to an entity whose membership or ownership consists of occupants, or project-connected persons, or persons residing in the community both at the time of offering of an apartment house for sale and for the preceding six months, or any of the foregoing persons (provided that such entity has obtained the priority interest of at least one occupant), and whose membership or ownership equals in number, and occupies or agrees to occupy, at least 70 per centum of the housing units in the apartment house. The 15 per centum deduction specified by section 2325(a) of this title, the deduction provided by section 2326(d) of this title, the financing provisions of section 2362 of this title, and the indemnity provided by sections 2363 to 2366 of this title shall be applicable to such priority sales of apartment houses. Priority interests granted by the Commission under this section shall be transferable as the Commission may by rule or regulation prescribe, but no priority right to purchase shall be transferred except as provided by section 2333 of this title.

(b) Leasing arrangements by non-participants in apartment house sales; assumption of lessor's obligations

Any occupant who does not participate in the purchase of an apartment house with respect to which a priority right to purchase has been granted shall be entitled, at the time of sale by the Commission, to a lease for occupancy of his housing unit for a period not to exceed fifteen months

from the date the property was first offered for sale: *Provided*, That the occupant makes application for such a lease within 30 days of the grant of such priority to purchase. In selling any apartment house with respect to which lease executed under this section is in effect, the Commission is authorized to provide for the purchaser to assume any or all obligations of the lessor. The Commission in such event shall guarantee the lessee's performance of the lease.

(c) Eligibility to participate in priority purchase

Persons who have purchased, either individually or jointly with other persons, a single-family house or duplex house (or a single-family unit in a duplex house) at Los Alamos pursuant to a priority right under this chapter shall not be eligible to participate in the priority purchase of an apartment house.

(d) Rules and regulations

The Commission is authorized to prescribe by rule or regulation such other conditions as it may find necessary or desirable for qualification of priority interests and rights for the purchase of an apartment house.

(Aug. 4, 1955, ch. 543, ch. 5, §58, as added Pub. L. 87–719, §14, Sept. 28, 1962, 76 Stat. 665; amended Pub. L. 90–190, §1, Dec. 14, 1967, 81 Stat. 575.)

EDITORIAL NOTES

AMENDMENTS

1967—Pub. L. 90–190 redesignated existing provisions as subsec. (a), inserted reference to Los Alamos, increased the types of grantees eligible to purchase apartment houses from cooperatives, the entire membership of which is restricted to project-connected persons, inserted provisos which altered the priority right to purchase such apartment houses so as to create a first priority and second priority in lieu of the provision that the priority with respect to each cooperative shall terminate within such time as the Commission may prescribe if the cooperative has not obtained 100 per centum initial membership consisting of project-connected persons, struck out definition of "cooperative" as used in this section as a corporation or a trust of the character described in section 1715e(a)(1) of title 12, and added subsecs. (b) to (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2349. Hanford project; disposal of property

In addition to any other authority the Commission may have, the Commission is authorized, without regard to the provisions of section 6101 of title 41, to lease land, and to sell, lease, including leases with options to purchase, and otherwise dispose of improvements thereon, and such equipment and other personal property as is determined to be directly related thereto, in the Commission's Hanford project in and near Richland, Washington, upon a determination by the Commission that such disposition will serve to prevent or reduce the adverse economic impact of actual or anticipated reductions in Commission programs in that area: *Provided, however*, That the compensation to the Government for any such disposition shall be the estimated fair market value or estimated fair rental value of the property as determined by the Commission: *Provided further*, That before the Commission makes any disposition of property under the authority of this section, the basis for the proposed disposition (with necessary background and explanatory data) shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five-days, there shall be excluded the days on which either House is not in session because of adjournment of more than three days): *Provided, however*,

That those Committees, after having received the basis for the proposed disposition, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five-day period.

(Aug. 4, 1955, ch. 543, ch. 11, §120, as added Pub. L. 88–394, §4, Aug. 1, 1964, 78 Stat. 376; amended Pub. L. 103–437, §15(i), Nov. 2, 1994, 108 Stat. 4593.)

EDITORIAL NOTES

CODIFICATION

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1994—Pub. L. 103–437 substituted "submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives" for "submitted to the Joint Committee on Atomic Energy" and "That those Committees" for "That the Joint Committee on Atomic Energy".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

SUBCHAPTER V—FINANCING

§2361. Contract to purchase by priority purchaser

The Commission may, in the sale of any single-family or duplex house to a priority purchaser, enter into a contract to purchase which provides that the purchaser shall conclude his purchase within not more than three years after the date the contract is entered into. Such contracts to purchase shall provide for such periodic payments, including payments on account of principal, interest, or tax equivalents, as the Commission shall prescribe.

(Aug. 4, 1955, ch. 543, ch. 6, §61, 69 Stat. 478.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2362. Financing by Commission

(a) Acceptance of residential property notes

In the event that the Commission finds that financing on reasonable terms is not available from other sources, the Commission may, in order to facilitate the sale of residential property under subchapter IV of this chapter, accept, in partial payment of the purchase price of any such property notes secured by first mortgages on such terms and conditions as the Commission shall deem appropriate. In the case of houses and apartment buildings, the maturity and percentage of appraised value in connection with such notes and mortgages shall not exceed those prescribed under section

1715n(a) of title 12, and the interest rate shall equal the interest rate plus the premium being charged (and any periodic service charge being authorized by the Secretary of Housing and Urban Development for properties of similar character) under section 1715n(a) of title 12, at the effective date of such notes and mortgages.

(b) Advances

In connection with the sale of residential property financed under subsection (a) of this section, the Commission is authorized to make advances for necessary repairs, or for the rehabilitation, modernization, rebuilding or enlargement of single and duplex residential properties to priority purchasers, and to include such advances in the amount of the note secured by the mortgage on such property.

(c) Acceptance of commercial property notes

In the event that the Commission finds that financing on reasonable terms is not available from other sources, the Commission may, in order to facilitate the sale of commercial property under subchapter IV of this chapter, accept, in partial payment of the purchase price of any commercial property notes secured by first mortgages on such terms and conditions as the Commission shall deem appropriate.

(d) Sale of notes and mortgages

The Commission may sell any notes and mortgages acquired under subsections (a) and (c) of this section on terms set by the Commission. Notwithstanding any other provisions of law and without regard to the provisions of section 6101 of title 41, the Commission may, in accordance with such terms and conditions as it may prescribe, (1) enter into contracts for servicing any of the notes and mortgages it has acquired, and (2) sell or enter into contracts to sell to a servicer any notes and mortgages with respect to which a servicing contract has been entered into by the servicer with the Commission: *Provided*, That with respect to sales of notes and mortgages under (2) the Commission shall comply with section 6101 of title 41 unless it determines that such compliance would not be feasible.

(Aug. 4, 1955, ch. 543, ch. 6, §62, 69 Stat. 478; July 25, 1956, ch. 731, §2, 70 Stat. 653; Pub. L. 87–719, §§15, 16, Sept. 28, 1962, 76 Stat. 665; Pub. L. 90–19, §11, May 25, 1967, 81 Stat. 23.)

EDITORIAL NOTES

CODIFICATION

In subsec. (d), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" in two places on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1962—Subsec. (a). Pub. L. 87–719, §15, substituted "such property" for "house, apartment building, or dormitory".

Subsec. (d). Pub. L. 87–719, §16, inserted provisions respecting servicing contracts and compliance with advertising requirements for public purchases when feasible.

1956—Subsec. (a). Act July 25, 1956, reenacted subsec. (a) without change.

Subsecs. (b), (c). Act July 25, 1956, added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

Subsec. (d). Act July 25, 1956, redesignated former subsec. (b) as (d) and included notes and mortgages acquired under subsec. (c) of this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See

also Transfer of Functions notes set out under those sections.

§2363. Indemnity obligation of Commission; incorporation by reference in deed

For a period of not more than fifteen years after August 4, 1955, or, in the case of Los Alamos, not more than fifteen years after the date it is included within this chapter, the Commission shall indemnify the purchaser (except a purchaser taking advantage of the provisions of section 2326(d) of this title), and any successor in title, of any such single family or duplex house as set forth in this subchapter. This indemnity shall be deemed to be incorporated in the deeds given on the sale of Government-owned houses. One person may not invoke the indemnity in respect of more than one house.

(Aug. 4, 1955, ch. 543, ch. 6, §63, 69 Stat. 479; Pub. L. 87–719, §17, Sept. 28, 1962, 76 Stat. 666.)

EDITORIAL NOTES

AMENDMENTS

1962—Pub. L. 87–719 inserted "or, in the case of Los Alamos, not more than fifteen years after the date it is included within this chapter" after "August 4, 1955,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2364. Community employment and population

The indemnity obligation specified in section 2363 of this title shall arise only if, for the six months just preceding the date on which it is invoked—

(a) the total number of operating, maintenance, and administrative employees in the project area, as determined by the Commission, has been less than fourteen thousand three hundred and thirty-seven in the case of Oak Ridge or seven thousand six hundred and twenty-two in the case of Richland or four thousand six hundred and twenty in the case of Los Alamos; and

(b) the population in the community has been less than twenty-nine thousand two hundred and fifty in the case of Oak Ridge or twenty-five thousand two hundred in the case of Richland or eleven thousand seven hundred and sixty-nine in the case of Los Alamos.

For purposes of this section employment shall be determined on the basis of the pay period or periods ending nearest the 15th of each month.

(Aug. 4, 1955, ch. 543, ch. 6, §64, 69 Stat. 479; Pub. L. 87–719, §§18, 19, Sept. 28, 1962, 76 Stat. 666.)

EDITORIAL NOTES

AMENDMENTS

1962—Subsec. (a). Pub. L. 87–719, §18, inserted "or four thousand six hundred and twenty in the case of Los Alamos" after "Richland".

Subsec. (b). Pub. L. 87–719, §19, inserted "or eleven thousand seven hundred and sixty-nine in the case of Los Alamos" after "Richland".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2365. Amount of indemnity

The indemnity obligation of the Commission specified in section 2363 of this title shall be for such amount, less the sales price of the property, as would have remained unpaid under a loan entered into on the date of the execution of the original deed by the Commission—

(1) which was in the amount of the purchase price from the Commission and provided for equal monthly payments of principal and interest over a period of twenty years computed on the basis of the average interest and other charges recorded for property of the same class at the community; and

(2) on which all payments due to the date when notice was received by the Commission had been made.

(Aug. 4, 1955, ch. 543, ch. 6, §65, 69 Stat. 479.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2366. Conditions of indemnity; purchase of property by Commission

The Commission shall make the indemnity payment specified by section 2365 of this title only if the Commission receives a notice from the then owner of the property that he is about to sell the property for a sum less than the unpaid balance of the real or hypothetical loan calculated pursuant to such section. Such payment shall be made only if—

(a) notice is given to the Commission at a time when the conditions of section 2364 of this title are satisfied;

(b) the sale is made within such time as the Commission may prescribe and in a manner which the Commission determined to afford adequate assurance of a fair price without excessive costs; and

(c) the Commission is given such prior notice of the sale and such opportunity to become a purchaser as it shall prescribe.

In such circumstances the Commission is authorized to purchase the property. Sales pursuant to this section and payment by the Commission of such amount, if any, as is owing pursuant to sections 2363 to 2366 of this title shall end the obligation of the Commission under sections 2363 to 2366 of this title with respect to that property.

(Aug. 4, 1955, ch. 543, ch. 6, §66, 69 Stat. 479.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

SUBCHAPTER VI—UTILITIES

§2371. Transfer of utilities

The Commission is authorized to transfer to one or more of the entities specified in this subchapter such utilities as in the judgment of the Commission will be appropriate to enable the transferee to meet the needs of the residents of the community for adequate utility services of the kind to be transferred.

(Aug. 4, 1955, ch. 543, ch. 7, §71, 69 Stat. 480.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2372. Date of transfer of utilities

Transfers of utilities shall be made as soon as possible, but in any event, not later than five years after August 4, 1955, in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than June 30, 1998.

(Aug. 4, 1955, ch. 543, ch. 7, §72, 69 Stat. 480; Pub. L. 87–719, §20, Sept. 28, 1962, 76 Stat. 666; Pub. L. 104–106, div. C, title XXXI, §3161(a), Feb. 10, 1996, 110 Stat. 627.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–106 substituted "not later than June 30, 1998" for "not later than five years after the date it is included within this chapter".

1962—Pub. L. 87–719 inserted "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter" after "August 4, 1955,".

§2373. Transfer to governmental or other legal entity; determination of transferee

(a) Transfer may be made to one or more of the following, if the transferee has the legal authority to receive and operate the utility.

(1) the city at the community;

(2) the State in which the community is located;

(3) any political subdivision or agency of that State; or

(4) any person, firm, corporation, or other legal entity.

(b) In determining the transferee for any utility, the Commission may consider the following:

(1) the pattern of ownership of the comparable utilities in the State in which the community is located;

(2) the ability of the transferee to operate the utility;

(3) the probable price of the sale of the utility, the ability of the transferee to pay that price, and any probable expense;

(4) the desires of the eligible voters of the community as directly expressed in any vote in any officially recognized procedure or in any procedure established by the Commission; and

(5) the benefit to the United States in reducing possible requirements for local assistance as authorized in subchapters VII and VIII of this chapter.

(Aug. 4, 1955, ch. 543, ch. 7, §73, 69 Stat. 480.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2374. Utilities transferable

All utilities are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use.

(Aug. 4, 1955, ch. 543, ch. 7, §74, 69 Stat. 480.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2375. Gift of utility to city; charges and terms for utilities transferred to other transferees

The Commission may give the utility to the city incorporated at the community; and must charge in selling the utility to any other transferee: *Provided*, That at Los Alamos, utilities may be given to the county or other local governmental entity. The charges and terms for the transfer of any utility may be established by advertising and competitive bid, or by negotiated sale or other transfer at such prices, terms, and conditions as the Commission shall determine to be fair and equitable.

(Aug. 4, 1955, ch. 543, ch. 7, §75, 69 Stat. 480; Pub. L. 87–719, §21, Sept. 28, 1962, 76 Stat. 666.)

EDITORIAL NOTES

AMENDMENTS

1962—Pub. L. 87–719 inserted ": *Provided*, That at Los Alamos, utilities may be given to the county or other local governmental entity" after "transferee".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

SUBCHAPTER VII—MUNICIPALITIES

§2381. Assistance in organization

The Commission is authorized, for a period not to extend beyond five years after August 4, 1955, in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not to extend beyond five years after the date it is included within this chapter, to cooperate with and assist the residents of the

community in preparation for and establishment of local self-government and in the transfer of municipal installations and responsibilities to local entities. Such assistance may include payment of any amounts reasonably necessary to meet expenses incident to the establishment and organization of a city government and other local entities at the community, until such time as the municipal installations are transferred in accordance with the provisions of this subchapter.

(Aug. 4, 1955, ch. 543, ch. 8, §81, 69 Stat. 480; Pub. L. 87–719, §22, Sept. 28, 1962, 76 Stat. 666.)

EDITORIAL NOTES

AMENDMENTS

1962—Pub. L. 87–719 inserted "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not to extend beyond five years after the date it is included within this chapter" after "August 4, 1955,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2382. Transfer of municipal installations

The Commission is authorized to transfer to one or more of the entities specified in this subchapter such municipal installations as in the judgment of the Commission, will be appropriate to enable the transferees to meet the needs of the residents of the community for adequate school, hospital, and other municipal services.

(Aug. 4, 1955, ch. 543, ch. 8, §82, 69 Stat. 480.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2383. Date of transfer

Transfers of municipal installations may be made at any time, not later than five years after August 4, 1955, in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than June 30, 1998.

(Aug. 4, 1955, ch. 543, ch. 8, §83, 69 Stat. 481; Pub. L. 87–719, §23, Sept. 28, 1962, 76 Stat. 666; Pub. L. 104–106, div. C, title XXXI, §3161(b), Feb. 10, 1996, 110 Stat. 627.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–106 substituted "not later than June 30, 1998" for "not later than five years after the date it is included within this chapter".

1962—Pub. L. 87–719 inserted "in the case of Oak Ridge and Richland, or, in the case of Los Alamos, not later than five years after the date it is included within this chapter" after "August 4, 1955,".

§2384. Transfer to governmental entity or private nonprofit organization;

determination of transferee

(a) Transfers may be made to one or more of the following, if the entity has the legal authority to receive the installation: (1) the city at the community; (2) the State in which the community is located; (3) any political subdivision or agency of that State; or (4) a private nonprofit organization in the case of the hospital installation or cemetery at the community.

(b) In determining the entity to which school, hospital, and other municipal installations, respectively, shall be transferred, the Commission shall be governed, in order, by

(1) the results of a vote in which the eligible voters in the community expressed themselves directly on the transfer in the vote on the incorporation of the city;

(2) the results of a vote in which the eligible voters have directly expressed themselves on the proposed transfer in a referendum or other officially recognized procedure;

(3) there being only one entity which is legally authorized to receive the municipal installation; or

(4) in the absence of the other alternatives, the Commission has conducted a vote of the eligible voters of the community on the proposed transfer under such procedures as it may establish.

(Aug. 4, 1955, ch. 543, ch. 8, §84, 69 Stat. 481.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2385. Installations transferable

All municipal installations are authorized to be transferred under this subchapter, but shall not include property which the Commission determines to be needed for its own use.

(Aug. 4, 1955, ch. 543, ch. 8, §85, 69 Stat. 481.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of this title. See also Transfer of Functions notes set out under those sections.

§2386. Transfer of installations without charge

The transfer of any municipal installation authorized to be made under the provisions of this subchapter may be made without charge to the entity receiving the installation.

(Aug. 4, 1955, ch. 543, ch. 8, §86, 69 Stat. 481.)

SUBCHAPTER VIII—LOCAL ASSISTANCE

§2391. Assistance to governmental entities

(a) Annual assistance payments; extensions; determination of amount and recipient

From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance

payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration programs;

(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations.

(b) Special interim payments

Special interim payments may be made under the provisions of this section to any governmental entity which—

(1) has a special burden due to the requirements under law imposed upon it in assisting in effectuating the purposes of this chapter for which it will not otherwise receive adequate compensation or revenues; or

(2) will suffer a tax loss or lapse in place of which it will not receive any other adequate revenues until the new governmental entities contemplated by this subchapter are receiving their normal taxes and performing their normal functions.

(c) Payments for special burdens

Payments made under this section shall be payments made for special burdens imposed on the local governmental entities in accordance with the second sentence of section 2208 of this title. Payments may be made under this section notwithstanding the provisions of the Act of September 30, 1950 [1] (Public Law 874, Eighty-first Congress), as amended.

(d) Recommendation for further assistance payments

With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection (a) (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee; or not later than June 30, 1996, in the case of the Los Alamos School Board and the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity. If the recommendation under the preceding sentence regarding the Los Alamos School Board or the county of Los Alamos, New Mexico, indicates a need for further assistance for the school board or the county, as the case may be, after June 30, 1997, the recommendation shall include a report and plan describing the actions required to eliminate the need for further assistance for the school board or the county, including a proposal for legislative action to carry out the plan.

(e) Reduction or termination of assistance payments; determination by Administrator of financial self-sufficiency

In exercising the authority of subsection (a) the Administrator shall assure that the governmental or other entities receiving assistance hereunder utilize all reasonable, available means to achieve financial self-sufficiency to the end that assistance payments by the Administrator may be reduced or terminated at the earliest practical time.

(Aug. 4, 1955, ch. 543, ch. 9, §91, 69 Stat. 481; Pub. L. 90–190, §2, Dec. 14, 1967, 81 Stat. 576; Pub. L. 94–187, title VI, §601(1)–(6), Dec. 31, 1975, 89 Stat. 1077, 1078; Pub. L. 95–238, title II, §205(a), Feb. 25, 1978, 92 Stat. 60; Pub. L. 104–106, div. C, title XXXI, §3161(c), Feb. 10, 1996, 110 Stat. 627.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of September 30, 1950, referred to in subsec. (c), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, popularly known as the Educational Agencies Financial Aid Act, which was classified generally to chapter 13 (§236 et seq.) of Title 20, Education, prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–106 substituted "; or not later than June 30, 1996, in the case of the Los Alamos School Board and the county of Los Alamos, New Mexico" for ", and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico" and inserted at end "If the recommendation under the preceding sentence regarding the Los Alamos School Board or the county of Los Alamos, New Mexico, indicates a need for further assistance for the school board or the county, as the case may be, after June 30, 1997, the recommendation shall include a report and plan describing the actions required to eliminate the need for further assistance for the school board or the county, including a proposal for legislative action to carry out the plan."

1978—Subsec. (a). Pub. L. 95–238, §205(a)(1), inserted provisions for applicability to the Los Alamos School Board and the county of Los Alamos, New Mexico, and substituted provisions authorizing Administrator to make payments for provisions requiring Administrator to make payments.

Subsec. (d). Pub. L. 95–238, §205(a)(2), inserted provisions for applicability to the Los Alamos School Board and the county of Los Alamos, New Mexico, and substituted provision requiring presentation to the appropriate committees of the House and the Senate for provision requiring presentation to the Joint Committee on Atomic Energy.

1975—Subsec. (a). Pub. L. 94–187, §601(1), (5), substituted "Administrator" for "Commission" in three places and inserted at end of first sentence ": *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee".

Subsec. (a)(2). Pub. L. 94–187, §601(2), substituted "Energy Research and Development Administration" for "atomic energy".

Subsec. (d). Pub. L. 94–187, §601(1), (3), (6), substituted "Administrator" for "Commission", struck out "its" before "recommendations", and inserted "; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee" after "Richland School District" in parenthetical text.

Subsec. (e). Pub. L. 94–187, §601(1), (4), substituted "Administrator" for "Commission" in two places and struck out "itself" after "shall assure".

1967—Subsec. (a). Pub. L. 90–190, §2(1), authorized the Commission, with respect to the cities of Oak Ridge, Tenn., and Richland, Wash., and the Richland School District, to continue to make assistance payments of just and reasonable sums after the expiration of the ten-year period following the date of transfer of any municipal installation, and added par. (5).

Subsec. (d). Pub. L. 90–190, §2(2), inserted "(or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District)," after "subsection (a) of this section", substituted "assistance" for "contribution", and struck out requirement that if Commission proposes further contribution payments, it shall propose a definite schedule of such payments which will provide for an orderly and reasonably prompt withdrawal of Commission from participation in and contribution toward local government.

Subsec. (e). Pub. L. 90–190, §2(3), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

CONVEYANCE TO LOS ALAMOS, NEW MEXICO

Pub. L. 111–383, div. C, title XXXI, §3120, Jan. 7, 2011, 124 Stat. 4514, as amended by Pub. L. 117–263, div. E, title LIX, §5942, Dec. 23, 2022, 136 Stat. 3470, provided that:

"(a) ENVIRONMENTAL RESTORATION.—If the Secretary of Energy determines under any authority previously established by law that a parcel of land described in subsection (c) requires environmental restoration or remediation, the Secretary shall, to the maximum extent practicable, complete the environmental restoration or remediation of the parcel not later than September 30, 2032, and otherwise in compliance with such law.

"(b) CONVEYANCE OR TRANSFER.—If the Secretary determines under any authority previously established by law that environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel of land described in subsection (c) by September 30, 2032, the Secretary shall not convey or transfer the parcel of land.

"(c) PARCELS OF LAND.—A parcel of land described in this subsection is a parcel of land under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos National Laboratory that the Secretary has previously identified as suitable for conveyance or transfer in a report submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] prior to the date of the enactment of this Act [Jan. 7, 2011]."

Pub. L. 105–119, title VI, §632, Nov. 26, 1997, 111 Stat. 2523, as amended by Pub. L. 108–375, div. C, title XXXI, §3148, Oct. 28, 2004, 118 Stat. 2177; Pub. L. 109–364, div. C, title XXXI, §3119, Oct. 17, 2006, 120 Stat. 2509, provided that:

"(a) IN GENERAL.—The Secretary of Energy shall—

"(1) except as provided in paragraph (2), convey, without consideration, to the Incorporated County of Los Alamos, New Mexico (in this section referred to as the 'County'), or to the designee of the County, fee title to the parcels of land that are allocated for conveyance to the County in the agreement under subsection (e);

"(2) notwithstanding paragraph (1) and the agreement under subsection (e), convey, without consideration, to the Board of Education of the Los Alamos Public Schools, New Mexico, within the County, fee title to the parcels of land identified by the Department of Energy as Parcel A–8 and Parcel A–15–1 that are currently located in Technical Area–21 of Los Alamos National Laboratory upon the entry of Los Alamos Public Schools and the County into an agreement for the use of the parcel of land identified as Parcel A–8; and

"(3) transfer to the Secretary of the Interior, in trust for the Pueblo of San Ildefonso (in this section referred to as the 'Pueblo'), administrative jurisdiction over the parcels that are allocated for transfer to the Secretary of the Interior in such agreement.

"(b) PRELIMINARY IDENTIFICATION OF PARCELS OF LAND FOR CONVEYANCE OR TRANSFER.—(1) Not later than 90 days after the date of enactment of this Act [Nov. 26, 1997], the Secretary of Energy shall submit to the congressional defense committees a report identifying the parcels of land under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos National Laboratory that are suitable for conveyance or transfer under this section.

"(2) A parcel is suitable for conveyance or transfer for purposes of paragraph (1) if the parcel—

"(A) is not required to meet the national security mission of the Department of Energy or will not be required for that purpose before the end of the 10-year period beginning on the date of enactment of this Act;

"(B) is likely to be conveyable or transferable, as the case may be, under this section not later than the end of such period; and

"(C) is suitable for use for a purpose specified in subsection (h).

"(c) REVIEW OF TITLE.—(1) Not later than one year after the date of enactment of this Act [Nov. 26, 1997], the Secretary shall submit to the congressional defense committees a report setting forth the results of a title search on each parcel of land identified as suitable for conveyance or transfer under subsection (b), including an analysis of any claims against or other impairments to the fee title to each such parcel.

"(2) In the period beginning on the date of the completion of the title search with respect to a parcel under paragraph (1) and ending on the date of the submittal of the report under that paragraph, the Secretary shall take appropriate actions to resolve the claims against or other impairments, if any, to fee title that are

identified with respect to the parcel in the title search.

"(d) ENVIRONMENTAL RESTORATION.—(1) Not later than 21 months after the date of enactment of this Act [Nov. 26, 1997], the Secretary shall—

"(A) identify the environmental restoration or remediation, if any, that is required with respect to each parcel of land identified under subsection (b) to which the United States has fee title;

"(B) carry out any review of the environmental impact of the conveyance or transfer of each such parcel that is required under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(C) submit to Congress a report setting forth the results of the activities under subparagraphs (A) and (B).

"(2) If the Secretary determines under paragraph (1) that a parcel described in paragraph (1)(A) requires environmental restoration or remediation, the Secretary shall, to the maximum extent practicable, complete the environmental restoration or remediation of the parcel not later than November 26, 2012.

"(e) AGREEMENT FOR ALLOCATION OF PARCELS.—As soon as practicable after completing the review of titles to parcels of land under subsection (c), but not later than 90 days after the submittal of the report under subsection (d)(1)(C), the County and the Pueblo shall submit to the Secretary an agreement between the County and the Pueblo which allocates between the County and the Pueblo the parcels identified for conveyance or transfer under subsection (b).

"(f) PLAN FOR CONVEYANCE AND TRANSFER.—(1) Not later than 90 days after the date of the submittal to the Secretary of Energy of the agreement under subsection (e), the Secretary shall submit to the congressional defense committees a plan for conveying or transferring parcels of land under this section in accordance with the allocation specified in the agreement.

"(2) The plan under paragraph (1) shall provide for the completion of the conveyance or transfer of parcels under this section not later than 9 months after the date of the submittal of the plan under that paragraph.

"(g) CONVEYANCE OR TRANSFER.—(1) Subject to paragraphs (2) and (3), the Secretary shall convey or transfer parcels of land in accordance with the allocation specified in the agreement submitted to the Secretary under subsection (e).

"(2) In the case of a parcel allocated under the agreement that is not available for conveyance or transfer in accordance with the requirement in subsection (f)(2) by reason of its requirement to meet the national security mission of the Department, the Secretary shall convey or transfer the parcel, as the case may be, when the parcel is no longer required for that purpose.

"(3)(A) In the case of a parcel allocated under the agreement that is not available for conveyance or transfer in accordance with such requirement by reason of requirements for environmental restoration or remediation, the Secretary shall convey or transfer the parcel, as the case may be, upon the completion of the environmental restoration or remediation that is required with respect to the parcel.

"(B) If the Secretary determines that environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel by November 26, 2012, the Secretary shall not convey or transfer the parcel under this section.

"(h) USE OF CONVEYED OR TRANSFERRED LAND.—The parcels of land conveyed or transferred under this section shall be used for historic, cultural, or environmental preservation purposes, economic diversification purposes, or community self-sufficiency purposes.

"(i) TREATMENT OF CONVEYANCES AND TRANSFERS.—(1) The purpose of the conveyances and transfers under this section is to fulfill the obligations of the United States with respect to Los Alamos National Laboratory, New Mexico, under sections 91 and 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391, 2394).

"(2) Upon the completion of the conveyance or transfer of the parcels of land available for conveyance or transfer under this section, the Secretary shall make no further payments with respect to Los Alamos National Laboratory under section 91 or section 94 of the Atomic Energy Community Act of 1955.

"(j) REPEAL OF SUPERSEDED PROVISION.—In the event of the enactment of the National Defense Authorization Act for Fiscal Year 1998 [Pub. L. 105–85] by reason of the approval of the President of the conference report to accompany the bill (H.R. 1119) of the 105th Congress, section 3165 of such Act [section 3165 of Pub. L. 105–85, see below] is repealed."

Pub. L. 105–85, div. C, title XXXI, §3165, Nov. 18, 1997, 111 Stat. 2050, contained provisions similar to section 632 of Pub. L. 105–119, set out above, prior to repeal by Pub. L. 105–119, title VI, §632(j), Nov. 26, 1997, 111 Stat. 2525.

COMMUNITY ASSISTANCE PAYMENTS

Pub. L. 99–145, title XV, §1532, Nov. 8, 1985, 99 Stat. 773, as amended by Pub. L. 99–661, div. C, title I,

§3133, Nov. 14, 1986, 100 Stat. 4063; Pub. L. 103–160, div. C, title XXXI, §3158, Nov. 30, 1993, 107 Stat. 1956, provided that, with certain limitations, the Secretary of Energy may obligate funds during fiscal year 1986 to provide a final financial settlement with Anderson County and Roane County, Tennessee, and the City of Oak Ridge, Tennessee, and terminate all annual assistance payments to those entities and to make advance payment of payments in lieu of property taxes for fiscal years 1986 through 1995, and that the Secretary shall report to Congress by Feb. 1, 1986, the Secretary's recommendations concerning financial assistance payments to local governmental entities.

NONAPPLICABILITY OF TITLE II OF PUB. L. 95–238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95–238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95–238, Feb. 25, 1978, 92 Stat. 76, set out as a note under section 5821 of this title.

[1] *See References in Text note below.*

§2392. Reduction of payments

Any payment which becomes due under section 2391 of this title prior to the transfer of all municipal installations at the community may be reduced by such amount as the Administrator determines to be equitable based on the municipal services then being performed by the Energy Research and Development Administration, and the municipal services then being performed by such governmental entity.

(Aug. 4, 1955, ch. 543, ch. 9, §92, 69 Stat. 482; Pub. L. 94–187, title VI, §601(1), (8), Dec. 31, 1975, 89 Stat. 1077, 1078.)

EDITORIAL NOTES

AMENDMENTS

1975—Pub. L. 94–187 substituted "Administrator" for "Commission" where appearing first time and "Energy Research and Development Administration" for "Commission" where appearing second time.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§2393. Payments in anticipation of services; withholding of payments

The payments made pursuant to section 2391 of this title to transferees of municipal installations are in anticipation that the respective recipients of those payments furnish, or have furnished, for the community, the school, hospital, or other municipal services in respect of which the payments are made. Any such payment may be withheld, in whole or in part, if the Administrator finds that the recipient is not furnishing such services for any part of the area so designated.

(Aug. 4, 1955, ch. 543, ch. 9, §93, 69 Stat. 482; Pub. L. 94–187, title VI, §601(1), Dec. 31, 1975, 89 Stat. 1077.)

EDITORIAL NOTES

AMENDMENTS

1975—Pub. L. 94–187 substituted "Administrator" for "Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

§2394. Contract to make payments

The Administrator is authorized, without regard to sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 2391 of this title, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 2391 of this title: *Provided, however*, That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1997; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1997. The authority to enter into a contract under the preceding sentence with the Los Alamos School Board and with the county of Los Alamos, New Mexico, shall be effective with respect to a period before July 1, 1997, only to the extent or in such amounts as are provided in appropriation Acts.

(Aug. 4, 1955, ch. 543, ch. 9, §94, 69 Stat. 482; Pub. L. 90–190, §3, Dec. 14, 1967, 81 Stat. 576; Pub. L. 94–187, title VI, §601(1), (9), Dec. 31, 1975, 89 Stat. 1077, 1078; Pub. L. 95–238, title II, §205(b), Feb. 25, 1978, 92 Stat. 61; Pub. L. 99–661, div. C, title I, §3138(a), (b)(1), Nov. 14, 1986, 100 Stat. 4066; Pub. L. 104–106, div. C, title XXXI, §3161(d), Feb. 10, 1996, 110 Stat. 627.)

EDITORIAL NOTES

CODIFICATION

"Sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31" substituted in text for "section 3679 of the Revised Statutes [31 U.S.C. 665]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Pub. L. 104–106 substituted "June 30, 1997" for "June 30, 1996" in two places and "July 1, 1997" for "July 1, 1996".

1986—Pub. L. 99–661, §3138(a), substituted "Los Alamos School Board shall not extend beyond June 30, 1996" for "Los Alamos School Board shall not extend beyond June 30, 1986" and "New Mexico, shall not extend beyond June 30, 1996" for "New Mexico, shall not extend beyond June 30, 1987".

Pub. L. 99–661, §3138(b)(1), inserted at end "The authority to enter into a contract under the preceding sentence with the Los Alamos School Board and with the county of Los Alamos, New Mexico, shall be effective with respect to a period before July 1, 1996, only to the extent or in such amounts as are provided in appropriation Acts."

1978—Pub. L. 95–238 inserted provisions for applicability to the Los Alamos School Board and the county of Los Alamos, New Mexico, substituted "payments are authorized" for "payments are required or authorized", and struck out applicability of provisions to Anderson and Roane Counties, Tennessee, for contracts not beyond June 30, 1986.

1975—Pub. L. 94–187 substituted "Administrator" for "Commission" in two places and inserted provision that the term of such contracts shall not extend beyond June 30, 1986, in the case of Anderson County and Roane County, Tennessee. The latter amendment was executed in this section, rather than to section 2393, as the probable intent of Congress.

1967—Pub. L. 90–190 inserted proviso, and "or authorized" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. C, title I, §3138(b)(2), Nov. 14, 1986, 100 Stat. 4066, provided that: "The amendment made by paragraph (1) [amending this section] shall not apply with respect to a contract with the county of Los Alamos, New Mexico, to the extent that it covers the period before July 1, 1987."

TRANSFER OF FUNCTIONS

Energy Research and Development Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of this title.

NONAPPLICABILITY OF TITLE II OF PUB. L. 95–238 TO ANY AUTHORIZATION OR APPROPRIATION FOR MILITARY APPLICATION OF NUCLEAR ENERGY, ETC.; DEFINITIONS

Nonapplicability of provisions of title II of Pub. L. 95–238 with respect to any authorization or appropriation for any military application of nuclear energy, etc., see section 209 of Pub. L. 95–238, Feb. 25, 1978, 92 Stat. 76, set out as a note under section 5821 of this title.

CHAPTER 25—FEDERAL FLOOD INSURANCE

Sec.

2401 to 2413. Repealed.
2414. Issuance of notes by Administrator of Federal Emergency Management Agency; terms and conditions.
2415 to 2421. Repealed.

§§2401 to 2413. Repealed. Pub. L. 90–448, title XIII, §1303(c), Aug. 1, 1968, 82 Stat. 573

Section 2401, act Aug. 7, 1956, ch. 1025, §2, 70 Stat. 1078, related to findings and declaration of purpose of this chapter.

Section 2402, act Aug. 7, 1956, ch. 1025, §3, 70 Stat. 1078, provided for administration of this chapter, appointment and compensation of a Commissioner, financial control, and accounting and audit.

Section 2403, act Aug. 7, 1956, ch. 1025, §4, 70 Stat. 1079, authorized insurance and reinsurance.

Section 2404, act Aug. 7, 1956, ch. 1025, §5, 70 Stat. 1080, authorized loans and prescribed their terms.

Section 2405, act Aug. 7, 1956, ch. 1025, §6, 70 Stat. 1080, provided for a combination of insurance and loans.

Section 2406, act Aug. 7, 1956, ch. 1025, §7, 70 Stat. 1080, required establishment of a schedule of estimated rates and fees.

Section 2407, act Aug. 7, 1956, ch. 1025, §8, 70 Stat. 1081, related to property and loss limits.

Section 2408, act Aug. 7, 1956, ch. 1025, §9, 70 Stat. 1081, related to classification, limitation or rejection of risks.

Section 2409, act Aug. 7, 1956, ch. 1025, §10, 70 Stat. 1081, prescribed policy and program limits.

Section 2410, act Aug. 7, 1956, ch. 1025, §11, 70 Stat. 1082, authorized reinsurance.

Section 2411, act Aug. 7, 1956, ch. 1025, §12, 70 Stat. 1082, related to availability of insurance from other sources, violations of flood zoning laws, and flood zoning restrictions to reduce damages from floods.

Section 2412, act Aug. 7, 1956, ch. 1025, §13, 70 Stat. 1082, provided for use of other public and private facilities and services, information, coordination of programs and consultations.

Section 2413, act Aug. 7, 1956, ch. 1025, §14, 70 Stat. 1083, related to payment of claims and judicial review.

See section 4001 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as an Effective Date note under section 4001 of this title.

SEPARABILITY

Act Aug. 7, 1956, ch. 1025, §23, 70 Stat. 1086, which provided that the invalidity of any provision of act Aug. 7, 1956, or its application, should not affect the remainder thereof, was repealed by Pub. L. 90–448, title XIII, §1303(c), Aug. 1, 1968, 82 Stat. 573.

§2414. Issuance of notes by Administrator of Federal Emergency Management Agency; terms and conditions

(a) to (d) Repealed. Pub. L. 90–448, title XIII, §1303(c), Aug. 1, 1968, 82 Stat. 573

(e) Issuance of notes by Administrator of Federal Emergency Management Agency; form, terms and conditions; purchase and sale by Secretary of the Treasury; public debt transactions

The Administrator of the Federal Emergency Management Agency is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President) notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Administrator of the Federal Emergency Management Agency with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(Aug. 7, 1956, ch. 1025, §15, 70 Stat. 1083; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 90–448, title XIII, §1303, Aug. 1, 1968, 82 Stat. 573; Pub. L. 98–181, title I [title IV, §451(f)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §203(g), Oct. 17, 1984, 98 Stat. 2230; Pub. L. 100–242, title V, §545(f), Feb. 5, 1988, 101 Stat. 1942; Pub. L. 112–141, div. F, title II, §100238(c), July 6, 2012, 126 Stat. 958.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–141 substituted "Administrator" for "Director" in two places.

1988—Subsec. (e). Pub. L. 100–242 substituted "title 31, United States Code," for "title 31, United States Code", which for purposes of codification was translated as "title 31", thus requiring no change in text.

1984—Subsec. (e). Pub. L. 98–479 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended", and "such chapter" for "such Act, as amended,".

1983—Subsec. (e). Pub. L. 98–181 substituted "Director of the Federal Emergency Management Agency" for "Secretary of Housing and Urban Development" in two places.

1968—Subsecs. (a) to (d). Pub. L. 90–448, §1303(c), repealed subsecs. (a) to (d), which created three funds, provided for deposits therein, investment of moneys in the funds, and deposit of salvage proceeds.

Subsec. (e). Pub. L. 90–448, §1303(a), (b), substituted "current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month" for "current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month", and struck out provisions which permitted Secretary of the Treasury to purchase any notes and other obligations to be issued under this subsection.

Subsecs. (f), (g). Pub. L. 90–448, §1303(c), repealed subsecs. (f) and (g) which provided for use of moneys in the Funds and for payment of administrative expenses.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as an Effective Date note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Housing Administration and of Housing and Home Finance Agency (of which Public Housing Administration is a constituent agency) and of heads thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency and Public Housing Administration have lapsed.

§§2415 to 2421. Repealed. Pub. L. 90–448, title XIII, §1303(c), Aug. 1, 1968, 82 Stat. 573

Section 2415, act Aug. 7, 1956, ch. 1025, §16, 70 Stat. 1085, authorized appointment of an advisory committee.

Section 2416, act Aug. 7, 1956, ch. 1025, §17, 70 Stat. 1085, provided for studies.

Section 2417, act Aug. 7, 1956, ch. 1025, §18, 70 Stat. 1085, prescribed additional functions of the Administrator.

Section 2418, act Aug. 7, 1956, ch. 1025, §19, 70 Stat. 1086, reserved rights in acquired real estate.

Section 2419, act Aug. 7, 1956, ch. 1025, §20, 70 Stat. 1086, related to exemption of real estate from taxation.

Section 2420, act Aug. 7, 1956, ch. 1025, §21, 70 Stat. 1086, provided for annual reports.

Section 2421, act Aug. 7, 1956, ch. 1025, §22, 70 Stat. 1086, defined terms used in this chapter.

See section 4001 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90–448, set out as an Effective Date note under section 4001 of this title.

CHAPTER 26—NATIONAL SPACE PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

§§2451 to 2454. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2451, Pub. L. 85–568, title I, §102, July 29, 1958, 72 Stat. 426; Pub. L. 94–413, §15(a), (b), Sept. 17, 1976, 90 Stat. 1270; Pub. L. 95–238, title III, §311, Feb. 25, 1978, 92 Stat. 83; Pub. L. 95–401, §7, Sept. 30, 1978, 92 Stat. 860; Pub. L. 98–361, title I, §110, July 16, 1984, 98 Stat. 426; Pub. L. 100–685, title II, §214, Nov. 17, 1988, 102 Stat. 4093; Pub. L. 106–391, title III, §302(a), Oct. 30, 2000, 114 Stat. 1591; Pub. L. 109–155, title III, §321(d)(2), Dec. 30, 2005, 119 Stat. 2923, related to congressional declaration of policy and purpose. See section 20102 of Title 51, National and Commercial Space Programs.

Section 2452, Pub. L. 85–568, title I, §103, July 29, 1958, 72 Stat. 427; Pub. L. 98–52, title I, §108, July 15, 1983, 97 Stat. 285, related to definitions. See section 20103 of Title 51.

Section 2453, Pub. L. 85–568, title III, §302, July 29, 1958, 72 Stat. 433, provided authorization to transfer related functions of other Federal agencies to Administration during a four-year period after July 29, 1958.

Section 2454, Pub. L. 85–568, title III, §303, July 29, 1958, 72 Stat. 433; Pub. L. 102–588, title V, §509, Nov. 4, 1992, 106 Stat. 5129, related to access to information obtained or developed by the Administrator. See section 20131 of Title 51.

§2455. Repealed or Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 85–568, title III, §304(a), (b), July 29, 1958, 72 Stat. 433, 434; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, related to security requirements.

Subsec. (a) was repealed by Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444. See section 20132 of Title 51, National and Commercial Space Programs.

Subsec. (b) was transferred and is set out as a note under section 20132 of Title 51.

§§2456 to 2459. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2456, Pub. L. 85–568, title III, §304(e), July 29, 1958, 72 Stat. 435, related to permission to use firearms. See section 20133 of Title 51, National and Commercial Space Programs.

Section 2456a, Pub. L. 85–568, title III, §304(f), as added Pub. L. 100–685, title II, §206, Nov. 17, 1988, 102 Stat. 4090, related to arrest authority. See section 20134 of Title 51.

Section 2457, Pub. L. 85–568, title III, §305, July 29, 1958, 72 Stat. 435; Pub. L. 96–517, §7(b), Dec. 12, 1980, 94 Stat. 3027; Pub. L. 97–96, §7, Dec. 21, 1981, 95 Stat. 1210; Pub. L. 97–164, title I, §162(3), Apr. 2, 1982, 96 Stat. 49; Pub. L. 98–622, title II, §205(c), Nov. 8, 1984, 98 Stat. 3388; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(20)], Nov. 29, 1999, 113 Stat. 1536, 1501A–585, related to property rights in inventions. See section 20135 of Title 51.

Section 2458, Pub. L. 85–568, title III, §306, July 29, 1958, 72 Stat. 437, related to contributions awards. See section 20136 of Title 51.

Section 2458a, Pub. L. 85–568, title III, §307, as added Pub. L. 94–464, §3, Oct. 8, 1976, 90 Stat. 1988, related to malpractice and negligence suits against United States. See section 20137 of Title 51.

Section 2458b, Pub. L. 85–568, title III, §308, as added Pub. L. 96–48, §6(b)(2), Aug. 8, 1979, 93 Stat. 348, related to insurance and indemnification. See section 20138 of Title 51.

Section 2458c, Pub. L. 85–568, title III, §309, formerly title III, as added Pub. L. 106–74, title IV, §435(a), Oct. 20, 1999, 113 Stat. 1097; designated §309 and amended Pub. L. 106–391, title III, §324(a)(2), (b), Oct. 30, 2000, 114 Stat. 1599, 1600; Pub. L. 109–155, title VII, §702, Dec. 30, 2005, 119 Stat. 2936, related to

experimental aerospace vehicle. See section 20139 of Title 51.

Section 2459, Pub. L. 85–568, title III, §310, formerly §307, July 29, 1958, 72 Stat. 438; Pub. L. 88–113, §6, Sept. 6, 1963, 77 Stat. 144; renumbered §308, Pub. L. 94–464, §3, Oct. 8, 1976, 90 Stat. 1988; renumbered §309, Pub. L. 96–48, §6(b)(1), Aug. 8, 1979, 93 Stat. 348; renumbered §310, Pub. L. 106–391, title III, §324(a)(1), Oct. 30, 2000, 114 Stat. 1599, related to appropriations. See section 20140 of Title 51.

§2459a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 102–588, title II, §202, Nov. 4, 1992, 106 Stat. 5112, which related to availability of appropriated amounts for fiscal year 1993, was omitted from the Code following enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

§§2459b to 2459j. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2459b, Pub. L. 85–568, title III, §311, formerly §310, as added Pub. L. 98–52, title I, §107, July 15, 1983, 97 Stat. 284; renumbered §311, Pub. L. 106–391, title III, §324(a)(1), Oct. 30, 2000, 114 Stat. 1599, related to misuse of agency name and initials and authority of Attorney General to enjoin such misuse. See section 20141 of Title 51, National and Commercial Space Programs.

Section 2459c, Pub. L. 85–568, title III, §312, formerly §311, as added Pub. L. 100–147, title I, §117, Oct. 30, 1987, 101 Stat. 867; renumbered §312, Pub. L. 106–391, title III, §324(a)(1), Oct. 30, 2000, 114 Stat. 1599, related to contracts regarding expendable launch vehicles. See section 20142 of Title 51.

Section 2459d, Pub. L. 102–139, title III, Oct. 28, 1991, 105 Stat. 771, related to prohibition of grant or contract providing guaranteed customer base for new commercial space hardware or services. See section 30301 of Title 51.

Section 2459e, Pub. L. 102–195, §19, Dec. 9, 1991, 105 Stat. 1615, related to quality assurance personnel. See section 30302 of Title 51.

Section 2459f, Pub. L. 85–568, title III, §313, formerly §312, as added Pub. L. 106–377, §1(a)(1) [title IV, §431], Oct. 27, 2000, 114 Stat. 1441, 1441A–56; renumbered §313 and amended Pub. L. 108–199, div. G, title IV, §417, Jan. 23, 2004, 118 Stat. 415; Pub. L. 108–447, div. I, title IV, §417, Dec. 8, 2004, 118 Stat. 3339; Pub. L. 109–155, title II, §201, Dec. 30, 2005, 119 Stat. 2915, related to full cost appropriations account structure. See section 20143 of Title 51.

Section 2459f–1, Pub. L. 85–568, title III, §314, as added Pub. L. 109–155, title I, §104, Dec. 30, 2005, 119 Stat. 2910; amended Pub. L. 110–422, title XI, §1105(b), Oct. 15, 2008, 122 Stat. 4809, related to prize authority. See section 20144 of Title 51.

Section 2459g, Pub. L. 106–391, title III, §301, Oct. 30, 2000, 114 Stat. 1591; Pub. L. 109–155, title VII, §704, Dec. 30, 2005, 119 Stat. 2936, related to requirement for independent cost analysis. See section 30307 of Title 51.

Section 2459h, Pub. L. 106–391, title III, §304, Oct. 30, 2000, 114 Stat. 1592, related to cost effectiveness calculations. See section 30308(b) of Title 51.

Section 2459i, Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 520, related to working capital fund. See section 30102 of Title 51.

Section 2459j, Pub. L. 85–568, title III, §315, as added Pub. L. 108–7, div. K, title IV, §418, Feb. 20, 2003, 117 Stat. 525; amended Pub. L. 110–161, div. B, title V, §533(a)–(e), Dec. 26, 2007, 121 Stat. 1931, 1932; Pub. L. 110–422, title XI, §1117(c), (d), Oct. 15, 2008, 122 Stat. 4814, related to lease of non-excess property. See section 20145 of Title 51.

§2459j–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 111–117, div. B, title III, Dec. 16, 2009, 123 Stat. 3144, which related to deposit of proceeds from lease of non-excess property, was transferred and is set out as a note under section 20145 of Title 51, National and Commercial Space Programs.

§§2459k to 2461. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2459k, Pub. L. 85–568, title III, §316, as added Pub. L. 109–155, title VII, §701, Dec. 30, 2005, 119 Stat. 2935, related to retrocession of jurisdiction. See section 20146 of Title 51, National and Commercial Space Programs.

Section 2459l, Pub. L. 85–568, title III, §317, as added Pub. L. 109–155, title VII, §705, Dec. 30, 2005, 119 Stat. 2936, related to recovery and disposition authority. See section 20147 of Title 51.

Section 2460, Pub. L. 86–45, §4, June 15, 1959, 73 Stat. 75, required that appropriations have prior authorization by Congress. See section 30101 of Title 51.

Section 2461, Pub. L. 91–76, §§1, 2, Sept. 29, 1969, 83 Stat. 124, related to Congressional Space Medal of Honor and appropriation. See section 30901 of Title 51.

§2462. Repealed. Pub. L. 97–96, §8, Dec. 21, 1981, 95 Stat. 1211

Section, Pub. L. 91–119, §6, Nov. 18, 1969, 83 Stat. 199; Pub. L. 91–303, §7, July 2, 1970, 84 Stat. 372; Pub. L. 94–273, §24, Apr. 21, 1976, 90 Stat. 379; Pub. L. 96–470, title I, §118(a), Oct. 19, 1980, 94 Stat. 2240, related to the reporting requirements for former employees of the National Aeronautics and Space Administration and their association with aerospace contractors and the reports of the Administrator to the Congress.

§§2463, 2464. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2463, Pub. L. 95–76, §6, July 30, 1977, 91 Stat. 315; Pub. L. 103–437, §15(c)(3), Nov. 2, 1994, 108 Stat. 4592, related to authorization to contract for tracking and data relay satellite services and requirement to report to congressional committees. See section 30303 of Title 51, National and Commercial Space Programs.

Section 2464, Pub. L. 97–324, title I, §106(a), Oct. 15, 1982, 96 Stat. 1600, related to recovery of fair value of placing Department of Defense payloads in orbit with Space Shuttle. See section 70101 of Title 51.

§2464a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 99–190, §101(b) [title VIII, §8111], Dec. 19, 1985, 99 Stat. 1185, 1222, which related to payloads launched on Titan II launch vehicles and cost effectiveness as against space shuttle launches in fiscal year 1986, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

§2465. Repealed. Pub. L. 105–362, title XI, §1101(f), Nov. 10, 1998, 112 Stat. 3292

Section, Pub. L. 98–52, title I, §110, July 15, 1983, 97 Stat. 285; Pub. L. 103–437, §15(c)(4), Nov. 2, 1994, 108 Stat. 4592, related to commercialization of expendable launch vehicle technologies, facilities and equipment and congressional review of such action.

§2465a. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 101–611, title I, §112, Nov. 16, 1990, 104 Stat. 3198, related to Space Shuttle use policy. Subsecs. (a), (c), and (d) were repealed and reenacted as subsecs. (a), (b), and (c), respectively, of section 70102 of Title 51, National and Commercial Space Programs. Subsec. (b), requiring Administrator to submit implementation plan in report to Congress within six months after Nov. 16, 1990, was repealed as obsolete.

§2465b. Repealed. Pub. L. 105–303, title II, §203(1), Oct. 28, 1998, 112 Stat. 2855

Section, Pub. L. 101–611, title II, §202, Nov. 16, 1990, 104 Stat. 3205, related to congressional findings in support of the commercial launch industry.

§2465c. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 101–611, title II, §203, Nov. 16, 1990, 104 Stat. 3206; Pub. L. 105–303, title II, §203(2), Oct. 28, 1998, 112 Stat. 2855, defined "launch vehicle" and "payload". See section 70103(a) of Title 51, National and Commercial Space Programs.

§§2465d, 2465e. Repealed. Pub. L. 105–303, title II, §203(3), Oct. 28, 1998, 112 Stat. 2855

Section 2465d, Pub. L. 101–611, title II, §204, Nov. 16, 1990, 104 Stat. 3206, related to requirement to procure commercial launch services.

Section 2465e, Pub. L. 101–611, title II, §205, Nov. 16, 1990, 104 Stat. 3207, related to purchase of commercial launch services.

§§2465f to 2467b. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2465f, Pub. L. 101–611, title II, §206, Nov. 16, 1990, 104 Stat. 3207; Pub. L. 105–303, title II, §203(4), Oct. 28, 1998, 112 Stat. 2855, related to conditions for launching commercial payloads on the space shuttle. See section 70103(b) of Title 51, National and Commercial Space Programs.

Section 2466, Pub. L. 99–170, title II, §201, Dec. 5, 1985, 99 Stat. 1017, related to shuttle pricing policy and congressional findings and declaration of purpose.

Section 2466a, Pub. L. 99–170, title II, §202, Dec. 5, 1985, 99 Stat. 1017, related to goals of the reimbursement pricing policy for the Space Transportation System.

Section 2466b, Pub. L. 99–170, title II, §203, Dec. 5, 1985, 99 Stat. 1017, defined "Administrator" and "additive cost".

Section 2466c, Pub. L. 99–170, title II, §204, Dec. 5, 1985, 99 Stat. 1017; Pub. L. 103–437, §15(c)(5), Nov. 2, 1994, 108 Stat. 4592, related to duties of Administrator.

Section 2467, Pub. L. 100–404, title II, Aug. 19, 1988, 102 Stat. 1028; Pub. L. 103–327, title III, Sept. 28, 1994, 108 Stat. 2328, related to Science, Space, and Technology Education Trust Fund and Administrator's annual report to Congress. See section 40901 of Title 51.

Section 2467a, Pub. L. 102–195, §20, Dec. 9, 1991, 105 Stat. 1615, related to National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund. See section 40902 of Title 51.

Section 2467b, Pub. L. 102–588, title III, §304, Nov. 4, 1992, 106 Stat. 5120, related to requirements for merit grant competition. See section 40903(a) to (c) of Title 51.

SUBCHAPTER II—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

§§2471, 2471a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2471, Pub. L. 100–685, title V, §501, Nov. 17, 1988, 102 Stat. 4102, which related to the National Space Council, was transferred and is set out as a note under section 20111 of Title 51, National and Commercial Space Programs.

A prior section 2471, Pub. L. 85–568, title II, §201, July 29, 1958, 72 Stat. 427; Pub. L. 87–26, §1, Apr. 25, 1961, 75 Stat. 46; Pub. L. 87–367, title II, §207, Oct. 4, 1961, 75 Stat. 792; Pub. L. 87–584, §7, Aug. 14, 1962, 76 Stat. 385; Pub. L. 88–426, title III, §§305(13)(A), 306(c), Aug. 14, 1964, 78 Stat. 423, 428; Pub. L. 91–406, Sept. 23, 1970, 84 Stat. 855, which related to the establishment, membership, duties, and personnel of the National Aeronautics and Space Council, was omitted from the Code, because the Council, including the office of Executive Secretary of the Council, together with the functions of the Council, was abolished by section 3(a)(4) of Reorg. Plan No. 1 of 1973, 38 F.R. 9579, 87 Stat. 1089, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees. Section 201 of Pub. L. 85–568 was repealed by Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444, which Act enacted Title 51.

Section 2471a, Pub. L. 101–611, title I, §121, Nov. 16, 1990, 104 Stat. 3204, which related to Users' Advisory Group, was transferred and is set out as a note under section 20111 of Title 51.

§§2472, 2473. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2472, Pub. L. 85–568, title II, §202, July 29, 1958, 72 Stat. 429; Pub. L. 88–426, title III, §305(12), Aug. 14, 1964, 78 Stat. 423, related to National Aeronautics and Space Administration. See section 20111 of Title 51, National and Commercial Space Programs.

Section 2473, Pub. L. 85–568, title II, §203, July 29, 1958, 72 Stat. 429; Pub. L. 86–20, May 13, 1959, 73 Stat. 21; Pub. L. 86–481, §5, June 1, 1960, 74 Stat. 153; Pub. L. 87–367, title II, §206(a), Oct. 4, 1961, 75 Stat. 791; Pub. L. 87–584, §6, Aug. 14, 1962, 76 Stat. 384; Pub. L. 87–793, title VI, §1001(f), Oct. 11, 1962, 76 Stat. 864; Pub. L. 88–426, title III, §306(d), Aug. 14, 1964, 78 Stat. 429; Pub. L. 88–448, title IV, §402(a)(34), Aug. 10, 1964, 78 Stat. 495; Pub. L. 91–646, title II, §220(a)(2), Jan. 2, 1971, 84 Stat. 1903; Pub. L. 93–74, §6, July 23, 1973, 87 Stat. 174; Pub. L. 93–316, §6, June 22, 1974, 88 Stat. 243; Pub. L. 93–409, §4, Sept. 3, 1974, 88 Stat. 1070; Pub. L. 94–413, §15(c), Sept. 17, 1976, 90 Stat. 1270; Pub. L. 95–401, §6, Sept. 30, 1978, 92 Stat. 860; Pub. L. 96–48, §6(a), Aug. 8, 1979, 93 Stat. 348; Pub. L. 101–611, title I, §107, Nov. 16, 1990, 104 Stat. 3197; Pub. L. 108–201, §2(a), Feb. 24, 2004, 118 Stat. 461, related to functions of Administration. See sections 20112 and 20113 of Title 51.

§2473a. Repealed. Pub. L. 96–470, title I, §118(b), Oct. 19, 1980, 94 Stat. 2241

Section, Pub. L. 87–367, title II, §206(b), Oct. 4, 1961, 75 Stat. 791, required Administrator of National Aeronautics and Space Administration to submit to Congress, not later than 45 days after close of each fiscal year, a report which sets forth, as of close of such fiscal year, the number of positions established, the name, compensation, and qualification of each incumbent, position or positions held in or outside Federal Government by each incumbent during the 5 years immediately preceding date of appointment, and such other information as required by Congress and authorized Administrator to omit any information deemed detrimental to national security, to inform Congress of such omission, and to supply all information concerning such matter at request of any Congressional committee.

§2473b. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 101–144, title III, Nov. 9, 1989, 103 Stat. 863; Pub. L. 109–155, title VI, §611, Dec. 30, 2005, 119 Stat. 2932, related to award of prime and subcontracts to small businesses and disadvantaged individuals. First paragraph was repealed and reenacted as section 30304 of Title 51, National and Commercial Space Programs. Last paragraph, requiring Administrator to submit plan for small and disadvantaged business goals within one year from Nov. 9, 1989, was repealed as obsolete.

§2473c. Repealed or Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 102–195, §21, Dec. 9, 1991, 105 Stat. 1616, related to drug and alcohol testing for certain employees of the National Aeronautics and Space Administration.

Subsec. (a) was repealed by Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444.

Subsec. (b) was transferred and is set out as a note under section 31102 of Title 51, National and Commercial Space Programs.

Subsecs. (c) to (h) were repealed by Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444. See section 31102 of Title 51.

§2473d. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 106–391, title III, §325, Oct. 30, 2000, 114 Stat. 1600, related to use of abandoned and underutilized buildings, grounds, and facilities. See section 30309 of Title 51, National and Commercial Space Programs.

§2473e. Repealed. Pub. L. 109–155, title VII, §703(b), Dec. 30, 2005, 119 Stat. 2936

Section, Pub. L. 108–176, title VII, §703, Dec. 12, 2003, 117 Stat. 2579, related to the National Aeronautics and Space Administration Science and Technology Scholarship Program.

§§2474 to 2477. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2474, Pub. L. 85–568, title II, §204, July 29, 1958, 72 Stat. 431; Pub. L. 88–426, title III, §305(13)(B), Aug. 14, 1964, 78 Stat. 423; Pub. L. 88–448, title IV, §401(g), Aug. 19, 1964, 78 Stat. 490, which established the Civilian-Military Liaison Committee, had been previously omitted from the Code due to the abolition of the Committee and transfer of its functions to the President of the United States by sections 1(e) and 3(a) of Reorg. Plan No. 4 of 1965, set out in the Appendix to Title 5, Government Organization and Employees. For restated provisions of subsecs. (b) and (c) of prior section 2474, see section 20114 of Title 51, National and Commercial Space Programs.

Section 2475, Pub. L. 85–568, title II, §205, July 29, 1958, 72 Stat. 432, authorized international cooperation agreements. See section 20115 of Title 51.

Section 2475a, Pub. L. 106–391, title I, §126, Oct. 30, 2000, 114 Stat. 1585, related to competitiveness and international cooperation. See section 30701(a), (b)(2) of Title 51.

Section 2475b, Pub. L. 106–391, title III, §305, Oct. 30, 2000, 114 Stat. 1592, related to foreign contract limitation. See section 30702 of Title 51.

Section 2476, Pub. L. 85–568, title II, §206, July 29, 1958, 72 Stat. 432; Pub. L. 92–68, §7, Aug. 6, 1971, 85 Stat. 177; Pub. L. 106–391, title III, §302(b), Oct. 30, 2000, 114 Stat. 1591, related to reports to Congress. See section 20116 of Title 51.

Section 2476a, Pub. L. 85–568, title II, §207, as added Pub. L. 93–74, §7, July 23, 1973, 87 Stat. 175; amended Pub. L. 103–437, §15(j), Nov. 2, 1994, 108 Stat. 4593, related to disposal of excess land and approval by congressional committees. See section 20117 of Title 51.

Section 2476b, Pub. L. 85–568, title II, §208, as added Pub. L. 100–147, title I, §115, Oct. 30, 1987, 101 Stat. 866, related to Administrator's authority to accept gifts or donations for space shuttle orbiter, terminating five years after Oct. 30, 1987.

Section 2477, Pub. L. 90–67, §6, Aug. 21, 1967, 81 Stat. 170; Pub. L. 94–307, §8, June 4, 1976, 90 Stat. 681; Pub. L. 99–234, title I, §107(f), Jan. 2, 1986, 99 Stat. 1759; Pub. L. 109–155, title I, §106, Dec. 30, 2005, 119 Stat. 2912, related to Aerospace Safety Advisory Panel. See section 31101 of Title 51.

SUBCHAPTER III—UPPER ATMOSPHERE RESEARCH

§§2481 to 2484. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2481, Pub. L. 85–568, title IV, §401, as added Pub. L. 94–39, §8, June 19, 1975, 89 Stat. 222, related to congressional declaration of purpose and policy. See section 20161 of Title 51, National and Commercial Space Programs.

Section 2482, Pub. L. 85–568, title IV, §402, as added Pub. L. 94–39, §8, June 19, 1975, 89 Stat. 222, defined "upper atmosphere". See section 20162 of Title 51.

Section 2483, Pub. L. 85–568, title IV, §403, as added Pub. L. 94–39, §8, June 19, 1975, 89 Stat. 222, authorized research program. See section 20163 of Title 51.

Section 2484, Pub. L. 85–568, title IV, §404, as added Pub. L. 94–39, §8, June 19, 1975, 89 Stat. 223, related to international cooperation. See section 20164 of Title 51.

CHAPTER 26A—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

§2486. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 100–147, title II, §202, Oct. 30, 1987, 101 Stat. 869, which related to congressional findings, was transferred and is set out as a note under section 40301 of Title 51, National and Commercial Space Programs.

§§2486a to 2486i. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2486a, Pub. L. 100–147, title II, §203, Oct. 30, 1987, 101 Stat. 869, related to congressional statement of purposes. See section 40301 of Title 51, National and Commercial Space Programs.

Section 2486b, Pub. L. 100–147, title II, §204, Oct. 30, 1987, 101 Stat. 870, related to definitions. See section 40302 of Title 51.

Section 2486c, Pub. L. 100–147, title II, §205, Oct. 30, 1987, 101 Stat. 871, related to national space grant college and fellowship program. See section 40303 of Title 51.

Section 2486d, Pub. L. 100–147, title II, §206, Oct. 30, 1987, 101 Stat. 872, related to grants or contracts. See section 40304 of Title 51.

Section 2486e, Pub. L. 100–147, title II, §207, Oct. 30, 1987, 101 Stat. 873, related to identification of specific national needs and problems relating to space and grants or contracts with respect to such needs or problems. See section 40305 of Title 51.

Section 2486f, Pub. L. 100–147, title II, §208, Oct. 30, 1987, 101 Stat. 873, related to space grant college and space grant regional consortium. See section 40306 of Title 51.

Section 2486g, Pub. L. 100–147, title II, §209, Oct. 30, 1987, 101 Stat. 874, related to space grant fellowship program. See section 40307 of Title 51.

Section 2486h, Pub. L. 100–147, title II, §210, Oct. 30, 1987, 101 Stat. 874, related to space grant review panel. See section 40308 of Title 51.

Section 2486i, Pub. L. 100–147, title II, §211, Oct. 30, 1987, 101 Stat. 875, related to availability of other Federal personnel and data and cooperation with Administration. See section 40309 of Title 51.

§2486j. Repealed. Pub. L. 105–362, title XI, §1101(a), Nov. 10, 1998, 112 Stat.

3292

Section, Pub. L. 100–147, title II, §212, Oct. 30, 1987, 101 Stat. 875, related to reports by Administrator to Congress and the President on national space grant and fellowship program and comments and recommendations by Director of Management and Budget and Director of Office of Science and Technology Policy to be included in such reports.

§§2486k, 2486*l*. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2486k, Pub. L. 100–147, title II, §213, Oct. 30, 1987, 101 Stat. 875, required designation or award to be made on competitive basis. See section 40310 of Title 51, National and Commercial Space Programs.

Section 2486l, Pub. L. 100–147, title II, §214, Oct. 30, 1987, 101 Stat. 875, related to authorization of appropriations for fiscal years 1988 to 1991.

CHAPTER 26B—BIOMEDICAL RESEARCH IN SPACE

§2487. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 102–588, title VI, §601, Nov. 4, 1992, 106 Stat. 5130, which related to congressional findings, was transferred and is set out as a note under section 40501 of Title 51, National and Commercial Space Programs.

§§2487a to 2487c. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2487a, Pub. L. 102–588, title VI, §602, Nov. 4, 1992, 106 Stat. 5130, related to biomedical research joint working group. See section 40501 of Title 51, National and Commercial Space Programs.

Section 2487b, Pub. L. 102–588, title VI, §603, Nov. 4, 1992, 106 Stat. 5130, related to biomedical research grants. See section 40502 of Title 51.

Section 2487c, Pub. L. 102–588, title VI, §604, Nov. 4, 1992, 106 Stat. 5131, related to biomedical research fellowships. See section 40503 of Title 51.

§2487d. Repealed. Pub. L. 105–362, title XI, §1101(g), Nov. 10, 1998, 112 Stat. 3292

Section, Pub. L. 102–588, title VI, §605, Nov. 4, 1992, 106 Stat. 5131, related to joint studies with the republics of former Soviet Union in biomedical research.

§§2487e to 2487g. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 2487e, Pub. L. 102–588, title VI, §606, Nov. 4, 1992, 106 Stat. 5131, related to establishment of electronic data archive. See section 40504 of Title 51, National and Commercial Space Programs.

Section 2487f, Pub. L. 102–588, title VI, §607, Nov. 4, 1992, 106 Stat. 5131; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, related to establishment of emergency medical service telemedicine capability. See section 40505 of Title 51.

Section 2487g, Pub. L. 102–588, title VI, §608, Nov. 4, 1992, 106 Stat. 5132, related to authorization of appropriations for fiscal year 1993.

CHAPTER 27—LOAN SERVICE OF CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED

Sec.
2491 to 2494. Repealed.
2495. National Advisory Committee on Education of the Deaf.

§§2491 to 2494. Repealed. Pub. L. 91–230, title VI, §662(1), Apr. 13, 1970, 84 Stat. 188

Section 2491, Pub. L. 85–905, §1, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87–715, §1(a), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90–247, title I, §155(a), Jan. 2, 1968, 81 Stat. 804, contained statement of purposes for the provisions.

Section 2492, Pub. L. 85–905, §2, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90–247, title I, §155(b), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91–61, §1(2), Aug. 20, 1969, 83 Stat. 103, defined "Secretary", "United States", "deaf person", "handicapped", and "construction".

Section 2493, Pub. L. 85–905, §3, Sept. 2, 1958, 72 Stat. 1742; Pub. L. 87–715, §1(b), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 983; Pub. L. 90–247, title I, §155(c), (d)(1), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91–61, §1(1), Aug. 20, 1969, 83 Stat. 102, provided for establishment of a loan service of captioned films and educational media for handicapped and authority of Secretary.

Section 2494, Pub. L. 85–905, §4, Sept. 2, 1958, 72 Stat. 1743; Pub. L. 87–715, §1(c), Sept. 28, 1962, 76 Stat. 654; Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 984; Pub. L. 90–247, title I, §155(e), Jan. 2, 1968, 81 Stat. 805; Pub. L. 91–61, §1(3), Aug. 20, 1969, 83 Stat. 103, authorized appropriations for fiscal years ending as indicated: $3,000,000 (June 30, 1966, and 1967), $8,000,000 (June 30, 1968, and 1969), $10,000,000 (June 30, 1970), $12,500,000 (June 30, 1971), $15,000,000 (June 30, 1972), and $20,000,000 (June 30, 1973 and thereafter).

Such former provisions are covered by various sections of Title 20, Education, as follows:

Former Sections	*Title 20 Sections*
2491	1451
2492(1)	1401(14)
2492(2)	1401(2)
2492(3)	Repealed
2492(4)	1401(1)
2492(5)	1401(4)
2493(a), (b)	1452(a), (b)
2493(c)(1)(A) to (C)	1453(a)(1) to (3)
2493(c)(1)(D)	1232b
2493(c)(2)	1453(b)
2493(c)(3)	1404
2494	1454

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 91–230, title VI, §662, Apr. 13, 1970, 84 Stat. 188, provided that the repeal is effective July 1, 1971.

§2495. National Advisory Committee on Education of the Deaf

(a) Establishment; number and appointment of members; representation of interests; Chairman; term of office; vacancies; restriction on term

(1) For the purpose of advising and assisting the Secretary of Education (hereinafter in this section referred to as the "Secretary") with respect to the education of the deaf, there is hereby created a National Advisory Committee on Education of the Deaf, which shall consist of twelve persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the civil service laws.

(2) The membership of the Advisory Committee shall include educators of the deaf, persons interested in education of the deaf, educators of the hearing, and deaf individuals.

(3) The Secretary shall from time to time designate one of the members of the Advisory Committee to serve as Chairman of the Advisory Committee.

(4) Each member of the Advisory Committee shall serve for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and except that the terms of the office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year after the date of appointment.

(5) A member of the Advisory Committee shall not be eligible to serve continuously for more than one term.

(b) Functions of Advisory Committee

The Advisory Committee shall advise the Secretary concerning the carrying out of existing and the formulating of new or modified programs with respect to the education of the deaf. In carrying out its functions, the Advisory Committee shall (A) make recommendations to the Secretary for the development of a system for gathering information on a periodic basis in order to facilitate the assessment of progress and identification of problems in the education of the deaf; (B) identify emerging needs respecting the education of the deaf, and suggest innovations which give promise of meeting such needs and of otherwise improving the educational prospects of deaf individuals; (C) suggest promising areas of inquiry to give direction to the research efforts of the Federal Government in improving the education of the deaf; and (D) make such other recommendations for administrative action or legislative proposals as may be appropriate.

(c) Advisory professional or technical personnel

The Secretary may, at the request of the Advisory Committee appoint such special advisory professional or technical personnel as may be necessary to enable the Advisory Committee to carry out its duties.

(d) Compensation and travel expenses

Members of the Advisory Committee, and advisory or technical personnel appointed pursuant to subsection (c), while attending meetings or conferences of the Advisory Committee or otherwise serving on business of the Advisory Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day including travel time and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(e) Meetings

The Advisory Committee shall meet at the request of the Secretary, but at least semiannually.

(Pub. L. 85–905, §5, as added Pub. L. 89–258, Oct. 19, 1965, 79 Stat. 984; amended Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

EDITORIAL NOTES

CODIFICATION

In subsec. (d), "section 5703 of title 5" substituted for "section 5 of the Administrative Expenses Act", on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a)(1) pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of Title 20, Education, and which transferred functions and offices (relating to education) of Secretary of Health, Education, and Welfare to Secretary of Education.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

CHAPTER 28—AREA REDEVELOPMENT PROGRAM

§§2501 to 2512. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2501 to 2512 terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2501, Pub. L. 87–27, §2, May 1, 1961, 75 Stat. 47, stated Congressional declaration of purpose for Area Redevelopment Program.

Section 2502, Pub. L. 87–27, §3, May 1, 1961, 75 Stat. 48; Pub. L. 88–426, title III, §305(22), Aug. 14, 1964, 78 Stat. 425, provided for appointment and duties of Area Redevelopment Administrator.

Section 2503, Pub. L. 87–27, §4, May 1, 1961, 75 Stat. 48, provided for creation of membership and functions of Area Redevelopment Advisory Policy Board and for National Public Advisory Committee on Area Redevelopment.

Section 2504, Pub. L. 87–27, §5, May 1, 1961, 75 Stat. 48, provided for designation of redevelopment areas by Secretary of Commerce and promulgation of standards for determination and use of facts and data.

Section 2505, Pub. L. 87–27, §6, May 1, 1961, 75 Stat 50, set forth limitations on loans and participation for industrial projects and set terms, conditions, restrictions, and limitations thereon.

Section 2506, Pub. L. 87–27, §7, May 1, 1961, 75 Stat. 52, provided for application and conditions for loans for public facilities.

Section 2507, Pub. L. 87–27, §8, May 1, 1961, 75 Stat. 53, provided for application, conditions and amounts of grants for public facilities.

Section 2508, Pub. L. 87–27, §9, May 1, 1961, 75 Stat. 54, provided for notes and obligations, amount, form and denomination, date of maturity, terms and conditions, interest rate, purchase and sale by Secretary of the Treasury of funds for Area Redevelopment Fund.

Section 2509, Pub. L. 87–27, §10, May 1, 1961, 75 Stat. 55, provided for assistance, information and advice and business firm list to procurement divisions of Federal instrumentalities.

Section 2510, Pub. L. 87–27, §11, May 1, 1961, 75 Stat. 55, authorized Secretary of Commerce to provide technical assistance and authorized appropriations for purposes of this section.

Section 2511, Pub. L. 87–27, §12, May 1, 1961, 75 Stat. 55, set forth powers of Secretary of Commerce in performing his duties under this chapter.

Section 2512, Pub. L. 87–27, §13, May 1, 1961, 75 Stat. 57, provided for termination of eligibility for further assistance as a redevelopment area.

§§2513, 2514. Repealed. Pub. L. 89–15, §9(b), Apr. 26, 1965, 79 Stat. 79

Section 2513, Pub. L. 87–27, §16, May 1, 1961, 75 Stat. 58, related to occupational training under the area redevelopment program: studies of various aspects of labor force; area requirements, selection and referral of trainees, agency cooperation in vocational training and retraining programs; additional facilities or services provided by State agencies, public and private institutions; apprenticeship and other training assistance; appropriation; supplementary employment of seasonal workers.

Section 2514, Pub. L. 87–27, §17, May 1, 1961, 75 Stat. 59, related to retraining subsistence payments: duration, amount of weekly payment; alternative unemployment compensation benefits; administration, finality of determinations; rules and regulations; and appropriation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1965, see section 9(c) of Pub. L. 89–15, Apr. 26, 1965, 79 Stat. 79.

SAVINGS PROVISION

Pub. L. 89–15, §9(b), Apr. 26, 1965, 79 Stat. 79, provided in part that: "The repeal of these sections [sections 2513 and 2514 of this title] shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligations entered into pursuant to the Area Redevelopment Act [this chapter] prior to the effective date of the repeal of such sections."

§§2515 to 2525. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2515 to 2525 terminated as of Aug. 31, 1965, pursuant to section 2525 of this title.

Section 2515, Pub. L. 87–27, §18, May 1, 1961, 75 Stat. 60, set forth penalties for violations of this chapter.

Section 2516, Pub. L. 87–27, §19, May 1, 1961, 75 Stat. 61, provided for employment of expediters and administrative employees.

Section 2517, Pub. L. 87–27, §20, May 1, 1961, 75 Stat. 61, provided that Secretary of Commerce maintain as a permanent record a list of applications approved for financial assistance and for public inspection thereof.

Section 2518, Pub. L. 87–27, §21, May 1, 1961, 75 Stat. 61, provided for labor standards for laborers and mechanics; their rate of wages and overtime and for enforcement thereof.

Section 2519, Pub. L. 87–27, §22, May 1, 1961, 75 Stat. 62, provided for an annual report to Congress and for contents thereof.

Section 2520, Pub. L. 87–27, §23, May 1, 1961, 75 Stat. 62, authorized appropriations necessary to carry out provisions of this chapter.

Section 2521, Pub. L. 87–27, §24, May 1, 1961, 75 Stat. 62; Pub. L. 87–793, title II, §607(a)(4), Oct. 11, 1962, 76 Stat. 849, provided for use of other available services and facilities of other agencies and instrumentalities of Federal Government and for rules and regulations governing said use.

Section 2522, Pub. L. 87–27, §25, May 1, 1961, 75 Stat. 63, stated that each recipient of assistance under this chapter shall keep such records as Secretary shall prescribe and provided for audit of such records by Federal Government.

Section 2523, Pub. L. 87–27, §27, May 1, 1961, 75 Stat. 63, provided that Secretary shall establish and conduct a continuing program of study and research and shall include in his annual report to Congress his findings resulting therefrom and his recommendations for legislative and other action.

Section 2524, Pub. L. 87–27, §28, May 1, 1961, 75 Stat. 63, defined "State", "States", and "United States" as used in this chapter.

Section 2525, Pub. L. 87–27, §29, May 1, 1961, 75 Stat. 63; Pub. L. 89–55, June 30, 1965, 79 Stat. 195, stated that termination date of this chapter and all authority conferred thereunder shall be Aug. 31, 1965, and that Secretary of the Treasury shall be responsible for liquidation of affairs and functions conducted under this chapter.

CHAPTER 29—JUVENILE DELINQUENCY AND YOUTH OFFENSES CONTROL

§§2541 to 2548. Omitted

EDITORIAL NOTES

CODIFICATION

Section 2541, Pub. L. 87–274, §2, Sept. 22, 1961, 75 Stat. 572, which set out the Congressional findings and declaration of policy underlying the passage of the "Juvenile Delinquency and Youth Offenses Control Act of 1961", Pub. L. 87–274, Sept. 22, 1961, 75 Stat. 572, expired June 30, 1967, pursuant to section 2545 of this title. For the Congressional findings and declaration of purpose underlying the passage of the "Juvenile Delinquency Prevention and Control Act of 1968, Pub. L. 90–445, July 31, 1968, 82 Stat. 462, the successor provision, see section 3801 of this title.

Section 2542, Pub. L. 87–274, §3, Sept. 22, 1961, 75 Stat. 572; Pub. L. 88–368, §1, July 9, 1964, 78 Stat. 309, which provided for demonstration and evaluation projects, expired June 30, 1967, pursuant to section 2545 of this title. See sections 3812, 3822, 3832, 3861, and 3871 of this title.

Section 2543, Pub. L. 87–274, §4, Sept. 22, 1961, 75 Stat. 573, which provided for grants for training of personnel in programs, for prevention or control of juvenile delinquency or youth offenses, expired June 30, 1967, pursuant to section 2545 of this title. See section 3861 of this title.

Section 2544, Pub. L. 87–274, §5, Sept. 22, 1961, 75 Stat. 573, which provided for technical assistance services, expired June 30, 1967, pursuant to section 2545 of this title. See section 3871 et seq. of this title.

Section 2545, Pub. L. 87–274, §6, Sept. 22, 1961, 75 Stat. 573; Pub. L. 88–368, §2, July 9, 1964, 78 Stat. 309; Pub. L. 89–69, July 8, 1965, 79 Stat. 212, authorized appropriations for program through June 30, 1967. See section 3882 of this title.

Section 2546, Pub. L. 87–274, §7, Sept. 22, 1961, 75 Stat. 573, which provided for appointment of technical and advisory committees, expired June 30, 1967, pursuant to section 2545 of this title. See section 3889 of this title.

Section 2547, Pub. L. 87–274, §8, as added Pub. L. 88–368 §3, July 9, 1964, 78 Stat. 309, which provided for a special study of school attendance and child labor laws, with a report to be given to the President and Congress by Jan. 31, 1966, expired June 30, 1967, pursuant to section 2545 of this title.

Section 2548, Pub. L. 87–274, §9, as added Pub. L. 88–368, §3, July 9, 1964, 78 Stat. 309, which provided for a Washington metropolitan area demonstration project, expired June 30, 1967, pursuant to section 2545 of this title.

CHAPTER 30—MANPOWER DEVELOPMENT AND TRAINING PROGRAM

SUBCHAPTER I—MANPOWER REQUIREMENTS, DEVELOPMENT, AND UTILIZATION

§§2571 to 2574. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section 2571, Pub. L. 87–415, title I, §101, Mar. 15, 1962, 76 Stat. 23; Pub. L. 88–214, §1, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, §2, Apr. 26, 1965, 79 Stat. 75, set out Congressional statement of findings and

purpose in enacting manpower development and training legislation.

Section 2572, Pub. L. 87–415, title I, §102, Mar. 15, 1962, 76 Stat. 24; Pub. L. 89–15, §§3, 4(b), Apr. 26, 1965, 79 Stat. 75, 76, directed Secretary of Labor to conduct evaluation activities, obtain and supply information, conduct research, and develop projects to try to avoid or minimize individual hardship and widespread unemployment in accomplishing the objectives of technological progress.

Section 2572a, Pub. L. 87–415, title I, §103, as added Pub. L. 89–15, §4(a), Apr. 26, 1965, 79 Stat. 75, directed Secretary to develop job development programs.

Section 2572b, Pub. L. 87–415, title I, §104, as added Pub. L. 89–15, §4(a), Apr. 26, 1965, 79 Stat. 76; amended Pub. L. 89–792, §2(a), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, §1(1), Oct. 24, 1968, 82 Stat. 1352 made provision for labor mobility demonstration projects.

Section 2572c, Pub. L. 87–415, title I, §105, as added Pub. L. 89–15, §4(a), Apr. 26, 1965, 79 Stat. 76; amended Pub. L. 89–792, §2(b), Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, §1(2), Oct. 24, 1968, 82 Stat. 1352, made provision for trainee placement assistance demonstration projects.

Section 2573, Pub. L. 87–415, title I, §106, formerly 103, Mar. 15, 1962, 76 Stat. 25; renumbered §106, Pub. L. 89–15, §4(a), Apr. 26, 1965, 79 Stat. 75; amended Pub. L. 90–636, §2, Oct. 24, 1968, 82 Stat. 1352, made provision for a labor market information and job matching program.

Section 2574, Pub. L. 87–415, title I, §107, formerly 104, Mar. 15, 1962, 76 Stat. 25; renumbered §107, Pub. L. 89–15, §4(a), Apr. 26, 1965, 79 Stat. 75, directed Secretary of Labor to make reports to President and Congress pertaining to manpower requirements, resources, utilization, and training.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER II—TRAINING AND SKILL DEVELOPMENT PROGRAMS

PART A—DUTIES OF THE SECRETARY OF LABOR

§§2581 to 2587. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section 2581, Pub. L. 87–415, title II, §201, Mar. 15, 1962, 76 Stat. 25; Pub. L. 89–794, title X, §1001(a), Nov. 8, 1966, 80 Stat. 1475, set out general responsibility of Secretary of Labor in areas of training and skill development programs.

Section 2582, Pub. L. 87–415, title II, §202, Mar. 15, 1962, 76 Stat. 25; Pub. L. 88–214, §2, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, §5, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89–792, §3, Nov. 7, 1966, 80 Stat. 1434; Pub. L. 90–636, §3(a), Oct. 24, 1968, 82 Stat. 1353, covered selection of trainees by Secretary of Labor.

Section 2583, Pub. L. 87–415, title II, §203, Mar. 15, 1962, 76 Stat. 26; Pub. L. 87–729, Oct. 1, 1962, 76 Stat. 679; Pub. L. 88–214, §3, Dec. 19, 1963, 77 Stat. 422; Pub. L. 89–15, §6, Apr. 26, 1965, 79 Stat. 77; Pub. L. 89–792, §4, Nov. 7, 1966, 80 Stat. 1435; Pub. L. 89–794, title X, §1001(b), Nov. 8, 1966, 80 Stat. 1475; Pub. L. 90–636, §§4, 5(a), Oct. 24, 1968, 82 Stat. 1353, made provision for training allowances covering training and skill development programs.

Section 2584, Pub. L. 87–415, title II, §204, Mar. 15, 1962, 76 Stat. 28; Pub. L. 90–636, §6, Oct. 24, 1968, 82 Stat. 1353, provided for on-the-job training programs.

Section 2585, Pub. L. 87–415, title II, §205, Mar. 15, 1962, 76 Stat. 28; Pub. L. 88–214, §4, Dec. 19, 1963, 77 Stat. 423, made provision for the appointment of a National Advisory Committee by Secretary.

Section 2586, Pub. L. 87–415, title II, §206, Mar. 15, 1962, 76 Stat. 29, authorized Secretary to enter into

agreements for the utilization of services of appropriate State agencies.

Section 2587, Pub. L. 87–415, title II, §207, Mar. 15, 1962, 76 Stat. 29, empowered Secretary of Labor to promulgate rules and regulations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

§2588. Repealed. Pub. L. 89–15, §7, Apr. 26, 1965, 79 Stat. 78

Section, Pub. L. 87–415, title II, §208, as added Pub. L. 88–214, §5, Dec. 19, 1963, 77 Stat. 423, provided for labor mobility demonstration projects during the period ending June 30, 1965, and for assistance in the form of grants or loans, and limited the amount of grants, loans, and appropriations for such use.

PART B—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

§§2601 to 2603. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section 2601, Pub. L. 87–415, title II, §231, Mar. 15, 1962, 76 Stat. 30; Pub. L. 88–214, §6, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, §8, Apr. 26, 1965, 79 Stat. 78; Pub. L. 89–792, §5, Nov. 7, 1966, 80 Stat. 1436; Pub. L. 90–636, §§3(b), 5(b), 7, Oct. 24, 1968, 82 Stat. 1353, set out general responsibility of Secretary of Health, Education, and Welfare in areas of training and skill development programs.

Section 2602, Pub. L. 87–415, title II, §232, Mar. 15, 1962, 76 Stat. 30, empowered Secretary of Health, Education, and Welfare to promulgate rules and regulations.

Section 2603, Pub. L. 87–415, title II, §233, as added Pub. L. 89–792, §8(b), Nov. 7, 1966, 80 Stat. 1437, directed Secretary of Health, Education, and Welfare to make an annual report to Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

PART C—REDEVELOPMENT AREAS

§2610a. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section, Pub. L. 87–415, title II, §241, as added Pub. L. 89–15, §9(a), Apr. 26, 1965, 79 Stat. 79, authorized Secretaries of Labor and of Health, Education, and Welfare to provide programs of supplementary training in

redevelopment areas.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

PART D—CORRECTIONAL INSTITUTIONS

§2610b. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section, Pub. L. 87–415, title II, §251, as added Pub. L. 89–792, §6(a), Nov. 7, 1966, 80 Stat. 1436; amended Pub. L. 90–636, §1(3), Oct. 24, 1968, 82 Stat. 1352, made provision for experimental training programs for persons in correctional institutes.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

PART E—WORK EXPERIENCE AND TRAINING PROGRAMS

§2610c. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845.

Section, Pub. L. 87–415, title II, §261, as added Pub. L. 89–794, Title X, §1001(c), Nov. 8, 1966, 80 Stat. 1475, made provision for programs for needy persons requiring work experience, supportive services, or training.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§2611 to 2620. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section 2611, Pub. L. 87–415, title III, §301, Mar. 15, 1962, 76 Stat. 30; Pub. L. 89–15, §10, Apr. 26, 1965, 79 Stat. 79; Pub. L. 89–792, §7, Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90–636, §§8–10, Oct. 24, 1968, 82 Stat. 1354; Pub. L. 91–4, §1, Mar. 19, 1969, 83 Stat. 6, provided for apportionment of benefits and State administration of funds.

Section 2612, Pub. L. 87–415, title III, §302, Mar. 15, 1962, 76 Stat. 31; Pub. L. 89–15, §11, Apr. 26, 1965, 79 Stat. 79, required maintenance of a State effort as a prerequisite to approval of Federal financing.

Section 2613, Pub. L. 87–415, title III, §303, Mar. 15, 1962, 76 Stat. 31, called for the utilization of available services and facilities of other Federal agencies and instrumentalities and of resources for skill development.

Section 2614, Pub. L. 87–415, title III, §304, Mar. 15, 1962, 76 Stat. 31; Pub. L. 88–214, §7, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, §12, Apr. 26, 1965, 79 Stat. 80; Pub. L. 89–792, §6(b), Nov. 7, 1966, 80 Stat. 1437; Pub. L. 90–636, §1(4), Oct. 24, 1968, 82 Stat. 1352, authorized appropriations.

Section 2615, Pub. L. 87–415, title III, §305, Mar. 15, 1962, 76 Stat. 32; Pub. L. 88–214, §8, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, §13, Apr. 26, 1965, 79 Stat. 80; 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, placed certain limitations on uses of appropriated funds.

Section 2616, Pub. L. 87–415, title III, §306, Mar. 15, 1962, 76 Stat. 32; Pub. L. 89–15, §14, Apr. 26, 1965, 79 Stat. 80, set out authority of Secretaries of Labor and of Health, Education, and Welfare to contract, establish procedures, and make payments.

Section 2617, Pub. L. 87–415, title III, §307, Mar. 15, 1962, 76 Stat. 32, provided that selection of persons for training shall not be contingent upon their membership or non-membership in a labor organization.

Section 2618, Pub. L. 87–415, title III, §308, Mar. 15, 1962, 76 Stat. 32; Pub. L. 90–636, §5(c), Oct. 24, 1968, 82 Stat. 1353, defined "State".

Section 2619, Pub. L. 87–415, title III, §309, as added Pub. L. 90–636, §11, Oct. 24, 1968, 82 Stat. 1354, provided for training and technical assistance.

Section 2620, Pub. L. 87–415, title III, §310, Mar. 15, 1962, 76 Stat. 33; Pub. L. 88–214, §10, Dec. 19, 1963, 77 Stat. 424; Pub. L. 89–15, §16, Apr. 26, 1965, 79 Stat. 80; Pub. L. 90–636, §1(5), Oct. 24, 1968, 82 Stat. 1352; Pub. L. 92–277, §1, Apr. 24, 1972, 86 Stat. 124, called for termination of authority to operate training and skill development programs under title II of Pub. L. 87–415 at the close of June 30, 1973.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER IV—SEASONAL UNEMPLOYMENT IN THE CONSTRUCTION INDUSTRY

§§2621 to 2623. Repealed. Pub. L. 93–203, title VII, §714 formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section 2621, Pub. L. 87–415, title IV, §401, as added Pub. L. 90–636, §12, Oct. 24, 1968, 82 Stat. 1354, set out Congressional findings and declaration of purpose in establishing a study of problems of seasonal unemployment in construction industry.

Section 2622, Pub. L. 87–415, title IV, §402, as added Pub. L. 90–636, §12, Oct. 24, 1968, 82 Stat. 1355, called for a study by Secretaries of Labor and Commerce of means to stabilize employment in construction industry and for a report to President and Congress not later than Dec. 31, 1969.

Section 2623, Pub. L. 87–415, title IV, §403, as added Pub. L. 90–636, §12, Oct. 24, 1968, 82 Stat. 1355; amended 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, called for consultation with Federal official on reduction of seasonal unemployment.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

SUBCHAPTER V—SUPPLEMENTARY STATE PROGRAMS

§§2624 to 2628. Repealed. Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845

Section 2624, Pub. L. 87–415, title V, §501, as added Pub. L. 90–636, §13, Oct. 24, 1968, 82 Stat. 1355, set out Congressional declaration of purpose in providing for supplementary State programs.

Section 2625, Pub. L. 87–415, title V, §502, as added Pub. L. 90–636, §13, Oct. 24, 1968, 82 Stat. 1356, provided authorization for grants for supplementary State programs.

Section 2626, Pub. L. 87–415, title V, §503, as added Pub. L. 90–636, §13, Oct. 24, 1968, 82 Stat. 1356, provided for applications for supplementary State programs and conditions for such programs.

Section 2627, Pub. L. 87–415, title V, §504, as added Pub. L. 90–636, §13, Oct. 24, 1968, 82 Stat. 1356, provided for promulgation of rules and regulations.

Section 2628, Pub. L. 87–415, title V, §505, as added Pub. L. 90–636, §13, Oct. 24, 1968, 82 Stat. 1356, authorized appropriations for supplementary State programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VII, §714, formerly title VI, §614, Dec. 28, 1973, 87 Stat. 883; renumbered title VII, §714, Pub. L. 93–567, title I, §101, Dec. 31, 1974, 88 Stat. 1845, provided that the repeal is effective with respect to fiscal years after June 30, 1974.

CHAPTER 31—PUBLIC WORKS ACCELERATION PROGRAM

Sec.

2641. Congressional declaration of purpose.
2642. Acceleration of public works.
2643. Increase of State or local expenditures.

§2641. Congressional declaration of purpose

(a) The Congress finds that (1) certain communities and areas in the Nation are presently burdened by substantial unemployment and underemployment and have failed to share fully in the economic gains of the recovery from the recession of 1960–1961 and (2) action by the Federal Government is necessary, both to provide immediate useful work for the unemployed and underemployed in these communities and to help these communities, through improvement of their facilities, to become more conducive to industrial development and better places in which to live and work. The Nation has a backlog of needed public projects, and an acceleration of these projects now will not only increase

employment at a time when jobs are urgently required but will also meet longstanding public needs, improve community services, and enhance the health and welfare of citizens of the Nation.

(b) The Congress further finds that Federal assistance to stimulate public works investment in order to increase employment opportunities is most urgently needed in those areas, both urban and rural, which qualify as redevelopment areas because they suffer from persistent and chronic unemployment and economic underdevelopment, as well as in other areas which have suffered from substantial unemployment for a period of at least twelve months.

(Pub. L. 87–658, §2, Sept. 14, 1962, 76 Stat. 542.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 87–658, §1, Sept. 14, 1962, 76 Stat. 541, provided: "That this Act [enacting this chapter and amending section 462 of former Title 40, Public Buildings, Property, and Works, and section 1492 of this title] may be cited as the 'Public Works Acceleration Act'."

§2642. Acceleration of public works

(a) Eligible areas

For the purposes of this section the term "eligible area" means—

(1) those areas which the Secretary of Labor designates each month as having been areas of substantial unemployment for at least nine of the preceding twelve months; and

(2) those areas which are designated by the Secretary of Commerce under subsections (a) and (b) of section 2504 of this title as "redevelopment areas".

(b) Authority to initiate and accelerate projects; allocation of funds

The President is authorized to initiate and accelerate in eligible areas those Federal public works projects which have been authorized by Congress, and those public works projects of States and local governments for which Federal financial assistance is authorized under provisions of law other than this chapter, by allocating funds appropriated to carry out this section—

(1) to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the construction of Federal public works projects, and

(2) to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of laws authorizing Federal financial assistance to public works projects of State and local governments.

(c) Grants-in-aid; law governing; amount of Federal contributions

All grants-in-aid made from allocations made by the President under this section shall be made by the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such grants, and, except as otherwise provided in this subsection, shall be made in accordance with all of the provisions of such law except (1) provisions requiring allocation of funds among the States, and (2) limitations upon the total amount of such grants for any period. Notwithstanding any provisions of such law requiring the Federal contribution to the State or local government involved to be less than a fixed portion of the cost of a project, grants-in-aid may be made under authority of this section which bring the total of all Federal contributions to such project up to 50 per centum of the cost of such project, or up to 75 per centum of the cost of such project if the State or local government does not have economic and financial capacity to assume all of the additional financial obligations required.

(d) Authorization of appropriations

There is authorized to be appropriated not to exceed $900,000,000 to be allocated by the President in accordance with subsection (b) of this section, except that not less than $300,000,000 shall be allocated for public works projects in areas designated by the Secretary of Commerce as

redevelopment areas under subsection (b) of section 2504 of this title.

(e) Rules and regulations; considerations

The President shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the President shall consider among other relevant factors (1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment and (2) the income levels of families and the extent of underemployment in eligible areas.

(f) Restrictions on allocated funds

Funds allocated by the President under this section shall be available only for projects—

(1) which can be initiated or accelerated within a reasonably short period of time;

(2) which will meet an essential public need;

(3) a substantial portion of which can be completed within twelve months after initiation or acceleration;

(4) which will contribute significantly to the reduction of local unemployment;

(5) which are not inconsistent with locally approved comprehensive plans for the jurisdiction affected, wherever such plans exist.

(g) Limit on allocations available for projects in any one State

Not more than 10 per centum of all amounts allocated by the President under this section shall be made available for public works projects within any one State.

(h) Criteria determining substantial unemployment

The criteria to be used by the Secretary of Labor in determining areas of substantial unemployment for the purposes of paragraph (1) of subsection (a) of this section shall be the criteria established in section 6.3 of title 29 of the Code of Federal Regulations as in effect May 1, 1962.

(Pub. L. 87–658, §3, Sept. 14, 1962, 76 Stat. 542.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2504 of this title, referred to in subsecs. (a) and (d), was omitted from the Code.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11049

Ex. Ord. No. 11049, Sept. 14, 1962, 27 F.R. 9203, which provided for implementation of public works acceleration program, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§2643. Increase of State or local expenditures

(a) No part of any allocation made by the President under this chapter shall be made available during any fiscal year to any State or local government for any public works project, unless the proposed or planned total expenditure (exclusive of Federal funds) of such State or local government during such fiscal year for all its capital improvement projects is increased by an amount approximately equal to the non-Federal funds required to be made available for such public works project.

(b) No part of any allocation made by the President under this chapter shall be made available for any planning or construction, directly or indirectly, of any school or other educational facility.

(Pub. L. 87–658, §4, Sept. 14, 1962, 76 Stat. 543.)

CHAPTER 32—THIRD PARTY LIABILITY FOR HOSPITAL AND MEDICAL CARE

Sec.
2651. Recovery by United States.
2652. Regulations.
2653. Limitation or repeal of other provisions for recovery of hospital and medical care costs.

§2651. Recovery by United States

(a) Conditions; exceptions; persons liable; amount of recovery; subrogation; assignment

In any case in which the United States is authorized or required by law to furnish or pay for hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) to a person who is injured or suffers a disease, after the effective date of this Act, under circumstances creating a tort liability upon some third person (other than or in addition to the United States and except employers of seamen treated under the provisions of section 249 of this title) to pay damages therefor, the United States shall have a right to recover (independent of the rights of the injured or diseased person) from said third person, or that person's insurer, the reasonable value of the care and treatment so furnished, to be furnished, paid for, or to be paid for and shall, as to this right be subrogated to any right or claim that the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the reasonable value of the care and treatment so furnished, to be furnished, paid for, or to be paid for. The head of the department or agency of the United States furnishing such care or treatment may also require the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors, as appropriate, to assign his claim or cause of action against the third person to the extent of that right or claim.

(b) Recovery of cost of pay for member of uniformed services unable to perform duties

If a member of the uniformed services is injured, or contracts a disease, under circumstances creating a tort liability upon a third person (other than or in addition to the United States and except employers of seamen referred to in subsection (a)) for damages for such injury or disease and the member is unable to perform the member's regular military duties as a result of the injury or disease, the United States shall have a right (independent of the rights of the member) to recover from the third person or an insurer of the third person, or both, the amount equal to the total amount of the pay that accrues and is to accrue to the member for the period for which the member is unable to perform such duties as a result of the injury or disease and is not assigned to perform other military duties.

(c) United States deemed third party beneficiary under alternative system of compensation

(1) If, pursuant to the laws of a State that are applicable in a case of a member of the uniformed services who is injured or contracts a disease as a result of tortious conduct of a third person, there is in effect for such a case (as a substitute or alternative for compensation for damages through tort liability) a system of compensation or reimbursement for expenses of hospital, medical, surgical, or dental care and treatment or for lost pay pursuant to a policy of insurance, contract, medical or hospital service agreement, or similar arrangement, the United States shall be deemed to be a third-party beneficiary of such a policy, contract, agreement, or arrangement.

(2) For the purposes of paragraph (1)—

(A) the expenses incurred or to be incurred by the United States for care and treatment for an injured or diseased member as described in subsection (a) shall be deemed to have been incurred by the member;

(B) the cost to the United States of the pay of the member as described in subsection (b) shall be deemed to have been pay lost by the member as a result of the injury or disease; and

(C) the United States shall be subrogated to any right or claim that the injured or diseased member or the member's guardian, personal representative, estate, dependents, or survivors have under a policy, contract, agreement, or arrangement referred to in paragraph (1) to the extent of the

reasonable value of the care and treatment and the total amount of the pay deemed lost under subparagraph (B).

(d) Enforcement procedure; intervention; joinder of parties; State or Federal court proceedings

The United States may, to enforce a right under subsections (a), (b), and (c) (1) intervene or join in any action or proceeding brought by the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors, against the third person who is liable for the injury or disease or the insurance carrier or other entity responsible for the payment or reimbursement of medical expenses or lost pay; or (2) if such action or proceeding is not commenced within six months after the first day in which care and treatment is furnished or paid for by the United States in connection with the injury or disease involved, institute and prosecute legal proceedings against the third person who is liable for the injury or disease or the insurance carrier or other entity responsible for the payment or reimbursement of medical expenses or lost pay, in a State or Federal court, either alone (in its own name or in the name of the injured person, his guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased person, his guardian, personal representative, estate, dependents, or survivors.

(e) Veterans' exception

The provisions of this section shall not apply with respect to hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished by the Department of Veterans Affairs to an eligible veteran for a service-connected disability under the provisions of chapter 17 of title 38.

(f) Crediting of amounts recovered

(1) Any amount recovered under this section for medical care and related services furnished by a military medical treatment facility or similar military activity shall be credited to the appropriation or appropriations supporting the operation of that facility or activity, as determined under regulations prescribed by the Secretary of Defense.

(2) Any amount recovered under this section for the cost to the United States of pay of an injured or diseased member of the uniformed services shall be credited to the appropriation that supports the operation of the command, activity, or other unit to which the member was assigned at the time of the injury or illness, as determined under regulations prescribed by the Secretary concerned.

(g) Definitions

For the purposes of this section:

(1) The term "uniformed services" has the meaning given such term in section 101 of title 10.

(2) The term "tortious conduct" includes any tortious omission.

(3) The term "pay", with respect to a member of the uniformed services, means basic pay, special pay, and incentive pay that the member is authorized to receive under title 37 or any other law providing pay for service in the uniformed services.

(4) The term "Secretary concerned" means—

(A) the Secretary of Defense, with respect to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating as a service in the Navy);

(B) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy;

(C) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

(D) the Secretary of Commerce, with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.

(Pub. L. 87–693, §1, Sept. 25, 1962, 76 Stat. 593; Pub. L. 102–54, §13(q)(8), June 13, 1991, 105 Stat. 281; Pub. L. 104–201, div. A, title X, §1075(a), (b), Sept. 23, 1996, 110 Stat. 2661, 2663; Pub. L. 109–241, title IX, §902(m), July 11, 2006, 120 Stat. 568.)

EDITORIAL NOTES

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a), is the first day of the fourth month following September 1962, see section 4 of Pub. L. 87–693 set out as an Effective Date note below.

AMENDMENTS

2006—Subsec. (g)(4)(B). Pub. L. 109–241 substituted "of Homeland Security," for "of Transportation,".

1996—Subsec. (a). Pub. L. 104–201, §1075(b)(1), inserted "(independent of the rights of the injured or diseased person)" after "a right to recover" and ", or that person's insurer," after "from said third person".

Pub. L. 104–201, §1075(a)(1), (2), inserted "or pay for" after "required by law to furnish" and substituted ", to be furnished, paid for, or to be paid for" for "or to be furnished" in two places.

Subsecs. (b), (c). Pub. L. 104–201, §1075(a)(3), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 104–201, §1075(a)(4), (b)(2), substituted "a right under subsections (a), (b), and (c)" for "such right," in introductory provisions, inserted "or paid for" after "treatment is furnished" in par. (2), and inserted "or the insurance carrier or other entity responsible for the payment or reimbursement of medical expenses or lost pay" after "the third person who is liable for the injury or disease" in pars. (1) and (2).

Pub. L. 104–201, §1075(a)(2), redesignated subsec. (b) as (d).

Subsec. (e). Pub. L. 104–201, §1075(a)(2), redesignated subsec. (c) as (e).

Subsecs. (f), (g). Pub. L. 104–201, §1075(a)(5), added subsecs. (f) and (g).

1991—Subsec. (c). Pub. L. 102–54 substituted "Department of Veterans Affairs" for "Veterans' Administration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–201, div. A, title X, §1075(c), Sept. 23, 1996, 110 Stat. 2663, provided that: "The authority to collect pursuant to the amendments made by this section [amending this section] shall apply to expenses described in the first section of Public Law 87–693 [this section] (as amended by this section) that are incurred, or are to be incurred, by the United States on or after the date of the enactment of this Act [Sept. 23, 1996], whether the event from which the claim arises occurs before, on, or after that date."

EFFECTIVE DATE

Pub. L. 87–693, §4, Sept. 25, 1962, 76 Stat. 594, provided that: "This Act [enacting this chapter] becomes effective on the first day of the fourth month following the month [September 1962] in which enacted."

SHORT TITLE

Pub. L. 87–693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to this chapter, is popularly known as the "Federal Medical Care Recovery Act".

§2652. Regulations

(a) Determination and establishment of reasonable value of care and treatment

The President may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the reasonable value of the hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished.

(b) Settlement, release and waiver of claims

To the extent prescribed by regulations under subsection (a), the head of the department or agency of the United States concerned may (1) compromise, or settle and execute a release of, any claim which the United States has by virtue of the right established by section 2651 of this title; or (2) waive any such claim, in whole or in part, for the convenience of the Government, or if he determines that collection would result in undue hardship upon the person who suffered the injury or disease resulting in care or treatment described in section 2651 of this title.

(c) Damages recoverable for personal injury unaffected

No action taken by the United States in connection with the rights afforded under this legislation shall operate to deny to the injured person the recovery for that portion of his damage not covered hereunder.

(Pub. L. 87–693, §2, Sept. 25, 1962, 76 Stat. 593.)

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11060. DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS

Ex. Ord. No. 11060, Nov. 7, 1962, 27 F.R. 10925, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

Under and by virtue of the authority vested in me by Title 3 of the United States Code and by Section 2(a) of the Act of September 25, 1962 (Public Law 87–693) [subsec. (a) of this section], it is hereby ordered as follows:

SECTION 1. The Director of the Office of Management and Budget shall, for the purposes of the Act of September 25, 1962, [this chapter], from time to time, determine and establish rates that represent the reasonable value of hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished.

SEC. 2. Except as provided in Section 1 of this order, the Attorney General shall prescribe regulations to carry out the purposes of the Act of September 25, 1962 [this chapter].

§2653. Limitation or repeal of other provisions for recovery of hospital and medical care costs

This chapter does not limit or repeal any other provision of law providing for recovery by the United States of the costs of care and treatment described in section 2651 of this title.

(Pub. L. 87–693, §3, Sept. 25, 1962, 76 Stat. 594.)

CHAPTER 33—COMMUNITY MENTAL HEALTH CENTERS

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11280

Ex. Ord. No. 11280, May 11, 1966, 31 F.R. 7167, which established the President's Committee on Mental Retardation, was superseded by Ex. Ord. No. 11776, Mar. 28, 1974, 39 F.R. 11865, formerly set out preceding section 6000 of this title.

SUBCHAPTER I—UNIVERSITY-AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

§§2661 to 2666. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2661 to 2666 were superseded in the general amendment of part B of title I of Pub. L. 88–164 (this subchapter) by Pub. L. 94–103, title I, §105, title III, §303, Oct. 4, 1975, 89 Stat. 486, 507, effective with

respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975.

Section 2661, Pub. L. 88–164, title I, §121, Oct. 31, 1963, 77 Stat. 284; Pub. L. 90–170, §2(a), (b), (d), Dec. 4, 1967, 81 Stat. 527; Pub. L. 91–517, title II, §201(a), (b), Oct. 30, 1970, 84 Stat. 1325, related to authorization of appropriations.

Section 2661a, Pub. L. 88–164, title I, §122, as added Pub. L. 91–517, title II, §202, Oct. 30, 1970, 84 Stat. 1326; amended Pub. L. 93–45, title III, §301(a), June 18, 1973, 87 Stat. 95; Pub. L. 94–103, title I, §101(a), Oct. 4, 1975, 89 Stat. 486, related to demonstration and training grants and authorization of appropriations for such grants.

Section 2662, Pub. L. 88–164, title I, §123, formerly §122, Oct. 31, 1963, 77 Stat. 284; renumbered §123 and amended Pub. L. 91–517, title II, §§202, 203, Oct. 30, 1970, 84 Stat. 1326, related to applications for grants and conditions for approval by Secretary.

Section 2663, Pub. L. 88–164, title I, §124, formerly §123, Oct. 31, 1963, 77 Stat. 285; renumbered §124 and amended Pub. L. 91–517, title II, §§202, 204, Oct. 30, 1970, 84 Stat. 1326, related to amount of grants, including maximum payments, advances or reimbursement, and conditions for payment.

Section 2664, Pub. L. 88–164, title I, §125, formerly §124, Oct. 31, 1963, 77 Stat. 285; renumbered §125 and amended Pub. L. 91–517, title II, §§201(c), 202, 205, Oct. 30, 1970, 84 Stat. 1326, related to recovery of expenditures under certain conditions.

Section 2665, Pub. L. 88–164, title I, §126, formerly §125, Oct. 31, 1963, 77 Stat. 285; amended Pub. L. 90–170, §2(c), Dec. 4, 1967, 81 Stat. 527; renumbered §126 and amended Pub. L. 91–517, title II, §§201(c), 202, Oct. 30, 1970, 84 Stat. 1326, related to nonduplication of grants.

Section 2666, Pub. L. 88–164, title I, §127, as added Pub. L. 91–517, title II, §206, Oct. 30, 1970, 84 Stat. 1326, related to maintenance of effort.

SUBCHAPTER II—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

§2670. Repealed. Pub. L. 94–103, title III, §302(c), Oct. 4, 1975, 89 Stat. 507

Section, Pub. L. 88–164, title I, §130, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1316, contained the declaration of purpose for provisions respecting grants for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see Pub. L. 94–103, title III, §303, Oct. 4, 1975, 89 Stat. 507.

§§2671 to 2674. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2671, Pub. L. 88–164, title I, §131, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1317, which related to authorization of appropriations, was transferred to former section 6061 of this title.

A prior section 2671, Pub. L. 88–164, title I, §131, Oct. 31, 1963, 77 Stat. 286; Pub. L. 90–170, §3(a), Dec. 4, 1967, 81 Stat. 528, authorized appropriations through fiscal year ending June 30, 1970, for grants for construction of mental retardation facilities.

Section 2672, Pub. L. 88–164, title I, §132, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1317, which related to allotments to States, was transferred to former section 6062 of this title.

A prior section 2672, Pub. L. 88–164, title I, §132, Oct. 31, 1963, 77 Stat. 286; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–170, §3(c), Dec. 4, 1967, 81 Stat. 528, authorized allotments to States, transfers of allotments between States, and adjustment of allotments to a State for construction of facilities for mentally retarded.

Section 2673, Pub. L. 88–164, title I, §133, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1318, which related to the National Advisory Council on Services and Facilities for the Developmentally Disabled, was transferred to former section 6007 of this title.

A prior section 2673, Pub. L. 88–164, title I, §133, Oct. 31, 1963, 77 Stat. 287, provided that within six months after Oct. 31, 1963, the Secretary, after consultation with the Federal Hospital Council, prescribe to the States (1) what constitutes adequate services for mentally retarded persons, (2) the method of determining priority of projects, (3) standards of construction and equipment, and (4) that the State plan provide adequate facilities for the mentally retarded including persons unable to pay therefor.

Section 2674, Pub. L. 88–164, title I, §133, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1319, which related to State plans, was transferred to former section 6063 of this title.

A prior section 2674, Pub. L. 88–164, title I, §134, Oct. 31, 1963, 77 Stat. 287; Pub. L. 90–170, §5, Dec. 4, 1967, 81 Stat. 530, provided for submission to the Secretary of State plans for his approval, set out conditions for approval, and required notice and hearing before final disapproval.

§§2675, 2676. Repealed. Pub. L. 94–103, title I, §112, Oct. 4, 1975, 89 Stat. 492

Section 2675, Pub. L. 88–164, title I, §135, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1321, related to projects for construction, prescribing in: subsec. (a) for submission of application and its contents, subsec. (b) for approval by Secretary, subsec. (c) for a hearing prior to disapproval, and subsec. (d) for amendment of application.

A prior section 2675, Pub. L. 88–164, title I, §135, Oct. 31, 1963, 77 Stat. 288, provided for the submission of an application for approval by the Secretary, of projects for construction, set forth the contents of such application, provided for hearing prior to disapproval, and subjected to approval any amendment of an approved application.

Section 2676, Pub. L. 88–164, title I, §136, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1322; amended Pub. L. 92–157, title III, §303(b), Nov. 18, 1971, 85 Stat. 464, related to withholding of payments for construction. See section 6000 et seq. of this title.

A prior section 2676, Pub. L. 88–164, title I, §136, Oct. 31, 1963, 77 Stat. 289, authorized withholding by Secretary of payments for construction.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see Pub. L. 94–103, title III, §303, Oct. 4, 1975, 89 Stat. 507.

§§2677 to 2677c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2677, Pub. L. 88–164, title I, §137, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323, which related to payments to States for planning, administration, and services, was transferred to former section 6064 of this title.

A prior section 2677, Pub. L. 88–164, title I, §137, Oct. 31, 1963, 77 Stat. 289; Pub. L. 90–170, §3(b), Dec. 4, 1967, 81 Stat. 528, prohibited duplication of grants for the construction of any facility for the mentally retarded under the Public Health Service Act. See section 201 et seq. of this title.

Section 2677a, Pub. L. 88–164, title I, §138, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323, which related to withholding of payments for planning, administration, and services, was transferred to former section 6065 of this title.

Section 2677b, Pub. L. 88–164, title I, §139, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1323, which related to promulgation of regulations, was transferred to former section 6008 of this title.

Section 2677c, Pub. L. 88–164, title I, §140, as added Pub. L. 91–517, title I, §101(b), Oct. 30, 1970, 84 Stat. 1324, which related to nonduplication of payments, was transferred to former section 6066 of this title.

SUBCHAPTER IIA—PROFESSIONAL AND TECHNICAL SERVICES FOR COMMUNITY MENTAL RETARDATION FACILITIES

§§2678 to 2678d. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2678 to 2678d were superseded in the general amendment of part D of title I of Pub. L. 88–164 (this subchapter) by Pub. L. 94–103, title I, §120, title III, §303, Oct. 4, 1975, 89 Stat. 495, 507, effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975.

Section 2678, Pub. L. 88–164, title I, §141, as added Pub. L. 90–170, §4, Dec. 4, 1967, 81 Stat. 528, related to authorization, duration, amount and limitation of grants for professional and technical personnel and determination of grants by Secretary.

Section 2678a, Pub. L. 88–164, title I, §142, as added Pub. L. 90–170, §4, Dec. 4, 1967, 81 Stat. 529, related to applications and conditions for approval of grants, and limitations on the availability of grants.

Section 2678b, Pub. L. 88–164, title I, §143, as added Pub. L. 90–170, §4, Dec. 4, 1967, 81 Stat. 529, related to payments of grants and adjustments.

Section 2678c, Pub. L. 88–164, title I, §144, as added Pub. L. 90–170, §4, Dec. 4, 1967, 81 Stat. 529, related to regulations.

Section 2678d, Pub. L. 88–164, title I, §145, as added Pub. L. 90–170, §4, Dec. 4, 1967, 81 Stat. 529, related to authorization of appropriations.

SUBCHAPTER III—COMMUNITY MENTAL HEALTH CENTERS

§§2681 to 2688j–1. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2681 to 2688j–1 were superseded in the general amendment of title II of Pub. L. 88–164, by Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 309.

Section 2681, Pub. L. 88–164, title II, §201, Oct. 31, 1963, 77 Stat. 290; Pub. L. 90–31, §2(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, §101(a), Mar. 13, 1970, 84 Stat. 54; Pub. L. 93–45, title II, §202(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(1), July 29, 1975, 89 Stat. 352, authorized appropriations from fiscal year ending June 30, 1965, through fiscal year ending June 30, 1975, for grants for construction of community mental health centers.

Section 2682, Pub. L. 88–164, title II, §202, Oct. 31, 1963, 77 Stat. 290; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 91–211, title I, §102(a), Mar. 13, 1970, 84 Stat. 54, set forth determination of amount, transfer, and adjustment of allotments to States.

Section 2683, Pub. L. 88–164, title II, §203, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427, authorized Secretary to promulgate regulations relating to adequacy of services, priority of projects, standards of construction and contents of State plan.

Section 2684, Pub. L. 88–164, title II, §204, Oct. 31, 1963, 77 Stat. 291; Pub. L. 89–105; §2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–31, §4(b), June 24, 1967, 81 Stat. 79; Pub. L. 92–255, title IV, §403(b), Mar. 21, 1972, 86 Stat. 77, set forth requirements for submission and approval of State plan.

Section 2685, Pub. L. 88–164, title II, §205, Oct. 31, 1963, 77 Stat. 292; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427, set out prerequisites for approval of construction projects.

Section 2686, Pub. L. 88–164, title II, §206, Oct. 31, 1963, 77 Stat. 293; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427, authorized Secretary to withhold payments for projects under specified conditions and procedures.

Section 2687, Pub. L. 88–164, title II, §207, Oct. 31, 1963, 77 Stat. 294; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427; Pub. L. 90–31, §2(b), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, §101(b), Mar. 13, 1970, 84 Stat. 54; Pub. L. 93–45, title II, §202(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(2), July 29, 1975, 89 Stat. 352, prohibited duplication of grants under the Public Health Service Act for construction of centers unless Secretary determined nonavailability of funds under provisions authorizing appropriations for construction.

Section 2688, Pub. L. 88–164, title II, §220, as added Pub. L. 89–105, §2(b), Aug. 4, 1965, 79 Stat. 428; amended Pub. L. 91–211, title II, §201(a), Mar. 13, 1970, 84 Stat. 56, set forth authorization, duration and amount of grants for initial costs of professional and technical personnel of centers.

Section 2688a, Pub. L. 88–164, title II, §221, as added Pub. L. 89–105, §2(b), Aug. 4, 1965, 79 Stat. 428; amended Pub. L. 90–31, §3(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title II, §§203, 204(c), Mar. 13, 1970, 84 Stat. 57; Pub. L. 92–255, title IV, §401(a), Mar. 21, 1972, 86 Stat. 76; Pub. L. 93–45, title II, §203(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(3), July 29, 1975, 89 Stat. 352, set forth prerequisites and conditions upon grants for initial costs of staffing of centers.

Section 2688b, Pub. L. 88–164, title II, §222, as added Pub. L. 89–105, §2(b), Aug. 4, 1965, 79 Stat. 429, authorized Secretary to prescribe the manner, terms and conditions for staffing grants.

Section 2688c, Pub. L. 88–164, title II, §223, as added Pub. L. 89–105, §2(b), Aug. 4, 1965, 79 Stat. 429, authorized Secretary to prescribe regulations for grants for initial costs of personnel of centers.

Section 2688d, Pub. L. 88–164, title II, §224, as added Pub. L. 89–105, §2(b), Aug. 4, 1965, 79 Stat. 429; amended Pub. L. 90–31, §3(b), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title II, §§202, 204(a), (b), Mar. 13, 1970, 84 Stat. 56, 57; Pub. L. 93–45, title II, §203(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(4), July 29, 1975, 89 Stat. 352, authorized appropriations from fiscal year ending June 30, 1966 through fiscal year ending June 30, 1975, for initial grants for personnel of centers.

Section 2688e, Pub. L. 88–164, title II, §240, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1006, set forth Congressional declaration of purposes for grants for facilities for alcoholic rehabilitation.

Section 2688f, Pub. L. 88–164, title II, §241, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1007; amended Pub. L. 91–211, title III, §302, Mar. 13, 1970, 84 Stat. 58, authorized grants for the construction of facilities for the prevention and treatment of alcoholism and set forth procedures, and terms and conditions for such grants.

Section 2688g, Pub. L. 88–164, title II, §242, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1008; amended Pub. L. 91–211, title III, §303(a), Mar. 13, 1970, 84 Stat. 58, authorized grants for the staffing of facilities for alcoholism prevention and treatment and set forth procedures and conditions for such grants.

Section 2688h, Pub. L. 88–164, title II, §243, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1008; amended Pub. L. 91–211, title III, §302, Mar. 13, 1970, 84 Stat. 58; Pub. L. 91–616, title III, §332, Dec. 31, 1970, 84 Stat. 1853, authorized grants for specialized facilities and personnel for the prevention and treatment of alcoholism and set forth procedures and conditions for such grants.

Section 2688i, Pub. L. 88–164, title II, §244, as added Pub. L. 90–574, title III §301, Oct. 15, 1968, 82 Stat. 1009, set forth eligibility of projects for grants for construction or initial staffing of facilities for the prevention and treatment of alcoholism.

Section 2688j, Pub. L. 88–164, title II, §245, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1009, set forth manner, terms and conditions for grants for alcoholism treatment and prevention.

Section 2688j–1, Pub. L. 88–164, title II, §246, as added Pub. L. 91–211, title III, §304, Mar. 13, 1970, 84 Stat. 59; amended Pub. L. 93–45, title II, §204(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(5)(A), July 29, 1975, 89 Stat. 352, authorized grants for developing specialized training programs, training personnel, conducting surveys and field trials, and programs of special significance in alcoholism prevention and treatment.

§2688j–2. Repealed. Pub. L. 93–282, title III, §302, May 14, 1974, 88 Stat. 137

Section, Pub. L. 88–164, title II, §247, formerly §246, as added Pub. L. 90–574, title III, §301, Oct. 15, 1968, 82 Stat. 1009; renumbered §247, Pub. L. 91–211, title III, §304, Mar. 13, 1970, 84 Stat. 59; amended Pub. L. 91–616, title III, §311, Dec. 31, 1970, 84 Stat. 1851; Pub. L. 93–45, title II, §204(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(5)(B), July 29, 1975, 89 Stat. 352, related to grants and contracts for the prevention and treatment of alcohol abuse and alcoholism. See section 4577 of this title.

§§2688k to 2688*o*. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2688k to 2688o were superseded in the general amendment of title II of Pub. L. 88–164 by Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 309.

Section 2688k, Pub. L. 88–164, title II, §251, as added Pub. L. 90–574, title III, §302, Oct. 15, 1968, 82 Stat. 1009; amended Pub. L. 91–211, title III, §302, March 13, 1970, 84 Stat. 58; Pub. L. 91–513, title I, §1(a)(1), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 92–255, title IV, §401(b), Mar. 21, 1972, 86 Stat. 76, authorized grants for construction, staffing, etc., of narcotic addiction, drug abuse and drug dependence prevention and rehabilitation facilities and set forth procedures and conditions for such grants.

Section 2688l, Pub. L. 88–164, title II, §252, as added Pub. L. 90–574, title III, §302, Oct. 15, 1968, 82 Stat. 1010; amended Pub. L. 91–211, title III, §305(a), Mar. 13, 1970, 84 Stat. 59; Pub. L. 91–513, title I, §1(a)(1), (2), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 93–45, title II, §205(a), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(6)(A), July 29, 1975, 89 Stat. 352, authorized grants for developing specialized training programs, training personnel, conducting surveys and field trails, and programs of special significance in narcotic addiction, etc., prevention and rehabilitation.

Section 2688l–1, Pub. L. 88–164, title II, §253, as added Pub. L. 91–513, title I, §1(c), Oct. 27, 1970, 84 Stat. 1238; amended Pub. L. 93–45, title II, §205(b), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(6)(B), July 29, 1975, 89 Stat. 353, authorized grants and contracts and set out appropriations for programs in drug abuse education.

Section 2688m, Pub. L. 88–164, title II, §254, formerly §253, as added Pub. L. 90–574, title III, §302, Oct. 15, 1968, 82 Stat. 1010; and renumbered §254 and amended Pub. L. 91–513, title I, §1(a)(1), (c), Oct. 27, 1970, 84 Stat. 1238, set forth eligibility of projects for grants for construction or initial staffing of facilities for the prevention and rehabilitation of narcotic addition, etc.

Section 2688n, Pub. L. 88–164, title II, §255, formerly §254, as added Pub. L. 90–574, title III, §302, Oct. 15, 1968, 82 Stat. 1010; and renumbered §255, Pub. L. 91–513, title I, §1(c), Oct. 27, 1970, 84 Stat. 1238, set forth manner, terms and conditions for grants for narcotic addiction; etc., prevention and rehabilitation.

Section 2688n–1, Pub. L. 88–164, title II, §256, as added Pub. L. 91–513, title I, §1(d), Oct. 27, 1970, 84 Stat. 1239; amended Pub. L. 92–255, title IV, §401(c), Mar. 21, 1972, 86 Stat. 76; Pub. L. 93–45, title II, §205(c), June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(6)(C), July 29, 1975, 89 Stat. 353, authorized grants for special projects for narcotic addicts and drug dependent persons treatment or rehabilitation and set forth procedures and conditions for such grants.

Section 2688o, Pub. L. 88–164, title II, §261, as added Pub. L. 90–574, title III, §303(a), Oct. 15, 1968, 82 Stat. 1010; amended Pub. L. 91–211, title III, §301, Mar. 13, 1970, 84 Stat. 57; Pub. L. 91–513, title I, §1(b)(1)–(3), Oct. 27, 1970, 84 Stat. 1238; Pub. L. 93–45, title II, §206, June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(7), July 29, 1975, 89 Stat. 353, authorized appropriations from the fiscal year ending June 30, 1969 through the fiscal year ending June 30, 1975, for project grants for prevention and treatment of alcoholism and prevention and treatment of narcotic addiction, etc., and set out provisions relating to availability of appropriations.

§2688p. Repealed. Pub. L. 91–296, title IV, §401(b)(2), June 30, 1970, 84 Stat. 352

Section, Pub. L. 88–164, title II, §262, as added Pub. L. 90–574, title III, §303(a), Oct. 15, 1968, 82 Stat. 1010, authorized use of up to 1 per centum of appropriated funds by Secretary for evaluation of programs authorized by this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 91–296, title IV, §401(b)(2), June 30, 1970, 84 Stat. 352, provided that the repeal by that section is effective with respect to appropriations for fiscal years beginning after June 30, 1970.

§§2688q to 2688v. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 2688q to 2688v were superseded in the general amendment of title II of Pub. L. 88–164, by Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 309.

Section 2688q, Pub. L. 88–164, title II, §263, as added Pub. L. 90–574, title III, §303(a), Oct. 15, 1968, 82 Stat. 1011, required consent for alcoholics, narcotic addicts, and persons with drug abuse and drug dependence problems to be subjects of research.

Section 2688r, Pub. L. 88–164, title II, §264, as added Pub. L. 91–211, title V, §501, Mar. 13, 1970, 84 Stat. 61; amended Pub. L. 91–513, title I, §1(b)(3), Oct. 27, 1970, 84 Stat. 1238, authorized grants for consultation services for community mental health centers, alcoholism prevention and treatment facility, etc., and set forth conditions for such grants.

Section 2688s, Pub. L. 88–164, title II, §265, as added Pub. L. 91–211, title V, §502, Mar. 13, 1970, 84 Stat. 62, defined "technical personnel".

Section 2688t, Pub. L. 88–164, title II, §266, as added Pub. L. 91–211, title V, §503(a), Mar. 13, 1970, 84 Stat. 62; amended Pub. L. 91–616, title IV, §402, Dec. 31, 1970, 84 Stat. 1854; Pub. L. 92–255, title V, §502(b), Mar. 21, 1972, 86 Stat. 85, required approval of advisory council concerned with area of interest for grants for construction and staffing of centers and facilities.

Section 2688u, Pub. L. 88–164, title II, §271, as added Pub. L. 91–211, title IV, §401, Mar. 13, 1970, 84 Stat. 60; amended Pub. L. 93–45, title II, §207, June 18, 1973, 87 Stat. 94; Pub. L. 94–63, title VII, §701(e)(8), July 29, 1975, 89 Stat. 353, authorized grants for construction and staffing of treatment facilities concerned with the mental health of children and set forth conditions for such grants.

Section 2688v, Pub. L. 88–164, title II, §272, as added Pub. L. 91–211, title IV, §401, Mar. 13, 1970, 84 Stat. 61, authorized grants for developing specialized training programs, training personnel, and conducting surveys and field trials in services concerned with the mental health of children.

PART A—PLANNING AND OPERATIONS ASSISTANCE

§§2689 to 2689e. Repealed. Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560

Section 2689, Pub. L. 88–164, title II, §201, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 309; amended Pub. L. 95–622, title I, §104(a)(1), (b), (c)(1), Nov. 9, 1978, 92 Stat. 3414, 3415, set forth general requirements for community mental health centers.

A prior section 201 of Pub. L. 88–164, title II, was classified to section 2681 of this title.

Section 2689a, Pub. L. 88–164, title II, §202, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 312; amended Pub. L. 95–83, title III, §308(a), Aug. 1, 1977, 91 Stat. 395; Pub. L. 95–622, title I, §102(a), Nov. 9, 1978, 92 Stat. 3412; Pub. L. 96–398, title VII, §701(a), Oct. 7, 1980, 94 Stat. 1605, set forth prerequisites, amounts, etc., for grants for planning center programs.

A prior section 202 of Pub. L. 88–164, title II, was classified to section 2682 of this title.

Section 2689b, Pub. L. 88–164, title II, §203, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 312; amended Pub. L. 95–83, title III, §308(b), (h), Aug. 1, 1977, 91 Stat. 396; Pub. L. 95–622, title I, §§102(b), 103(a), (b), formerly §103, §110(b)(1), formerly §110(b), Nov. 9, 1978, 92 Stat. 3412, 3413, 3420, renumbered Pub. L. 96–32, §8(a)(1), (2), July 10, 1979, 93 Stat. 85; amended Pub. L. 96–398, title VII,

§701(b), Oct. 7, 1980, 94 Stat. 1605, set forth provisions respecting grants for initial operation of centers and related public or nonprofit private entities.

A prior section 203 of Pub. L. 88–164, title II, was classified to section 2683 of this title.

Section 2689c, Pub. L. 88–164, title II, §204, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 314; amended Pub. L. 95–83, title III, §308(c), Aug. 1, 1977, 91 Stat. 396; Pub. L. 95–622, title I, §§102(c), 104(a)(2), Nov. 9, 1978, 92 Stat. 3412, 3415; Pub. L. 96–398, title VII, §701(c), Oct. 7, 1980, 94 Stat. 1605, related to annual grants for consultation and education services of centers and related entities.

A prior section 204 of Pub. L. 88–164, title II, was classified to section 2684 of this title.

Section 2689d, Pub. L. 88–164, title II, §205, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 316; amended Pub. L. 95–83, title III, §308(d), Aug. 1, 1977, 91 Stat. 396; Pub. L. 95–622, title I, §102(d), Nov. 9, 1978, 92 Stat. 3412, set forth prerequisites, scope, etc., for conversion grants for related entities.

A prior section 205 of Pub. L. 88–164, title II, was classified to section 2685 of this title.

Section 2689e, Pub. L. 88–164, title II, §206, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 316; amended Pub. L. 95–83, title III, §308(i), Aug. 1, 1977, 91 Stat. 396; Pub. L. 95–622, title I, §§104(c)(2), 105, 106, Nov. 9, 1978, 92 Stat. 3416; Pub. L. 96–32, §8(b), July 10, 1979, 93 Stat. 85; Pub. L. 96–398, title VII, §701(e), Oct. 7, 1980, 94 Stat. 1605, set forth provisions respecting general requirements for grants.

A prior section 206 of Pub. L. 88–164, title II, was classified to section 2686 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 238l of this title.

SHORT TITLE

Section 245 of title II of Pub. L. 88–164, as added by section 303 of Pub. L. 94–63, title III, July 29, 1975, 89 Stat. 333, which provided that title II of Pub. L. 88–164 [this subchapter] was to be cited as the "Community Mental Health Centers Act", was repealed by section 902(e)(2)(B) of Pub. L. 97–35.

PART B—FINANCIAL DISTRESS GRANTS

§§2689f to 2689h. Repealed. Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560

Section 2689f, Pub. L. 88–164, title II, §211, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 321; amended Pub. L. 95–622, title I, §110(a), Nov. 9, 1978, 92 Stat. 3420, set forth eligibility requirements for financial distress grants for operation of centers.

Section 2689g, Pub. L. 88–164, title II, §212, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 321; amended Pub. L. 95–622, title I, §102(e), Nov. 9, 1978, 92 Stat. 3412; Pub. L. 96–398, title VII, §701(d)(2), Oct. 7, 1980, 94 Stat. 1605, related to general requirements for grants.

Section 2689h, Pub. L. 88–164, title II, §213, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 322; amended Pub. L. 95–83, title III, §308(e), Aug. 1, 1977, 91 Stat. 396; Pub. L. 95–622, title I, §102(f), Nov. 9, 1978, 92 Stat. 3412; Pub. L. 96–398, title VII, §701(d)(1), Oct. 7, 1980, 94 Stat. 1605, set forth authorization of appropriations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 238l of this title.

PART C—FACILITIES ASSISTANCE

§§2689i to 2689*l*. Repealed. Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560

Section 2689i, Pub. L. 88–164, title II, §221, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 322; amended Pub. L. 94–273, §44, Apr. 21, 1976, 90 Stat. 381, set forth provisions respecting Federal share, etc., for facilities assistance.

A prior section 221 of Pub. L. 88–164, title II, was classified to section 2688a of this title.

Section 2689j, Pub. L. 88–164, title II, §222, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 323, related to approval of projects, and procedures applicable.

A prior section 222 of Pub. L. 88–164, title II, was classified to section 2688b of this title.

Section 2689k, Pub. L. 88–164, title II, §223, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 325, related to payments for projects.

A prior section 223 of Pub. L. 88–164, title II, was classified to section 2688c of this title.

Section 2689l, Pub. L. 88–164, title II, §224, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 326, related to judicial review of projects.

A prior section 224 of Pub. L. 88–164, title II, was classified to section 2688d of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 238l of this title.

§2689m. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 88–164, title II, §225, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 326; amended Pub. L. 95–622, title I, §110(c), Nov. 9, 1978, 92 Stat. 3420, which related to prerequisites, amount, procedures, etc., for recovery of payments by the United States, was transferred to section 238l of this title.

§§2689n to 2689p. Repealed. Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560

Section 2689n, Pub. L. 88–164, title II, §226, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 327, related to nonduplication of grants.

Section 2689o, Pub. L. 88–164, title II, §227, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 327, related to allotments to States.

Section 2689p, Pub. L. 88–164, title II, §228, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 327; amended Pub. L. 95–83, title III, §308(f), Aug. 1, 1977, 91 Stat. 396, set forth authorization of appropriations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 238l of this title.

PART D—RAPE PREVENTION AND CONTROL

§2689q. Repealed. Pub. L. 96–398, title VI, §601(f), Oct. 7, 1980, 94 Stat. 1603

Section, Pub. L. 88–164, title II, §231, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 328; amended Pub. L. 95–83, title III, §308(g), Aug. 1, 1977, 91 Stat. 396; Pub. L. 95–622, title I, §§102(g), 108, Nov. 9, 1978, 92 Stat. 3412, 3417, set forth establishment, functions, etc., of the National Center for the Prevention and Control of Rape. See section 9511 et seq. of this title.

PART E—GENERAL PROVISIONS

§§2689r to 2689aa. Repealed. Pub. L. 97–35, title IX, §902(e)(2)(B), Aug. 13, 1981, 95 Stat. 560

Section 2689r, Pub. L. 88–164, title II, §235, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 329; amended Pub. L. 96–88, title V, §509(b) Oct. 17, 1979, 93 Stat. 695, defined terms applicable to subchapter.

Section 2689s, Pub. L. 88–164, title II, §236, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 329, set forth requirements respecting promulgation of regulations.

Section 2689t, Pub. L. 88–164, title II, §237, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 330; amended Pub. L. 96–79, title I, §115(k)(1), Oct. 4, 1979, 93 Stat. 610, related to required provisions of State plans.

Section 2689u, Pub. L. 88–164, title II, §238, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 331; amended Pub. L. 95–622, title I, §107, Nov. 9, 1978, 92 Stat. 3417, set forth provisions respecting catchment areas of centers.

Section 2689v, Pub. L. 88–164, title II, §239, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 332, related to State control of administration.

Section 2689w, Pub. L. 88–164, title II, §240, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 332, set forth recordkeeping requirements.

A prior section 240 of Pub. L. 88–164, title II, was classified to section 2688e of this title.

Section 2689x, Pub. L. 88–164, title II, §241, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 332, related to exclusions from determination of amount of grant.

A prior section 241 of Pub. L. 88–164, title II, was classified to section 2688f of this title.

Section 2689y, Pub. L. 88–164, title II, §242, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 332, related to determination of poverty area.

A prior section 242 of Pub. L. 88–164, title II, was classified to section 2688g of this title.

Section 2689z, Pub. L. 88–164, title II, §243, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 333, required protection of personal rights under grants.

A prior section 243 of Pub. L. 88–164, title II, was classified to section 2688h of this title.

Section 2689aa, Pub. L. 88–164, title II, §244, as added Pub. L. 94–63, title III, §303, July 29, 1975, 89 Stat. 333, related to reimbursement of centers for mental health services.

A prior section 244 of Pub. L. 88–164, title II, was classified to section 2688i of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 902(h) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 238l of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§2691. Repealed. Pub. L. 94–103, title III, §302(c), Oct. 4, 1975, 89 Stat. 507

Section, Pub. L. 88–164, title IV, §401, Oct. 31, 1963, 77 Stat. 296; Pub. L. 90–31, §4(a), June 24, 1967, 81 Stat. 79; Pub. L. 91–211, title I, §§102(b), 104, 105, Mar. 13, 1970, 84 Stat. 54–56; Pub. L. 91–517, title I, §102(a), Oct. 30, 1970, 84 Stat. 1324; Pub. L. 94–63, title III, §305(a), July 29, 1975, 89 Stat. 333, related to definitions, Federal percentages, and promulgation of percentages.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to appropriations under Pub. L. 94–103 for fiscal years beginning after June 30, 1975, see Pub. L. 94–103, title III, §303, Oct. 4, 1975, 89 Stat. 507.

§2692. Repealed. Pub. L. 91–211, title I, §104, Mar. 13, 1970, 84 Stat. 55

Section, Pub. L. 88–164, title IV, §402, Oct. 31, 1963, 77 Stat. 297; Pub. L. 89–105, §2(a), Aug. 4, 1965, 79 Stat. 427, provided for State standards for variable Federal share of cost.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 91–211, title I, §104, Mar. 13, 1970, 84 Stat. 55, provided that the repeal by that section is effective with respect to projects under subchapter II of this chapter or part A of subchapter III of this chapter approved after June 30, 1970.

§§2693 to 2697b. Repealed. Pub. L. 94–103, title III, §302(c), Oct. 4, 1975, 89 Stat. 507

Section 2693, Pub. L. 88–164, title IV, §403, Oct. 31, 1963, 77 Stat. 297; Pub. L. 90–574, title V, §502, Oct. 15, 1968, 82 Stat. 1012; Pub. L. 91–211, title I, §103, Mar. 13, 1970, 84 Stat. 55; Pub. L. 91–517, title I, §102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, §305(b), July 29, 1975, 89 Stat. 334, related to payments for construction, providing in: subsec. (a) for installments, payments to applicants, withholding of payments, and maximum amounts; subsec. (b) for amendment of application and revision of estimate; and subsec. (c) for use of allotments for cost of administration and limitation of amount.

Section 2694, Pub. L. 88–164, title IV, §404, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, §102(c), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, §305(c), July 29, 1975, 89 Stat. 334, related to appeals, petition, record, jurisdiction of courts of appeals, conclusiveness of findings, review by Supreme Court, and stay of administrative action. See section 6000 et seq. of this title.

Section 2695, Pub. L. 88–164, title IV, §405, Oct. 31, 1963, 77 Stat. 298; Pub. L. 91–517, title I, §102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, §305(d), July 29, 1975, 89 Stat. 334, related to recovery of expenditures under certain conditions. See section 6000 et seq. of this title.

Section 2696, Pub. L. 88–164, title IV, §406, Oct. 31, 1963, 77 Stat. 299; Pub. L. 91–517, title I, §102(b), Oct. 30, 1970, 84 Stat. 1325; Pub. L. 94–63, title III, §305(e), July 29, 1975, 89 Stat. 334, related to State control of operations. See section 6000 et seq. of this title.

Section 2697, Pub. L. 88–164, title IV, §408, as added Pub. L. 89–105, §3, Aug. 4, 1965, 79 Stat. 429, related to records and audit. See section 6000 et seq. of this title.

Section 2697a, Pub. L. 88–164, title IV, §409, as added Pub. L. 90–574, title III, §304, Oct. 15, 1968, 82 Stat. 1011, related to determination of amount of grants and exclusion of duplicated grants. See section 6000 et seq. of this title.

Section 2697b, Pub. L. 88–164, title IV, §410, as added Pub. L. 91–211, title V, §504, Mar. 13, 1970, 84 Stat. 62, related to determination of poverty area.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective with request to appropriations under Pub. L. 94–103, for fiscal years beginning after June 30, 1975, see section 303 of Pub. L. 94–103.

SUBCHAPTER V—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN

§§2698 to 2698b. Repealed. Pub. L. 91–230, title VI, §662(4), Apr. 13, 1970, 84 Stat. 188

Section 2698, Pub. L. 88–164, title V, §501, as added Pub. L. 90–170, §7, Dec. 4, 1967, 81 Stat. 530, related to appropriations and grants for training of personnel.

Section 2698a, Pub. L. 88–164, title V, §502, as added Pub. L. 90–170, §7, Dec. 4, 1967, 81 Stat. 530, related to grants for research and demonstration projects, payment thereof, and evaluation of such projects.

Section 2698b, Pub. L. 88–164, title V, §503, as added Pub. L. 90–170, §7, Dec. 4, 1967, 81 Stat. 531, related to appointment of an advisory committee and compensation of its members and appointees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 91–230, title VI, §662, Apr. 13, 1970, 84 Stat. 188, provided that the repeal by that section is effective July 1, 1971.

CHAPTER 34—ECONOMIC OPPORTUNITY PROGRAM

Sec.

2701 to 2703. Repealed or Omitted.
2704. Discontinued Job Corps centers; utilization for special youth programs.
2705 to 2707. Repealed or Omitted.

SUBCHAPTER I—RESEARCH AND DEMONSTRATIONS

PART A—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

2711 to 2729. Repealed.

PART B—WORK AND TRAINING FOR YOUTH AND ADULTS

2731 to 2749. Repealed or Omitted.

PART C—FEDERAL WORK-STUDY PROGRAMS

2751 to 2757. Transferred or Repealed.

PART D—SPECIAL IMPACT PROGRAMS

2761 to 2768. Omitted or Repealed.

PART E—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

2769 to 2769f. Repealed.

PART F—DURATION OF PROGRAMS

2771. Repealed.

SUBCHAPTER II—URBAN AND RURAL COMMUNITY ACTION PROGRAMS

2781. Repealed.

PART A—COMMUNITY ACTION AGENCIES AND PROGRAMS

2782 to 2797. Omitted or Repealed.

PART B—FINANCIAL ASSISTANCE TO COMMUNITY ACTIONS PROGRAMS AND RELATED ACTIVITIES

2801 to 2815. Repealed.

PART C—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

2821 to 2830. Omitted or Repealed.

PART D—GENERAL AND TECHNICAL PROVISIONS

2831 to 2837. Omitted or Repealed.

SUBCHAPTER III—SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

PART A—RURAL LOAN PROGRAM

2841, 2851 to 2856. Repealed.

PART B—ASSISTANCE FOR MIGRANT, AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

2861 to 2865. Repealed.

PART C—DURATION OF PROGRAM

2871. Repealed.

PART D—INDEMNITY PAYMENTS TO DAIRY FARMERS

2881. Repealed.

SUBCHAPTER IV—ASSISTANCE FOR MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

2901 to 2907. Repealed.

SUBCHAPTER V—HEADSTART AND FOLLOW THROUGH

2921 to 2925. Repealed or Omitted.

PART A—HEADSTART PROGRAMS

2928 to 2928n. Repealed or Omitted.

PART B—FOLLOW THROUGH PROGRAMS

2929 to 2929c. Repealed.

PART C—GENERAL PROVISIONS

2930 to 2930f. Repealed.

PART D—DAY CARE PROJECTS

2931 to 2933. Repealed.

SUBCHAPTER VI—ADMINISTRATION AND COORDINATION

PART A—ADMINISTRATION

2941 to 2951, 2961 to 2971g. Repealed.

PART B—COORDINATION

2972 to 2980. Repealed.

SUBCHAPTER VII—COMMUNITY ECONOMIC DEVELOPMENT

2981 to 2981c. Repealed.

PART A—URBAN AND RURAL SPECIAL IMPACT PROGRAMS

2982 to 2982d. Repealed or Omitted.

PART B—SPECIAL RURAL PROGRAMS

2983 to 2983b. Repealed.

PART C—DEVELOPMENT LOANS TO COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS

2984 to 2984b. Repealed or Omitted.

PART D—SUPPORTIVE PROGRAMS AND ACTIVITIES

2985 to 2985g. Repealed.

SUBCHAPTER VIII—NATIVE AMERICAN PROGRAMS

2991. Short title.
2991a. Congressional statement of purpose.
2991b. Financial assistance for Native American projects.
2991b–1. Loan fund; demonstration project.
2991b–2. Establishment of Administration for Native Americans.
2991b–3. Grant program to ensure survival and continuing vitality of Native American languages.
2991c. Technical assistance and training.
2991d. Research, demonstration, and pilot projects.
2991d–1. Panel review of applications for assistance.
2991e. Announcement of research, demonstration, or pilot projects.
2991f. Submission of plans to State and local officials.
2991g. Records and audits.
2991h. Appeals, notice, and hearing.
2992. Evaluation of projects.
2992–1. Annual report.
2992a. Labor standards.
2992a–1. Staff.
2992b. Administration.
2992b–1. Additional requirements applicable to rulemaking.
2992c. Definitions.
2992d. Authorization of appropriations.
2993 to 2994d. Repealed.

SUBCHAPTER IX—EVALUATION

2995 to 2995d. Repealed or Omitted.

SUBCHAPTER X—LEGAL SERVICES CORPORATION

2996. Congressional findings and declaration of purpose.
2996a. Definitions.
2996b. Legal Services Corporation.
2996c. Board of Directors.
2996d. Officers and employees.
2996e. Powers, duties, and limitations.
2996f. Grants and contracts.
2996g. Records and reports.
2996h. Audits.
2996i. Financing.
2996j. Special limitations.
2996k. Coordination.
2996*l*. Reservation of right to repeal, alter, or amend.

§2701. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, §2, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89–794, title VI, §614(b), Nov. 8, 1966, 80 Stat. 1472; Pub. L. 95–568, §17(a)(1), Nov. 2, 1978, 92 Stat. 2439, set forth Congressional findings and declaration of purpose for the Economic Opportunity Act of 1964.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–568, §1, Nov. 2, 1978, 92 Stat. 2425, provided: "That this Act [enacting sections 2716, 2856, 2929b to 2929b–3, 2979a, 2981b, 2981c, and 2995c of this title, amending this section, sections 2712, 2713, 2790, 2791, 2796, 2808, 2809, 2812, 2814, 2823 to 2825, 2828, 2830, 2833 to 2837, 2841, 2855, 2901 to 2906, 2928a to 2928h, 2928l to 2928n, 2929, 2929a, 2932, 2933, 2941 to 2943, 2945, 2946, 2948, 2950, 2951, 2961, 2965, 2970, 2971g, 2973, 2974, 2977, 2982a to 2982c, 2983a, 2984, 2984a, 2985a, 2985e, 2991b, 2991f, 2992b, 2992d, 2995, and 2995a of this title, repealing sections 2829, 2832, 2861 to 2865, 2871, 2929b, 2971, and 2985c–1 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Economic Opportunity Amendments of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–222, §1, Dec. 28, 1977, 91 Stat. 1619, provided that: "This Act [amending sections 2996, 2996c, and 2996e to 2996j of this title, and enacting provisions set out as notes under sections 2996, 2996f and 2996i of this title] may be cited as the 'Legal Services Corporation Act Amendments of 1977'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–341, §1, July 6, 1976, 90 Stat. 803, provided that: "This Act [enacting section 2985c–1 of this title, amending sections 2706, 2707, 2712, 2714, 2781, 2790, 2809, 2812, 2814, 2828, 2829, 2855, 2901, 2902, 2928c, 2928f, 2928l, 2928n, 2930e, 2930f, 2941, 2942, 2943, 2944, 2948, 2951, 2971f, 2971g, 2982a, 2982c, 2984, 2984a, and 2985 to 2985g of this title, enacting provision set out as a note under this section, and amending provisions set out as notes under this section and section 2942 of this title] may be cited as the 'Community Services Act Technical Amendments of 1976'."

SHORT TITLE OF 1975 AMENDMENTS

Pub. L. 94–43, §1, June 28, 1975, 89 Stat. 233, provided: "That this Act [amending section 2756 of this title and section 1615 of Title 20, Education, and enacting provisions set out as notes under section 2756 of this title and section 1070a of Title 20] may be cited as the 'Emergency Technical Provisions Act'."

Pub. L. 93–644, §1, Jan. 4, 1975, 88 Stat. 2291, provided: "That this Act [enacting sections 2706, 2707, 2711 to 2715, 2828 to 2830, 2865, 2928 to 2928n, 2929 to 2929c, 2930 to 2930f, 2971f, 2971g, 2981a, 2981b, 2985a to 2985g, 2991 to 2991h, and 2992 to 2992d of this title, amending sections 2790, 2809, 2812, 2813, 2837, 2862, 2871, 2901, 2902, 2921, 2922, 2923, 2932, 2933, 2941, 2942, 2943, 2945, 2965, 2971d, 2974, 2979, 2981, 2982, 2982a, 2982b, 2982c, 2983, 2983a, 2983b, 2984, 2984a, 2985, 2995, 2995a, and 2995b of this title, repealing sections 2703, 2705, 2942 note, and 2949 of this title, and enacting provisions set out as notes under this section and sections 2706, 2865, and 2981 of this title] may be cited as the 'Headstart, Economic Opportunity, and Community Partnership Act of 1974'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–355, §1, July 25, 1974, 88 Stat. 378, provided: "That this Act [enacting subchapter X of this title and section 2971e of this title, amending section 2809 of this title, and enacting provisions set out as notes under sections 2809 and 2996b of this title] may be cited as the 'Legal Services Corporation Act of 1974'."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–424, §1, Sept. 19, 1972, 86 Stat. 688, provided: "That this Act [enacting sections 2702b, 2813 to 2815, 2827, 2971b to 2971d, 2981 to 2985, and 2995 to 2995d of this title, amending sections 2724, 2742, 2749, 2771, 2791, 2809, 2812, 2824, 2836, 2837, 2862, 2864, 2871, 2907, 2932, 2933, 2943, 2949, 2965, 2966, 2974, 2991, 2992a, 2993, 2993a, 2994b, 2994d, and 3044b of this title, repealing sections 2763 to 2768 and 2826 of this title, and enacting provisions set out as notes under sections 2942 and 3044b of this title] may be cited as the 'Economic Opportunity Amendments of 1972'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91–177, §1, Dec. 30, 1969, 83 Stat. 827, provided: "That this Act [enacting sections 2702a, 2704, 2705, and 2769 to 2769f of this title, amending sections 2771, 2809, 2834, 2837, 2851, 2871, 2907, 2933, 2949, 2965, 2966, 2994b, and 2994d of this title, and section 8332 of Title 5, Government Officers and Employees, and enacting provisions set out as notes under this section and sections 2809, 2834, 2971a and 2994b of this title] may be cited as the 'Economic Opportunity Amendments of 1969'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90–222, §1, Dec. 23, 1967, 81 Stat. 672, provided: "That this Act [enacting sections 2702, 2703, 2723 to 2729, 2737 to 2749, 2763 to 2768, 2795 to 2797, 2808 to 2812, 2823 to 2826, 2832 to 2837, 2862 to 2864, 2906a, 2906b, 2906c, 2931 to 2933, 2946, 2971, 2972 to 2980, 2992, 2992a, 2992b, 2993, 2993a, 2993b, 2994, 2994a, 2994b, 2994c, and 2994d of this title, amending sections 2711 to 2721, 2781, 2790, 2791, 2841, 2851, 2861, 2901, 2902, 2906, 2907, 2921 to 2925, 2941 to 2944, 2949 to 2951, 2961 to 2963, 2966, 2981, and 2991 of this title and section 105 of Title 3, The President, omitting sections 2722, 2732 to 2736, 2761, 2762, 2782 to 2789, 2792 to 2794, 2821, 2822, 2831, and 2991a to 2991e of this title, redesignating section 2946 as section 2855 of this title, and enacting provisions set out as notes under section 2702 of this title] may be cited as the 'Economic Opportunity Amendments of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–794, §1, Nov. 8, 1966, 80 Stat. 1451, provided: "That this Act [enacting sections 2610c, 2721, 2722, 2762, 2771, 2792, 2793, 2794, 2924, 2925, 2951, 2968, 2969, 2970, and 2991 to 2991e of this title, amending this section, sections 2581, 2583, 2713, 2714, 2716, 2732, 2733, 2734, 2735, 2761, 2782, 2783, 2785, 2786, 2787, 2788, 2802, 2821, 2831, 2851, 2854, 2871, 2881, 2902, 2905, 2906, 2907, 2921, 2922, 2923, 2941, 2942, 2943, 2944, 2945, 2946, 2950, 2961, 2963, 2965, 2966, 2981, and 3161 of this title, and sections 425 and 1077 of Title 20, Education, repealing sections 2731, 2903, and 2904 of this title, and enacting provisions set out as notes under this section and section 2981 of this title and section 425 of Title 20] may be cited as the 'Economic Opportunity Amendments of 1966'."

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89–253, §1, Oct. 9, 1965, 79 Stat. 973, provided: "That this Act [amending sections 2713, 2714, 2716, 2720, 2734, 2735, 2754, 2761, 2782, 2785, 2788, 2789, 2802, 2805, 2807, 2822, 2831, 2851, 2854, 2861, 2871, 2881, 2922, 2923, 2943, 2945, 2965, and 2966 of this title and section 425 of Title 20, Education, and enacted sections 2806a, 2950, and 2967 of this title] may be cited as the 'Economic Opportunity Amendments of 1965'."

SHORT TITLE

Pub. L. 88–452, §1, Aug. 20, 1964, 78 Stat. 508, which provided that Pub. L. 88–452, which enacted this chapter, was to be cited as the "Economic Opportunity Act of 1964", was repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

Pub. L. 88–452, §3, formerly §101, as added by Pub. L. 93–644, §3, Jan. 4, 1975, 88 Stat. 2292, and renumbered and amended by Pub. L. 94–341, §2(a)(1), July 6, 1976, 90 Stat. 803, provided that: "Title I through IX of this Act [subchapters I through IX of this chapter] may be cited as the 'Community Services Act of 1974'."

Pub. L. 88–452, title X, §1014, as added by Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 389, provided that: "This title [subchapter X of this chapter] may be cited as the 'Legal Services Corporation Act'."

STATEMENT OF PURPOSE OF 1978 AMENDMENT

Pub. L. 95–568, §2, Nov. 2, 1978, 92 Stat. 2425, provided that: "It is the purpose of this Act [see Short Title of 1978 Amendment note above] to extend and revise programs under title I through title IX [subchapter I to IX of this chapter] of the Economic Opportunity Act of 1964 (hereinafter in this Act referred to as the 'Act')."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11470

Ex. Ord. No. 11470, eff. May 26, 1969, 34 F.R. 8227, which made arrangements for the structure and conduct of a National Voluntary Action Program, was superseded by Ex. Ord. No. 11603, eff. June 30, 1971, 36 F.R. 12675, formerly set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse. Section 401 of Ex. Ord. No. 11603 which transferred the National Voluntary Action Program to ACTION as

created by Reorg. Plan No. 1 of 1971 was superseded by section 1–706 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of Title 22. For continuation of the National Voluntary Action Program in ACTION Agency [now Corporation for National and Community Service], see section 1–501 of Ex. Ord. No. 12137.

§2702. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 90–222, §2, Dec. 23, 1967, 81 Stat. 672, authorized appropriations for fiscal years 1968 and 1969.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 90–222, title IV, §401, Dec. 23, 1967, 81 Stat. 728, provided that: "The amendments made by this Act [see Short Title of 1967 Amendment note set out under section 2701 of this title] shall be in effect immediately upon its enactment [Dec. 23, 1967], except as provided in this section. Until June 30, 1968, the provisions of section 202 of the Economic Opportunity Act of 1964 as in effect immediately prior to the enactment of this Act [section 2782 of this title] shall apply to community action agencies in existence and funded prior to the enactment of this Act [Dec. 23, 1967], except that in any grant or funding agreement made with such an agency prior to June 30, 1968, adequate provision shall be made for transfer of functions, obligations, records, authority, and funds to any community action agency designated pursuant to sections 210 or 211 of the Economic Opportunity Act of 1964 as amended by this Act [sections 2790 or 2791 of this title]: *Provided, however*, That nothing in this Act shall require the termination before February 1, 1969 of an existing community action agency or any program assisted under the Economic Opportunity Act of 1964 [this chapter] prior to the designation of, and provision of financial assistance to, a community action agency or other agency established under sections 210 and 211 of the Economic Opportunity Act [sections 2790 and 2791 of this title] as amended by this Act."

ACCESS OF GAO TO GRANTEE'S RECORDS

Pub. L. 91–667, title III, Jan. 1, 1971, 84 Stat. 2018, provided in part that all grant agreements were to provide that the General Accounting Office would have access to the records bearing exclusively upon the Federal grant.

Similar provisions were contained in Pub. L. 91–204, title III, Mar. 5, 1970, 84 Stat. 46.

INVESTIGATION AND EVALUATION OF ECONOMIC OPPORTUNITY PROGRAMS BY THE COMPTROLLER GENERAL; SUBMISSION OF FINAL REPORT BY DECEMBER 1, 1968

Pub. L. 90–222, title II, Dec. 23, 1967, 81 Stat. 727, authorized the Comptroller General of the United States to make an investigation in sufficient depth of programs and activities financed in whole or in part by funds authorized under this section in order to determine the efficiency of the administration of such programs and activities by the Office of Economic Opportunity and by local public and private agencies carrying out such programs and activities, and the extent to which such programs and activities achieve the objectives set forth in the relevant part or title of this chapter which authorizes such programs or activities, and to transmit his final report to the Congress not later than Dec. 1, 1968 containing a detailed statement of his findings and conclusions together with such recommendations, including recommendations for additional legislation as he deemed advisable.

§§2702a, 2702b. Omitted

EDITORIAL NOTES

CODIFICATION

Section 2702a, Pub. L. 91–177, title I, §102, Dec. 30, 1969, 83 Stat. 827, authorized appropriations for fiscal years 1970 and 1971.

Section 2702b, which was based on section 3(a), (b)(1), (3), (c), (d)(1), (2), (e) of Pub. L. 92–424, Sept. 19, 1972, 86 Stat. 688, 689, authorized appropriations for fiscal years 1973 and 1974.

Subsection (b)(2) of section 2702b, was based on section 3(b)(2) of Pub. L. 92–424, and related to functions of Secretary of Health, Education, and Welfare with respect to status of handicapped children in Headstart program. See section 9835(d) of this title.

§2703. Repealed. Pub. L. 93–644, §16(b), Jan. 4, 1975, 88 Stat. 2330

Section, Pub. L. 90–222, title III, §301, Dec. 23, 1967, 81 Stat. 728, set out criminal provisions covering operations of antipoverty agencies.

§2704. Discontinued Job Corps centers; utilization for special youth programs

(a) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity shall establish procedures and make arrangements which are designed to assure that facilities and equipment of Job Corps centers which are being discontinued will, where feasible, be made available for use by State or Federal agencies and other public or private agencies, institutions, and organizations with satisfactory arrangements for utilizing such facilities and equipment for conducting programs, especially those providing opportunities for low-income disadvantaged youth, including, without limitation—

(1) special remedial programs;

(2) summer youth programs;

(3) exemplary vocational preparation and training programs;

(4) cultural enrichment programs, including music, the arts, and the humanities;

(5) training programs designed to improve the qualifications of educational personnel, including instructors in vocational educational programs; and

(6) youth conservation work and other conservation programs.

(b) To achieve the objectives of this section, the Director of the Office of Economic Opportunity shall consult with, elicit the cooperation of, and utilize the services of the Administrator of the General Services Administration, and the Secretaries of Agriculture, of the Interior, and of Labor.

(Pub. L. 91–177, title I, §113, Dec. 30, 1969, 83 Stat. 832; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Economic Opportunity Amendments of 1969, and not as part of the Economic Opportunity Act of 1964 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

OFFICE OF ECONOMIC OPPORTUNITY

Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310 [42 U.S.C. 2941], amended the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] to create the Community Services Administration, an independent agency in the executive branch, as the successor authority to the Office of Economic Opportunity, and provided that references to the Office of Economic Opportunity or to its Director were deemed to refer to the Community Services Administration or to its Director. The Community Services Administration was terminated when the Economic Opportunity Act of 1964, except for titles VIII and X, was repealed, effective Oct. 1, 1981, by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519, which was classified to section

9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285. An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by Pub. L. 97–35, title VI, §676, Aug. 13, 1981, 95 Stat. 516, which was classified to section 9905 of this title, prior to the general amendment of chapter 106 of this title by Pub. L. 105–285. See section 9912 of this title.

§2705. Repealed. Pub. L. 93–644, §16(a), Jan. 4, 1975, 88 Stat. 2330

Section, Pub. L. 91–177, title I, §115, Dec. 30, 1969, 83 Stat. 833, provided for withholding of Federal taxes by antipoverty agencies.

§2706. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, §4, formerly title I, §102, as added Pub. L. 93–644, §3, Jan. 4, 1975, 88 Stat. 2292, renumbered §4 and amended Pub. L. 94–341, §2(a)(2), July 6, 1976, 90 Stat. 803, defined terms applicable to subchapters I to IX of this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2707. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 93–644, §15, Jan. 4, 1975, 88 Stat. 2329; Pub. L. 94–341, §3(d), July 6, 1976, 90 Stat. 807, authorized appropriations for fiscal years 1975 through 1977, with possibility of extension for an additional fiscal year and carryover of unobligated funds.

SUBCHAPTER I—RESEARCH AND DEMONSTRATIONS

EDITORIAL NOTES

CODIFICATION

In the original, section 4 of Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2292, provided in part that "Title I of the Economic Opportunity Act of 1964 is amended to read as follows: 'Title II—Research and Demonstrations' ". Section 4 also added sections 101 to 105 to such title II of the Economic Opportunity Act of 1964. However, title II was subsequently redesignated title I of the Act by section 2(a)(3) of Pub. L. 94–341, July 6, 1976, 90 Stat. 803, and classified as subchapter I of this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S COUNCIL ON YOUTH OPPORTUNITY

Pub. L. 91–176, Dec. 30, 1969, 83 Stat. 826, provided: "That there is hereby authorized to be appropriated such sums as may be necessary for the expenses of the President's Council on Youth Opportunity, established by Executive Order Numbered 11330 of March 5, 1967."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11330

Ex. Ord. No. 11330, Mar. 5, 1967, 32 F.R. 3871, as amended by Ex. Ord. No. 11547, July 10, 1970, 35 F.R. 11221; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which established the President's Council on Youth Opportunity and the Citizens Advisory Board on Youth Opportunity and provided for their respective memberships, functions, etc., was revoked by Ex. Ord. No. 12379, §17, Aug. 17, 1982, 47 F.R. 36100, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

PART A—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

§§2711 to 2716. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2711, Pub. L. 88–452, title I, §101, as added Pub. L. 93–644, §4, Jan. 4, 1975, 88 Stat. 2292, set forth Congressional statement of purpose for provisions respecting research and demonstrations.

A prior section 2711, Pub. L. 88–452, title I, §101, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 672, set out Congressional statement of purpose in enacting Job Corps program, prior to repeal by Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883.

Section 2712, Pub. L. 88–452, title I, §102, as added Pub. L. 93–644, §4, Jan. 4, 1975, 88 Stat. 2293; amended Pub. L. 94–341, §2(a)(4), July 6, 1976, 90 Stat. 803; Pub. L. 95–568, §17(a)(2), Nov. 2, 1978, 92 Stat. 2439, set forth provisions respecting research, demonstration, and pilot projects.

A prior section 2712, Pub. L. 88–452, title I, §102, Aug. 20, 1964, 78 Stat. 508; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 673, provided for establishment of a Job Corps, prior to repeal by Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883.

Section 2713, Pub. L. 88–452, title I, §103, as added Pub. L. 93–644, §4, Jan. 4, 1975, 88 Stat. 2293; amended Pub. L. 95–568, §3(a), Nov. 2, 1978, 92 Stat. 2425, related to consultative requirements.

A prior section 2713, Pub. L. 83–452, title I, §103, Aug. 20, 1964, 78 Stat. 508; Pub. L. 89–253, §§2, 3, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89–794, title I, §§101, 102, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 673, covered eligibility of individuals for Job Corps, prior to repeal by Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883.

Section 2714, Pub. L. 88–452, title I, §104, as added Pub. L. 93–644, §4, Jan. 4, 1975, 88 Stat. 2293; amended Pub. L. 94–341, §2(a)(5), July 6, 1976, 90 Stat. 803, related to public announcement of projects.

A prior section 2714, Pub. L. 88–452, title I, §104, Aug. 20, 1964, 78 Stat. 509; Pub. L. 80–253, §§4, 5, Oct. 9, 1965, 79 Stat. 973; Pub. L. 89–794, title I, §§103–108, Nov. 8, 1966, 80 Stat. 1452, 1453; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 673, provided for screening and selection of applicants for Job Corps, prior to repeal by Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883.

Section 2715, Pub. L. 88–452, title I, §105, as added Pub. L. 93–644, §4, Jan. 4, 1975, 88 Stat. 2294, prohibited Federal control over curriculum, etc.

A prior section 2715, Pub. L. 88–452, title I, §105, Aug. 20, 1964, 78 Stat. 509; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 674, covered the area of reasonable likelihood of successful participation by Job Corps enrollees, prior to repeal by Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883.

Section 2716, Pub. L. 88–452, title I, §106, as added Pub. L. 95–568, §3(b), Nov. 2, 1978, 92 Stat. 2425, set forth authorization of appropriations.

A prior section 2716, Pub. L. 88–452, title I, §106, Aug. 20, 1964, 78 Stat. 510; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 674, related to enrollment and assignment of Job Corps enrollees, prior to repeal by Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter

106 (§9901 et seq.) of this title by Pub. L. 105–285.

§§2717 to 2729. Repealed. Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883

Section 2717, Pub. L. 88–452, title I, §107, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 675, provided for establishment of Job Corps centers.

Section 2718, Pub. L. 88–452, title I, §108, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 676, covered Job Corps program activities.

Section 2719, Pub. L. 88–452, title I, §109, Aug. 20, 1964, 78 Stat. 511; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 676, covered allowances and support for Job Corps enrollees.

Section 2720, Pub. L. 88–452, title I, §110, Aug. 20, 1964, 78 Stat. 511; Pub. L. 89–253, §7, Oct. 9, 1965, 79 Stat. 974; Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 677, set out standards of conduct and discipline for Job Corps enrollees.

Section 2721, Pub. L. 88–452, title I, §111, as added Pub. L. 89–794, title I, §110, Nov. 8, 1966, 80 Stat. 1453; amended Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 677, covered community participation in Job Corps activities.

Section 2722, Pub. L. 88–452, title I, §111–1, as added Pub. L. 89–794, title I, §111, Nov. 8, 1966, 80 Stat. 1454, provided for experimental and demonstration projects and directed Director to report to Congress no later than Mar. 1, 1968.

Section 2723, Pub. L. 88–452, title I, §112, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 678, provided for counseling and job placement.

Section 2724, Pub. L. 88–452, title I, §113, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 679; amended Pub. L. 92–424, §27(b)(1), Sept. 19, 1972, 86 Stat. 705, covered experimental and development projects.

Section 2725, Pub. L. 88–452, title I, §114, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 680, covered advisory boards and committees.

Section 2726, Pub. L. 88–452, title I, §115, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 680, covered participation of States.

Section 2727, Pub. L. 88–452, title I, §116, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 681; amended Pub. L. 90–623, §5(a), Oct. 22, 1968, 82 Stat. 1315, covered the application of provisions of Federal law.

Section 2728, Pub. L. 88–452, title I, §117, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 682, set out certain special limitations.

Section 2729, Pub. L. 88–452, title I, §118, as added Pub. L. 90–222, title I, §101, Dec. 23, 1967, 81 Stat. 682, prohibited political discrimination and political activity.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883, provided that the repeal by that section is effective with respect to fiscal years after June 30, 1974.

PART B—WORK AND TRAINING FOR YOUTH AND ADULTS

§2731. Repealed. Pub. L. 89–794, title I, §112(a), Nov. 8, 1966, 80 Stat. 1454

Section, Pub. L. 88–452, title I, §111, Aug. 20, 1964, 78 Stat. 512, set out the statement of purpose for the work-training programs.

§§2732 to 2736. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted in the general amendment of Part B of this subchapter by Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 682.

Section 2732, Pub. L. 88–452, title I, §112, Aug. 20, 1964, 78 Stat. 512; Pub. L. 89–794, title I, §112(a), Nov. 8, 1966, 80 Stat. 1454, provided for the formulation and implementation of programs for students of low-income families in need of earnings to allow them to stay in school and for individuals 16 through 21 years to develop maximum occupational potential.

Section 2733, Pub. L. 88–452, title I, §113, Aug. 20, 1964, 78 Stat. 512; Pub. L. 89–794, title I, §112(a), Nov. 8, 1966, 80 Stat. 1454, set out the required conditions to allow payment of part or all of the costs of programs, including employment on public or locally sponsored projects, nonpolitical projects, and rates of pay, prohibited payment of wages for services on unauthorized projects, and provided for high priority projects.

Section 2734, Pub. L. 88–452, title I, §114, Aug. 20, 1964, 78 Stat. 513; Pub. L. 89–253, §8, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89–794, title I, §112(b), (c), Nov. 8, 1966, 80 Stat. 1455, covered the eligibility of enrollees in program, Cuban refugees, non-applicability of Federal employment laws, and the use of public agencies and private organizations in the testing, counseling, job development, and referral services to youths.

Section 2735, Pub. L. 88–452, title I, §115, Aug. 20, 1964, 78 Stat. 513; Pub. L. 89–253, §9, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89–794, title I, §112(d), Nov. 8, 1966, 80 Stat. 1455, limited to 90 percent of the costs the Federal assistance in any program pursuant to this part with provisions for exceptions and allowed the non-Federal contribution to be in cash or in kind, fairly evaluated.

Section 2736, Pub. L. 88–452, title I, §116, Aug. 20, 1964, 78 Stat. 513, required the Director to establish criteria in order to achieve equitable distribution among the States.

§§2737 to 2749. Repealed. Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883

Section 2737, Pub. L. 88–452, title I, §120, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 683, set out the Congressional statement of purpose in enacting provisions for a program of work and training for youth and adults.

Section 2738, Pub. L. 88–452, title I, §121, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 683, covered community program areas and comprehensive work and training programs.

Section 2739, Pub. L. 88–452, title I, §122, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 683, set out provisions covering prime sponsors and delegate agencies. See section 812 of Title 29, Labor.

Section 2740, Pub. L. 88–452, title I, §123, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 684, set out the eligible activities for work and training programs.

Section 2741, Pub. L. 88–452, title I, §124, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 686; amended Pub. L. 90–575, title V, §503, Oct. 16, 1968, 82 Stat. 1062, set out special conditions for programs.

Section 2742, Pub. L. 88–452, title I, §125, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 686; amended Pub. L. 92–424, §5, Sept. 19, 1972, 86 Stat. 690, covered program participants.

Section 2743, Pub. L. 88–452, title I, §126, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 686, provided for programs dealing with long-term unemployment of persons fifty-five years and older.

Section 2744, Pub. L. 88–452, title I, §127, as added, Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 687, provided for pilot projects.

Section 2745, Pub. L. 88–452, title I, §128, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 687, covered technical assistance and training.

Section 2746, Pub. L. 88–452, title I, §129, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 687, provided for role to be played by States.

Section 2747, Pub. L. 88–452, title I, §130, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 687, provided for equitable distribution of assistance.

Section 2748, Pub. L. 88–452, title I, §131, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat. 687, set limitation on Federal assistance.

Section 2749, Pub. L. 88–452, title I, §132, as added Pub. L. 90–222, title I, §102, Dec. 23, 1967, 81 Stat.

688; amended Pub. L. 92–424, §27(b)(1), (3), Sept. 19, 1972, 86 Stat. 705, provided for development and implementation of program data.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883, provided that the repeal by that section is effective with respect to fiscal years after June 30, 1974.

PART C—FEDERAL WORK-STUDY PROGRAMS

EDITORIAL NOTES

CODIFICATION

This part was originally enacted as part C of title I of the Economic Opportunity Act of 1964, Pub. L. 88–452, which Act comprises this chapter. It was redesignated as part C of title IV of the Higher Education Act of 1965, Pub. L. 89–329, by Pub. L. 90–575, title I, §131(a), Oct. 16, 1968, 82 Stat. 1028, and subsequently transferred to part C (§1087–51 et seq.) of subchapter IV of chapter 28 of Title 20, Education.

§2751. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2751, originally enacted as section 121 of Pub. L. 88–452, was renumbered section 441 of Pub. L. 89–329 and transferred to section 1087–51 of Title 20, Education.

§2752. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2752, originally enacted as section 122 of Pub. L. 88–452, was renumbered section 442 of Pub. L. 89–329 and transferred to section 1087–52 of Title 20, Education.

§2753. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2753, originally enacted as section 123 of Pub. L. 88–452, was renumbered, repealed, and reenacted as section 443 of Pub. L. 89–329 and transferred to section 1087–53 of Title 20, Education.

§2754. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2754, originally enacted as section 124 of Pub. L. 88–452, was renumbered, repealed, and reenacted as section 444 of Pub. L. 89–329 and transferred to section 1087–54 of Title 20, Education.

§2755. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2755, originally enacted as section 125 of Pub. L. 88–452, was renumbered section 445 of Pub. L. 89–329 and transferred to section 1087–55 of Title 20, Education.

§2756. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2756, originally enacted as section 126 of Pub. L. 88–452, was renumbered section 446 of Pub. L. 89–329 and transferred to section 1087–56 of Title 20, Education.

§2756a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2756a, originally enacted as section 447 of Pub. L. 89–329, was transferred to section 1087–57 of Title 20, Education.

§2756b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 2756b, originally enacted as section 448 of Pub. L. 89–329, was transferred to section 1087–58 of Title 20, Education.

§2757. Repealed. Pub. L. 90–575, title I, §131(a), Oct. 16, 1968, 82 Stat. 1028

Section, Pub. L. 89–329, title IV, §442, Nov. 8, 1965, 79 Stat. 1251, authorized appropriations for the fiscal years ending June 30, 1966, 1967, and 1968, to carry out the provisions of part C of title I of Pub. L. 88–452, which was classified to this part.

In addition to repealing this section, section 131 of Pub. L. 90–575 redesignated part C of title I of Pub. L. 88–452 as part C of title IV of Pub. L. 89–329 and renumbered the sections within that part. As a result, a new section 442 of Pub. L. 89–329 was created at the same time this section 442 was repealed. The new part C of

title IV of Pub. L. 89–329 has been editorially transferred in the Code from this part to part C (§1087–51 et seq.) of subchapter IV of chapter 28 of Title 20, Education, and the new section 442 is classified to section 1087–52 of Title 20.

PART D—SPECIAL IMPACT PROGRAMS

§§2761, 2762. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted in the general amendment of Part D of this subchapter by Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 688.

Section 2761, Pub. L. 88–452, title I, §131, Aug. 20, 1964, 78 Stat. 516; Pub. L. 89–253, §30(a), Oct. 9, 1965, 79 Stat. 978; Pub. L. 89–329, title IV, §441(7), Nov. 8, 1965, 79 Stat. 1250; Pub. L. 89–794, title I, §113(2), Nov. 8, 1966, 80 Stat. 1455, provided for establishment of special impact programs and the grants, criteria, and procedures to be used in carrying them out.

Section 2762, Pub. L. 88–452, title I, §132, as added Pub. L. 89–794, title I, §113(2), Nov. 8, 1966, 80 Stat. 1456, placed a limitation on Federal share of cost of special impact programs.

§§2763 to 2768. Repealed. Pub. L. 92–424, §25(b), Sept. 19, 1972, 86 Stat. 703

Section 2763, Pub. L. 88–452, title I, §150, as added Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 688, related to Congressional statement of purpose.

Section 2764, Pub. L. 88–452, title I, §151, as added Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 688, related to establishment of programs.

Section 2765, Pub. L. 88–452, title I, §152, as added Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 689, related to requirements for financial assistance.

Section 2766, Pub. L. 88–452, title I, §153, as added Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 689, related to application of other Federal resources.

Section 2767, Pub. L. 88–452, title I, §154, as added Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 690, related to an evaluation of effectiveness of the program.

Section 2768, Pub. L. 88–452, title I, §155, as added Pub. L. 90–222, title I, §103, Dec. 23, 1967, 81 Stat. 690, related to Federal share of program costs.

PART E—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

§§2769 to 2769f. Repealed. Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883

Section 2769, Pub. L. 88–452, title I, §161, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat. 833, set out Congressional statement of purpose in providing for special work and career development programs.

Section 2769a, Pub. L. 88–452, title I, §162, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat. 834, provided for special programs for unemployed.

Section 2769b, Pub. L. 88–452, title I, §163, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat. 834, provided for establishment of internal administrative procedures by Director covering special work and career development programs.

Section 2769c, Pub. L. 88–452, title I, §164, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat.

835, set out certain special conditions covering special work and career development programs.

Section 2769d, Pub. L. 88–452, title I, §165, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat. 835, set out criteria for program participants.

Section 2769e, Pub. L. 88–452, title I, §166, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat. 835, set out criteria for equitable distribution of assistance among States.

Section 2769f, Pub. L. 88–452, title I, §167, as added Pub. L. 91–177, title II, §201, Dec. 30, 1969, 83 Stat. 836, set limitations on Federal assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 93–203, title VI, §614, Dec. 28, 1973, 87 Stat. 883, provided that the repeal by that section is effective with respect to fiscal years after June 30, 1974.

PART F—DURATION OF PROGRAMS

§2771. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, title I, §171, formerly §141, as added Pub. L. 89–794, title I, §114, Nov. 8, 1966, 80 Stat. 1456; renumbered §161, Pub. L. 90–222, title I, §111(b), Dec. 23, 1967, 81 Stat. 726; renumbered §171 and amended Pub. L. 91–177, title I, §101(a), title II, §201, Dec. 30, 1969, 83 Stat. 827, 833; Pub. L. 92–424, §2(a), Sept. 19, 1972, 86 Stat. 688, authorized implementation of programs during the fiscal year ending June 30, 1967, and the eight succeeding fiscal years.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SUBCHAPTER II—URBAN AND RURAL COMMUNITY ACTION PROGRAMS

§2781. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, title II, §201, Aug. 20, 1964, 78 Stat. 516; Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 690; Pub. L. 94–341, §2(a)(6), July 6, 1976, 90 Stat. 803, set forth Congressional statement of purpose for urban and rural community action programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART A—COMMUNITY ACTION AGENCIES AND PROGRAMS

§§2782 to 2789. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted in the general amendment of part A of this subchapter by Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 691.

Section 2782, Pub. L. 88–452, title II, §202, Aug. 20, 1964, 78 Stat. 516; Pub. L. 89–253, §11, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89–794, title II, §§201–203, Nov. 8, 1966, 80 Stat. 1456, 1457, defined "community action program", authorized promulgation of additional criteria, provided for the residence of board members in geographical areas represented, neighborhood participation, and procedures for adequate representation of groups of the poor.

Section 2783, Pub. L. 88–452, title II, §203, Aug. 20, 1964, 78 Stat. 517; Pub. L. 89–794, title II, §204, Nov. 8, 1966, 80 Stat. 1458, covered allotment of appropriated funds to States, reservation of appropriations, limitation on allotments to Territories and possessions, manner of allotment and reallotment, and definition of "State".

Section 2784, Pub. L. 88–452, title II, §204, Aug. 20, 1964, 78 Stat. 517, authorized grants and contracts for development of community action programs.

Section 2785, Pub. L. 88–452, title II, §205, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89–253, §§12, 13, Oct. 9, 1965, 79 Stat. 974; Pub. L. 89–794, title II, §§205–211, Nov. 8, 1966, 80 Stat. 1458–1460, covered making of grants or contracts for the conduct and administration of community action programs, salary limits, a prohibition on aid to elementary and secondary education in schools, assistance eligibility, chronically unemployed poor, betterment and beautification of program area, funding of independent programs, independent programs in rural and urban areas, prohibition against membership of personnel of Office of Economic Opportunity in sponsoring organizations, financial controls within sponsoring organizations, audits, accounting, and family planning services.

Section 2786, Pub. L. 88–452, title II, §206, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89–794, title II, §212(a), Nov. 8, 1966, 80 Stat. 1461, authorized Director to provide technical assistance and training for communities and to formulate and carry out small loan programs for small families to meet immediate and urgent family needs.

Section 2787, Pub. L. 88–452, title II, §207, Aug. 20, 1964, 78 Stat. 518; Pub. L. 89–794, title II, §213, Nov. 8, 1966, 80 Stat. 1461, covered research and demonstrations pertaining to the purposes of this part, limitation on expenditures, overall plans, reports, filing, review, and recommendations.

Section 2788, Pub. L. 88–452, title II, §208, Aug. 20, 1964, 78 Stat. 519; Pub. L. 89–253, §14, Oct. 9, 1965, 79 Stat. 975; Pub. L. 89–794, title II, §214, Nov. 8, 1966, 80 Stat. 1462, set out limitations on Federal assistance and provided for non-Federal contributions.

Section 2789, Pub. L. 88–452, title II, §209, Aug. 20, 1964, 78 Stat. 519; Pub. L. 89–253, §§15, 16, 17, Oct. 9, 1965, 79 Stat. 975, 976, provided for participation of State agencies, establishment of procedures in connection therewith, grant and contract authority, State approval of plans, notice to the Governor and the community action agency of application for programs, and limitations upon the participation of private institutions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Applicability until June 30, 1968, of the provisions of section 2782 of this title as in effect immediately prior to the enactment of Pub. L. 90–222, which was approved Dec. 23, 1967, and which omitted section 2782 of this title in the general reorganization of part A of this subchapter by section 104 of Pub. L. 90–222, to community action agencies in existence and funded prior to the enactment of Pub. L. 90–222, with certain exceptions, and provision for the transfer of functions, obligations, records, authority, and funds in agreements made prior to June 30, 1968, to agencies designated pursuant to sections 2790 and 2791 of this title as amended by Pub. L. 90–222, see section 401 of Pub. L. 90–222, set out as an Effective Date note under section 2702 of this title.

§§2790, 2791. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2790, Pub. L. 88–452, title II, §210, Aug. 20, 1964, 78 Stat. 519; Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 691; Pub. L. 93–644, §§5(a), (b), 9(a), Jan. 4, 1975, 88 Stat. 2294, 2310; Pub. L. 94–341, §2(a)(7), July 6, 1976, 90 Stat. 803; Pub. L. 95–568, §§4(a), (b), 17(a)(3), Nov. 2, 1978, 92 Stat. 2425, 2439, related to designation of community action agencies.

Section 2791, Pub. L. 88–452, title II, §211, Aug. 20, 1964, 78 Stat. 520; Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 693; Pub. L. 92–424, §§6, 7, Sept. 19, 1972, 86 Stat. 690; Pub. L. 95–568, §§4(c), 17(a)(4), Nov. 2, 1978, 92 Stat. 2425, 2439, related to community action agencies and boards.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§§2792 to 2794. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted in the general amendment of Part A of this subchapter by Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 691.

Section 2792, Pub. L. 88–452, title II, §211–1, as added Pub. L. 89–794, title II, §215, Nov. 8, 1966, 80 Stat. 1462, created the Headstart program for preschool children, and provided a program for legal services with the recommendations of local bar associations.

Section 2793, Pub. L. 88–452, title II, §211–2, as added Pub. L. 89–794, title II, §216, Nov. 8, 1966, 80 Stat. 1463, provided for comprehensive health services programs, the consultation with health agencies to assure professional supervision, covered narcotic addition, and provided for reports to Congress and the President.

Section 2794, Pub. L. 88–452, title II, §211–3, as added Pub. L. 89–794, title II, §217, Nov. 8, 1966, 80 Stat. 1464, provided for special projects on adult basic education.

§§2795 to 2797. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2795, Pub. L. 88–452, title II, §212, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 694, related to specific powers and functions of community action agencies.

A prior section 212 of Pub. L. 88–452 was classified to section 2801 of this title, prior to repeal by Pub. L. 89–750, title III, §315, Nov. 8, 1966, 80 Stat. 1222.

Section 2796, Pub. L. 88–452, title II, §213, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 695; amended Pub. L. 95–568, §§4(d), 17(a)(5), Nov. 2, 1978, 92 Stat. 2426, 2439, related to administrative standards, rules and regulations, and review and consultative requirements.

A prior section 213 of Pub. L. 88–452 was classified to section 2802 of this title, prior to repeal by Pub. L. 89–750, title III, §315, Nov. 3, 1966, 80 Stat. 1222.

Section 2797, Pub. L. 88–452, title II, §214, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 696, related to housing development and service organizations.

A prior section 214 of Pub. L. 88–452 was classified to section 2803 of this title, prior to repeal by Pub. L. 89–750, title III, §315, Nov. 3, 1966, 80 Stat. 1222.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART B—FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS AND RELATED ACTIVITIES

§§2801 to 2807. Repealed. Pub. L. 89–750, title III, §315, Nov. 3, 1966, 80 Stat. 1222

Section 2801, Pub. L. 88–452, title II, §212, Aug. 20, 1964, 78 Stat. 520, set out the declaration of purpose for adult basic education programs.

Section 2802, Pub. L. 88–452, title II, §213, Aug. 20, 1964, 78 Stat. 520; Pub. L. 89–253, §19(1), Oct. 9, 1965, 79 Stat. 976; Pub. L. 89–794, title IX, §901(c), Nov. 8, 1966, 80 Stat. 1475, provided for the making of grants to States having approved plans for adult basic education programs.

Section 2803, Pub. L. 88–452, title II, §214, Aug. 20, 1964, 78 Stat. 520, set out the requirements for State plans and made provision for a hearing.

Section 2804, Pub. L. 88–452, title II, §215, Aug. 20, 1964, 78 Stat. 521, set out the manner of allotting grant funds to the States and outlying areas.

Section 2805, Pub. L. 88–452, title II, §216, Aug. 20, 1964, 78 Stat. 522; Pub. L. 89–253, §18, Oct. 9, 1965, 79 Stat. 976, provided for the methods of payment of the Federal share of expenditures.

Section 2806, Pub. L. 88–452, title II, §217, Aug. 20, 1964, 78 Stat. 522, provided for termination of payments for noncompliance with the State plan and for hearings and judicial review.

Section 2806a, Pub. L. 88–452, title II, §218, as added Pub. L. 89–253, §19(2), Oct. 9, 1965, 79 Stat. 976, made provision for teacher training projects.

Section 2807, Pub. L. 88–452, title II, §219, formerly §218, Aug. 20, 1964, 78 Stat. 523, renumbered Pub. L. 89–253, §19(2), Oct. 9, 1965, 79 Stat. 976, set out the definitions of terms.

§§2808 to 2815. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2808, Pub. L. 88–452, title II, §221, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 696; amended Pub. L. 95–568, §17(a)(6), Nov. 2, 1978, 92 Stat. 2439, set forth general provisions for financial assistance for programs and related activities.

A prior section 221 of Pub. L. 88–452 was classified to section 2831 of this title, prior to the general reorganization of Part D of this subchapter by section 104 of Pub. L. 90–222.

Section 2809, Pub. L. 88–452, title II, §222, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 698; amended Pub. L. 90–575, title I, §105(b), Oct. 16, 1968, 82 Stat. 1019; Pub. L. 91–177, title I, §§103–106, Dec. 30, 1969, 83 Stat. 828, 829; Pub. L. 92–424, §§8–11, Sept. 19, 1972, 86 Stat. 690, 691; Pub. L. 93–202, Dec. 28, 1973, 87 Stat. 838; Pub. L. 93–355, §3(d)(2), July 25, 1974, 88 Stat. 390; Pub. L. 93–644, §5(c), (d)(1), Jan. 4, 1975, 88 Stat. 2294; Pub. L. 94–341, §2(a)(8)–(10), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §§5(a)–(f), 17(a)(7), Nov. 2, 1978, 92 Stat. 2426, 2427, 2439, 2440; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, related to special programs and assistance.

Section 2810, Pub. L. 88–452, title II, §223, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 701, related to resident employment.

Section 2811, Pub. L. 88–452, title II, §224, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 701, related to neighborhood centers.

Section 2812, Pub. L. 88–452, title II, §225, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 702; amended Pub. L. 92–424, §§12(a), 13, Sept. 19, 1972, 86 Stat. 692; Pub. L. 93–644, §5(e), Jan. 4, 1975, 88 Stat. 2295; Pub. L. 94–341, §2(a)(11), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §§5(g), 17(a)(8), (b), Nov. 2, 1978, 92 Stat. 2427, 2440, 2443, related to allotment of funds and limitations on assistance.

Section 2813, Pub. L. 88–452, title II, §226, as added Pub. L. 92–424, §14, Sept. 19, 1972, 86 Stat. 693; amended Pub. L. 93–644, §5(d)(2), Jan. 4, 1975, 88 Stat. 2295, related to design and planning assistance programs.

Section 2814, Pub. L. 88–452, title II, §227, as added Pub. L. 92–424, §14, Sept. 19, 1972, 86 Stat. 693; amended Pub. L. 94–341, §2(a)(12), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §17(a)(9), Nov. 2, 1978, 92 Stat. 2440, set forth provisions respecting national youth sports program.

Section 2815, Pub. L. 88–452, title II, §228, as added Pub. L. 92–424, §14, Sept. 19, 1972, 86 Stat. 694; amended Pub. L. 93–644, §5(a)(2), Jan. 4, 1975, 88 Stat. 2295, related to consumer action and cooperative programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART C—SUPPLEMENTAL PROGRAMS AND ACTIVITIES

§§2821, 2822. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were omitted in the general amendment of part C of this subchapter by Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 703.

Section 2821, Pub. L. 88–452, title II, §219–1, formerly §219, Aug. 20, 1964, 78 Stat. 523; renumbered §219–1, Pub. L. 89–794, title IX, §901(b), Nov. 8, 1966, 80 Stat. 1475, set out the statement of purpose for the voluntary assistance program for needy children.

Section 2822, Pub. L. 88–452, title II, §220, Aug. 20, 1964, 78 Stat. 523; Pub. L. 89–253, §20, Oct. 9, 1965, 79 Stat. 976, provided for the establishment within the Office of Economic Opportunity of an information and coordinating center but prohibiting the interference with jurisdiction of State and local welfare agencies with respect to programs for needy children.

§§2823 to 2825. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2823, Pub. L. 88–452, title II, §230, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 703; amended Pub. L. 95–568, §6(a), Nov. 2, 1978, 92 Stat. 2427, related to technical assistance and training.

Section 2824, Pub. L. 88–452, title II, §231, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 703; amended Pub. L. 92–424, §15, Sept. 19, 1972, 86 Stat. 695; Pub. L. 95–568, §§6(b), 17(a)(10), Nov. 2, 1978, 92 Stat. 2428, 2440, set forth provisions relating to commencement and termination of State agency assistance.

Section 2825, Pub. L. 88–452, title II, §232, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 703; amended Pub. L. 95–568, §§6(c), 17(a)(11), Nov. 2, 1978, 92 Stat. 2428, 2440, related to development, etc., of research and pilot programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2826. Repealed. Pub. L. 92–424, §27(b)(1), Sept. 19, 1972, 86 Stat. 705

Section, Pub. L. 88–452, title II, §233, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 704, related to evaluations, reports, and independent studies.

§§2827, 2828. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2827, Pub. L. 88–452, title II, §234, as added Pub. L. 92–424, §16, Sept. 19, 1972, 86 Stat. 695, related to special assistance for projects.

Section 2828, Pub. L. 88–452, title II, §235, as added Pub. L. 93–644, §5(f), Jan. 4, 1975, 88 Stat. 2296; amended Pub. L. 94–341, §2(a)(13), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §17(a)(12), Nov. 2, 1978, 92 Stat. 2440, related to demonstration community partnership agreements.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2829. Repealed. Pub. L. 95–568, §6(d), Nov. 2, 1978, 92 Stat. 2428

Section, Pub. L. 88–452, title II, §236, as added Pub. L. 93–644, §5(f), Jan. 4, 1975, 88 Stat. 2297; amended Pub. L. 94–341, §2(a)(14) July 6, 1976, 90 Stat. 804, set forth provisions relating to the establishment, etc., of the Intergovernmental Advisory Council on Community Services.

§2830. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, title II, §236, formerly §237, as added Pub. L. 93–644, §5(f), Jan. 4, 1975, 88 Stat. 2297; renumbered §237 and amended Pub. L. 95–568, §6(d), (e), Nov. 2, 1978, 92 Stat. 2428, set forth authorization of appropriations.

A prior section 236 of Pub. L. 88–452, title II, as added Pub. L. 93–644, §5(f), Jan. 4, 1975, 88 Stat. 2297; amended Pub. L. 94–341, §2(a)(14), July 6, 1976, 90 Stat. 804, related to establishment of Intergovernmental Advisory Council on Community Services and was classified to section 2829 of this title, prior to repeal by Pub. L. 95–568, §6(d), Nov. 2, 1978, 92 Stat. 2428.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART D—GENERAL AND TECHNICAL PROVISIONS

§2831. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 88–452, title II, §221, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89–253, §30(b), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title II, §218, Nov. 8, 1966, 80 Stat. 1464, extended the program through June

30, 1970, and provided that only such sums may be appropriated as the Congress might authorize by law, prior to the general amendment of Part D of this subchapter by Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 705. See section 2837 of this title.

§2832. Repealed. Pub. L. 95–568, §7(a), Nov. 2, 1978, 92 Stat. 2428

Section, Pub. L. 88–452, title II, §240, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 705, set forth provisions relating to Assistant Directors for Community Action.

§§2833 to 2837. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2833, Pub. L. 88–452, title II, §241, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 705; amended Pub. L. 95–568, §17(a)(13), Nov. 2, 1978, 92 Stat. 2440, related to extension of benefits to rural areas.

Section 2834, Pub. L. 88–452, title II, §242, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 706; amended Pub. L. 91–177, title I, §107(a), Dec. 30, 1969, 83 Stat. 830; Pub. L. 95–568, §17(a)(14), Nov. 2, 1978, 92 Stat. 2440, set forth provisions respecting submission of plans to governors.

Section 2835, Pub. L. 88–452, title II, §243, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 706; amended Pub. L. 95–568, §17(a)(15), Nov. 2, 1978, 92 Stat. 2440, related to fiscal responsibility and audits.

Section 2836, Pub. L. 88–452, title II, §244, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 707; amended 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 92–424, §17, Sept. 19, 1972, 86 Stat. 695; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 95–568, §§7(b), 17(a)(16), Nov. 2, 1978, 92 Stat. 2428, 2440, set forth special limitations applicable to programs.

Section 2837, Pub. L. 88–452, title II, §245, as added Pub. L. 90–222, title I, §104, Dec. 23, 1967, 81 Stat. 709; amended Pub. L. 91–177, title I, §101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, §2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93–644, §14(a), Jan. 4, 1975, 88 Stat. 2329; Pub. L. 95–568, §7(c), Nov. 2, 1978, 92 Stat. 2428, set forth provisions for program duration.

Provisions similar to section 2837 were contained in section 2831 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SUBCHAPTER III—SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

PART A—RURAL LOAN PROGRAM

§§2841 to 2856. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2841, Pub. L. 88–452, title III, §301, Aug. 20, 1964, 78 Stat. 524; Pub. L. 90–222, title I, §105(b), Dec. 23, 1967, 81 Stat. 709; Pub. L. 95–568, §8(b)(1), Nov. 2, 1978, 92 Stat. 2428, set forth Congressional statement of purpose for special programs to combat poverty in rural areas.

Section 2851, Pub. L. 88–452, title III, §302, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89–253, §21, Oct. 9,

1965, 79 Stat. 976; Pub. L. 89–794, title III, §301(a), Nov. 8, 1966, 80 Stat. 1464; Pub. L. 90–222, title I, §105(c), Dec. 23, 1967, 81 Stat. 709; Pub. L. 91–177, title I, §108, Dec. 30, 1969, 83 Stat. 830, set forth amount, maturity date, etc., for loans to low income rural families.

Section 2852, Pub. L. 88–452, title III, §303, Aug. 20, 1964, 78 Stat. 524, set forth provisions respecting loans to rural cooperative associations.

Section 2853, Pub. L. 88–452, title III, §304, Aug. 20, 1964, 78 Stat. 524, set forth provisions relating to limitations on loans.

Section 2854, Pub. L. 88–452, title III, §305, Aug. 20, 1964, 78 Stat. 524; Pub. L. 89–253, §22, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89–794, title III, §301(b), Nov. 8, 1966, 80 Stat. 1464, set forth provisions respecting terms and conditions for loans.

Section 2855, Pub. L. 88–452, title III, §306, formerly title VI, §606, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89–794, title IV, §407, Nov. 8, 1966, 80 Stat. 1465; renumbered title III, §306, and amended Pub. L. 90–222, title I, §105(d), Dec. 23, 1967, 81 Stat. 709; Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 94–341, §2(a)(15), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §8(b)(2), Nov. 2, 1978, 92 Stat. 2428, set forth provisions respecting establishment, capital, etc., for revolving fund.

Section 2856, Pub. L. 88–452, title III, §307, as added Pub. L. 95–568, §8(a)(3), Nov. 2, 1978, 92 Stat. 2428, related to authorization of appropriations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART B—ASSISTANCE FOR MIGRANT, AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

§§2861 to 2865. Repealed. Pub. L. 95–568, §8(a)(2), Nov. 2, 1978, 92 Stat. 2428

Section 2861, Pub. L. 88–452, title III, §311, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89–253, §23, Oct. 9, 1965, 79 Stat. 977; Pub. L. 90–222, title I, §105(e), Dec. 23, 1967, 81 Stat. 709, set forth Congressional statement of purpose for financial assistance programs for migrant and other seasonally employed farmworkers and their families.

Section 2862, Pub. L. 88–452, title III, §312, as added Pub. L. 90–222, title I, §105(e), Dec. 23, 1967, 81 Stat. 709; amended Pub. L. 92–424, §18, Sept. 19, 1972, 86 Stat. 696; Pub. L. 93–644, §6(a), Jan. 4, 1975, 88 Stat. 2298, set forth requirements for financial assistance programs.

Section 2863, Pub. L. 88–452, title III, §313, as added Pub. L. 90–222, title I, §105(e), Dec. 23, 1967, 81 Stat. 710, set forth limitations on program assistance.

Section 2864, Pub. L. 88–452, title III, §314, as added Pub. L. 90–222, title I, §105(e), Dec. 23, 1967, 81 Stat. 710; amended Pub. L. 92–424, §27(b)(1), (3), Sept. 19, 1972, 86 Stat. 705, set forth authorization for technical assistance and training for programs.

Section 2865, Pub. L. 88–452, title III, §315, as added Pub. L. 93–644, §6(b), Jan. 4, 1975, 88 Stat. 2298, set forth requirements for coordination, monitoring, and review of programs.

PART C—DURATION OF PROGRAM

§2871. Repealed. Pub. L. 95–568, §8(a)(2), Nov. 2, 1978, 92 Stat. 2428

Section, Pub. L. 88–452, title III, §321, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89–253, §30(c), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title III, §302, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 91–177, title I, §101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, §2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93–644, §14(a), Jan. 4,

1975, 88 Stat. 2329, set forth provisions relating to duration of and authorization for appropriations for program.

PART D—INDEMNITY PAYMENTS TO DAIRY FARMERS

§2881. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, title III, §331, Aug. 20, 1964, 78 Stat. 525; Pub. L. 89–16, title III, §303, Apr. 30, 1965, 79 Stat. 108; Pub. L. 89–253, §24, Oct. 29, 1965, 79 Stat. 977; Pub. L. 89–794, title III, §301(c), Nov. 8, 1966, 80 Stat. 1465, related to indemnity payments to farmers.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SUBCHAPTER IV—ASSISTANCE FOR MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKERS AND THEIR FAMILIES

§§2901 to 2906. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2901, Pub. L. 88–452, title IV, §401, as added Pub. L. 95–568, §9, Nov. 2, 1978, 92 Stat. 2429, set forth statement of purpose for program assistance.

A prior section 2901, Pub. L. 88–452, title IV, §401, as added Pub. L. 93–644, §7, Jan. 4, 1975, 88 Stat. 2298; amended Pub. L. 94–341, §2(a)(16), July 6, 1976, 90 Stat. 804, related to establishment of Comprehensive Health Services Program, prior to the general revision of this subchapter by Pub. L. 95–568.

Another prior section 2901, Pub. L. 88–452, title IV, §401, Aug. 20, 1964, 78 Stat. 526; Pub. L. 90–222, title I, §106(a), Dec. 23, 1967, 81 Stat. 710, set forth Congressional statement of purpose of this subchapter as establishment, preservation, and strengthening of small business concerns and improvement of managerial skills employed in such enterprises, prior to repeal by Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745. See section 636 of Title 15, Commerce and Trade.

Section 2902, Pub. L. 88–452, title IV, §402, as added Pub. L. 95–568, §9, Nov. 2, 1978, 92 Stat. 2429, related to financial assistance for programs.

A prior section 2902, Pub. L. 88–452, title IV, §402, as added Pub. L. 93–644, §7, Jan. 4, 1975, 88 Stat. 2299; amended Pub. L. 94–341, §2(a)(17), July 6, 1976, 90 Stat. 804, related to establishment of Alcoholic Counseling and Recovery Program and Drug Rehabilitation Program, prior to the general reorganization of this subchapter by Pub. L. 95–568.

Another prior section 2902, Pub. L. 88–452, title IV, §402, Aug. 20, 1964, 78 Stat. 526; Pub. L. 89–794, title IV, §§401, 402, 405, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90–104, title I, §108, Oct. 11, 1967, 81 Stat. 269; Pub. L. 90–222, title I, §106(b), (c), Dec. 23, 1967, 81 Stat. 710; Pub. L. 92–320, §2, June 27, 1972, 86 Stat. 382, related to powers of Administrator of Small Business Administration with respect to loans, and guarantees to small businesses, prior to repeal by Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745.

Section 2903, Pub. L. 88–452, title IV, §403, as added Pub. L. 95–568, §9, Nov. 2, 1978, 92 Stat. 2429, set forth limitations on assistance for programs.

A prior section 2903, Pub. L. 88–452, title IV, §403, Aug. 20, 1964, 78 Stat. 526, required that financial assistance under former section 2902 of this title be coordinated with any community action program covering same community, prior to repeal by Pub. L. 89–794, title IV, §403, Nov. 8, 1966, 80 Stat. 1465.

Section 2904, Pub. L. 88–452, title IV, §404, as added Pub. L. 95–568, §9, Nov. 2, 1978, 92 Stat. 2429, related to technical assistance, training and evaluation.

A prior section 2904, Pub. L. 88–452, title IV, §404, Aug. 20, 1964, 78 Stat. 526, provided that lending and guaranty functions which are delegated to Small Business Administration may be financed with funds under revolving fund established by section 633(c) of Title 15, Commerce and Trade, for the purposes of sections 636(a), 636(b), and 637(a) of Title 15, prior to repeal by Pub. L. 89–794, title IV, §403, Nov. 8, 1966, 80 Stat. 1465.

Section 2905, Pub. L. 88–452, title IV, §405, as added Pub. L. 95–568, §9, Nov. 2, 1978, 92 Stat. 2430, set forth special responsibilities of the Director.

A prior section 2905, Pub. L. 88–452, title IV, §403, formerly §405, Aug. 20, 1964, 78 Stat. 526; renumbered §403 and amended Pub. L. 89–794, title IV, §§401, 406, Nov. 8, 1966, 80 Stat. 1465, set forth terms and conditions of any loans made pursuant to former section 2902 of this title, prior to repeal by Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745.

Section 2906, Pub. L. 88–452, title IV, §406, as added Pub. L. 95–568, §9, Nov. 2, 1978, 92 Stat. 2430, related to authorization of appropriations.

A prior section 2906, Pub. L. 88–452, title IV, §404, formerly §406, Aug. 20, 1964, 78 Stat. 527; renumbered §404 and amended Pub. L. 89–794, title IV, §§401, 406, Nov. 8, 1966, 80 Stat. 1465; Pub. L. 90–222, title I, §106(d), (3), Dec. 23, 1967, 81 Stat. 711, required Administrator to distribute financial assistance to insure that at least 50 per centum of amounts loaned or guaranteed are allotted to small business concerns located in designated urban areas, prior to repeal by Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§§2906a to 2907. Repealed. Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745

Section 2906a, Pub. L. 88–452, title IV, §405, as added Pub. L. 90–222, title I, §106(d)(3), Dec. 23, 1967, 81 Stat. 711, prohibited financial assistance for relocation which would increase unemployment in the area of original location.

Section 2906b, Pub. L. 88–452, title IV, §406, as added Pub. L. 90–222, title I, §106(d)(3), Dec. 23, 1967, 81 Stat. 711, authorized Administrator to provide financial assistance for payment of costs of projects supplying technical and management assistance to eligible individuals and enterprises.

Section 2906c, Pub. L. 88–452, title IV, §407, as added Pub. L. 90–222, title I, §106(d)(3), Dec. 23, 1967, 81 Stat. 712, authorized Administrator to insure that government contracts, subcontracts, and deposits are placed in such a way as to aid small business concerns.

Section 2907, Pub. L. 88–452, title IV, §408, formerly §407, Aug. 20, 1964, 78 Stat. 527; renumbered §405 and amended Pub. L. 89–794, title IV, §§404, 406, Nov. 8, 1966, 80 Stat. 1465; renumbered §408 and amended Pub. L. 90–222, title I, §106(d)(1), Dec. 23, 1967, 81 Stat. 711; Pub. L. 91–177, title I, §101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, §2(a), Sept. 19, 1972, 86 Stat. 688, set forth the duration of the program as the eight succeeding fiscal years after the start of the program in the fiscal year ending June 30, 1967.

SUBCHAPTER V—HEADSTART AND FOLLOW THROUGH

§§2921 to 2923. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2921, Pub. L. 88–452, title V, §501, Aug. 20, 1964, 78 Stat. 527; Pub. L. 89–794, title V, §501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90–222, title I, §107(d), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300, set forth short title for this subchapter as "Headstart-Follow Through Act".

Section 2922, Pub. L. 88–452, title V, §502, Aug. 20, 1964, 78 Stat. 527; Pub. L. 89–253, §25, Oct. 9,

1965, 79 Stat. 977; Pub. L. 89–794, title V, §501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90–222, title I, §107(d), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300, set forth Congressional statement of purpose for Project Headstart.

Section 2923, Pub. L. 88–452, title V, §503, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89–253, §30(d), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title V, §501(a), Nov. 8, 1966, 80 Stat. 1466; Pub. L. 90–222, title I, §107(d), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300, set forth Congressional statement of policy with respect to migrant and Indian children.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§§2924, 2925. Omitted

EDITORIAL NOTES

CODIFICATION

Section 2924, Pub. L. 88–452, title V, §504, as added Pub. L. 89–794, title V, §501(a), Nov. 8, 1966, 80 Stat. 1467; amended Pub. L. 90–222, title I, §107(d), Dec. 23, 1967, 81 Stat. 714, set the fiscal year ending June 30, 1967, and the three succeeding fiscal years as the duration of the work experience, training, and day care programs, prior to the general amendment of this subchapter by Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300.

Section 2925, Pub. L. 88–452, title V, §505, as added Pub. L. 89–794, title V, §501(a), Nov. 8, 1966, 80 Stat. 1467; amended Pub. L. 90–222, title I, §107(d), Dec. 23, 1967, 81 Stat. 714, provided for the transition of training programs for needy persons requiring special family and supportive services, prior to the general amendment of this subchapter by Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300.

PART A—HEADSTART PROGRAMS

§§2928 to 2928g. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2928, Pub. L. 88–452, title V, §511, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300, provided for financial assistance for Headstart programs.

Section 2928a, Pub. L. 88–452, title V, §512, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2301; amended Pub. L. 95–568, §10(a), Nov. 2, 1978, 92 Stat. 2430, set forth authorization of appropriations for programs.

Section 2928b, Pub. L. 88–452, title V, §513, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2301; amended Pub. L. 95–568, §§10(b), 17(a)(17), Nov. 2, 1978, 92 Stat. 2430, 2441, related to allotments, reservations, etc., for program funds.

Section 2928c, Pub. L. 88–452, title V, §514, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2302; amended Pub. L. 94–341, §2(a)(18), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §10(c), Nov. 2, 1978, 92 Stat. 2432, related to designation of Headstart agencies.

Section 2928d, Pub. L. 88–452, title V, §515, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2302; amended Pub. L. 95–568, §10(d), Nov. 2, 1978, 92 Stat. 2432, set forth powers and functions of Headstart agencies.

Section 2928e, Pub. L. 88–452, title V, §516, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2302; amended Pub. L. 95–568, §17(a)(18), Nov. 2, 1978, 92 Stat. 2441, related to submission of plans to Governors.

Section 2928f, Pub. L. 88–452, title V, §517, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2303;

amended Pub. L. 94–341, §2(a)(19), July 6, 1976, 90 Stat. 804; Pub. L. 95–568, §§10(e), 17(a)(19), Nov. 2, 1978, 92 Stat. 2432, 2441, related to administrative requirements and standards.

Section 2928g, Pub. L. 88–452, title V, §518, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2304; amended Pub. L. 95–568, §10(f), Nov. 2, 1978, 92 Stat. 2432, set forth provisions respecting participation in Headstart programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2928g–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 92–424, §3(b)(2), Sept. 19, 1972, 86 Stat. 688, required the Secretary of Health, Education, and Welfare to establish policies and procedures to assure that handicapped children received certain enrollment opportunities in Headstart programs and that services were provided to meet their special needs and to report annually to Congress on the status of handicapped children in the Headstart programs. See section 9835(d) of this title.

§§2928h to 2928n. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2928h, Pub. L. 88–452, title V, §519, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2304; amended Pub. L. 95–568, §17(a)(20), Nov. 2, 1978, 92 Stat. 2441, set forth provisions respecting appeals, notice, and hearing.

Section 2928i, Pub. L. 88–452, title V, §520, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2305, related to records and audits of recipients of financial assistance.

Section 2928j, Pub. L. 88–452, title V, §521, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2305, related to technical assistance and training.

Section 2928k, Pub. L. 88–452, title V, §522, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2305, related to research, demonstration, and pilot projects.

Section 2928l, Pub. L. 88–452, title V, §523, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2305; amended Pub. L. 94–341, §2(a)(20), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §10(g), (h), Nov. 2, 1978, 92 Stat. 2433, related to announcement of research, demonstration, and pilot project contracts.

Section 2928m, Pub. L. 88–452, title V, §524, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2306; amended Pub. L. 95–568, §10(i), Nov. 2, 1978, 92 Stat. 2433, related to evaluation of programs.

Section 2928n, Pub. L. 88–452, title V, §525, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2309; amended Pub. L. 94–341, §2(a)(22), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §17(a)(21), Nov. 2, 1978, 92 Stat. 2441, set forth provisions respecting determination of poverty line.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART B—FOLLOW THROUGH PROGRAMS

§§2929 to 2929c. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2929, Pub. L. 88–452, title V, §551, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2306; amended Pub. L. 95–568, §§11(a), (b), 17(a)(22), Nov. 2, 1978, 92 Stat. 2433, 2441, set forth provisions respecting financial assistance for Follow Through programs.

Section 2929a, Pub. L. 88–452, title V, §552, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2307; amended Pub. L. 95–568, §§11(c), 17(a)(23), Nov. 2, 1978, 92 Stat. 2433, 2441, related to authorization of appropriations.

Section 2929b, Pub. L. 88–452, title V, §553, as added Pub. L. 95–568, §11(d)(3), Nov. 2, 1978, 92 Stat. 2434, related to research, demonstration, and pilot projects.

A prior section 2929b, Pub. L. 88–452, title V, §553, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2307, related to research, demonstration, and pilot projects, and was repealed by Pub. L. 95–568, §11(d)(1), Nov. 2, 1978, 92 Stat. 2433.

Section 2929b–1, Pub. L. 88–452, title V, §554, as added Pub. L. 95–568, §11(d)(3), Nov. 2, 1978, 92 Stat. 2434, related to announcement of research, demonstration, and pilot project programs.

A prior section 554 of Pub. L. 88–452 was redesignated 557, and is classified to section 2929c of this title.

Section 2929b–2, Pub. L. 88–452, title V, §555, as added Pub. L. 95–568, §11(d)(3), Nov. 2, 1978, 92 Stat. 2434, set forth provisions respecting evaluation of programs.

Section 2929b–3, Pub. L. 88–452, title V, §556, as added Pub. L. 95–568, §11(d)(3), Nov. 2, 1978, 92 Stat. 2435, related to technical assistance and training.

Section 2929c, Pub. L. 88–452, title V, §557, formerly §554, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2308; renumbered §557, Pub. L. 95–568, §11(d)(2), Nov. 2, 1978, 92 Stat. 2433, set forth special conditions for recipients of financial assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART C—GENERAL PROVISIONS

§§2930 to 2930f. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2930, Pub. L. 88–452, title V, §571, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2308; amended Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, defined "Secretary", "State", and "financial assistance".

Section 2930a, Pub. L. 88–452, title V, §572, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2308, related to applicable labor standards.

Section 2930b, Pub. L. 88–452, title V, §573, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2309, related to comparability of wages.

Section 2930c, Pub. L. 88–452, title V, §574, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2309, related to nondiscrimination requirements.

Section 2930d, Pub. L. 88–452, title V, §575, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2309, related to unlawful demonstrations, rioting, or civil disturbances.

Section 2930e, Pub. L. 88–452, title V, §576, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2309; amended Pub. L. 94–341, §2(a)(22), July 6, 1976, 90 Stat. 805, related to political activities.

Section 2930f, Pub. L. 88–452, title V, §577, as added Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2310; amended Pub. L. 94–341, §2(a)(22), July 6, 1976, 90 Stat. 805, provided for advance funding.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART D—DAY CARE PROJECTS

EDITORIAL NOTES

CODIFICATION

This part, formerly designated as Part B, was redesignated Part D by Pub. L. 93–644, §8(a), Jan. 4, 1975, 88 Stat. 2300, as part of the general revision and amendment of this subchapter by Pub. L. 93–644.

§§2931 to 2933. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2931, Pub. L. 88–452, title V, §581, formerly §521, as added Pub. L. 90–222, title I, §107(a), Dec. 23, 1967, 81 Stat. 713; renumbered §581, Pub. L. 93–644, §8(c), Jan. 4, 1975, 88 Stat. 2310, set forth Congressional statement of purpose for day care projects.

Section 2932, Pub. L. 88–452, title V, §582, formerly §522, as added Pub. L. 90–222, title I, §107(a), Dec. 23, 1967, 81 Stat. 713; amended Pub. L. 92–424, §19, Sept. 19, 1972, 86 Stat. 696; renumbered §582 and amended Pub. L. 93–644, §8(b), (c), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 95–568, §17(a)(24), Nov. 2, 1978, 92 Stat. 2441, set forth authority, etc., for projects.

Section 2933, Pub. L. 88–452, title V, §583, formerly §523, as added Pub. L. 90–222, title I, §107(a), Dec. 23, 1967, 81 Stat. 714; amended Pub. L. 91–177, title I, §101(c), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, §2(b), Sept. 19, 1972, 86 Stat. 688; renumbered §583 and amended Pub. L. 93–644, §§8(b), (c), 14(b), Jan. 4, 1975, 88 Stat. 2310, 2329; Pub. L. 94–341, §3(c), July 6, 1976, 90 Stat. 807; Pub. L. 95–568, §12, Nov. 2, 1978, 92 Stat. 2435, related to program duration.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SUBCHAPTER VI—ADMINISTRATION AND COORDINATION

PART A—ADMINISTRATION

§§2941 to 2948. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2941, Pub. L. 88–452, title VI, §601, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89–794, title VI, §601(a), Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90–222, title I, §108(a), Dec. 23, 1967, 81 Stat. 714; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310; Pub. L. 94–341, §2(a)(23)–(28), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §§13(a), 17(a)(25), Nov. 2, 1978, 92 Stat. 2435, 2441, related to establishment, etc., of Community Services Administration.

Section 2942, Pub. L. 88–452, title VI, §602, Aug. 20, 1964, 78 Stat. 528; Pub. L. 89–794, title VI, §§602, 603, Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90–222, title I, §108(b), Dec. 23, 1967, 81 Stat. 714; Pub. L. 91–375, §6(n), Aug. 12, 1970, 84 Stat. 783; Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 93–644, §9(c)(1), Jan. 4, 1975, 88 Stat. 2314; Pub. L. 94–341, §2(a)(29), (30), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §§13(b), 17(a)(26), Nov. 2, 1978, 92 Stat. 2435, 2441, related to authority of Director.

Section 2943, Pub. L. 88–452, title VI, §603, Aug. 20, 1964, 78 Stat. 530; Pub. L. 89–253, §26, Oct. 9, 1965, 79 Stat. 977; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 89–794, title VI, §604, Nov. 8, 1966, 80 Stat. 1469; Pub. L. 90–222, title I, §108(c), Dec. 23, 1967, 81 Stat. 714; Pub. L. 92–424, §20, Sept. 19, 1972, 86 Stat. 696; Pub. L. 93–644, §9(c)(2), Jan. 4, 1975, 88 Stat. 2314; Pub. L. 94–341, §2(a)(31), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §17(a)(27), Nov. 2, 1978, 92 Stat. 2442; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, related to political activities of personnel of overall community action agencies.

Section 2944, Pub. L. 88–452, title VI, §604, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89–794, title IX, §901(d), Nov. 8, 1966, 80 Stat. 1475; Pub. L. 90–222, title I, §108(d), Dec. 23, 1967, 81 Stat. 715; Pub. L. 94–341, §2(a)(32), (33), July 6, 1976, 90 Stat. 805, set forth appeals, notice, and hearing procedures.

Section 2945, Pub. L. 88–452, title VI, §605, Aug. 20, 1964, 78 Stat. 531; Pub. L. 89–253, §27, Oct. 9, 1965, 79 Stat. 978; Pub. L. 89–794, title VI, §605, Nov. 8, 1966, 80 Stat. 1469; Pub. L. 93–644, §9(c)(3), Jan. 4, 1975, 88 Stat. 2314; Pub. L. 95–568, §13(c), Nov. 2, 1978, 92 Stat. 2435, related to establishment, etc., of National Advisory Council on Economic Opportunity.

Section 2946, Pub. L. 88–452, title VI, §606, as added Pub. L. 90–222, title I, §108(e), Dec. 23, 1967, 81 Stat. 715; amended Pub. L. 95–568, §17(a)(28), Nov. 2, 1978, 92 Stat. 2442, related to announcement of research and demonstration contracts.

A prior section 606 of Pub. L. 88–452, which was classified to section 2946, was renumbered as section 306 of Pub. L. 88–452 by Pub. L. 90–222, title I, §105(d), Dec. 23, 1967, 81 Stat. 709, and transferred to section 2855 of this title.

Section 2947, Pub. L. 88–452, title VI, §607, Aug. 20, 1964, 78 Stat. 532, related to labor standards.

Section 2948, Pub. L. 88–452, title VI, §608, Aug. 20, 1964, 78 Stat. 532; Pub. L. 94–341, §2(a)(34), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §13(d), Nov. 2, 1978, 92 Stat. 2435, related to annual reports by Director.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

COMMUNITY ACTION PROGRAMS AND COMMUNITY ECONOMIC DEVELOPMENT POWERS NOT SUBJECT TO DELEGATION

Pub. L. 92–424, §28, Sept. 19, 1972, 86 Stat. 705, which prohibited the Director of the Office of Economic Opportunity from delegating his functions under section 221 and title VII of such Act [section 2808 of this title and subchapter VII of this chapter] to any other agency, was repealed by Pub. L. 93–644, §9(b), Jan. 4, 1975, 88 Stat. 2314, as amended by Pub. L. 94–341, §3(b)(1), July 6, 1976, 90 Stat. 807, effective on the date on which a reorganization plan is effective under section 2941 of this title, as amended by section 9(a) of Pub. L. 93–644.

§2949. Repealed. Pub. L. 93–644, §9(c)(6), Jan. 4, 1975, 88 Stat. 2314

Section, Pub. L. 88–452, title VI, §609, Aug. 20, 1964, 78 Stat. 532; Pub. L. 90–222, title I, §108(f), Dec. 23, 1967, 81 Stat. 715; Pub. L. 91–177, title I, §109, Dec. 30, 1969, 83 Stat. 830; Pub. L. 92–424, §§12(b), 21, Sept. 19, 1972, 86 Stat. 692, 696; Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745, defined the terms "State", "financial assistance", "permanent resident of the United States", "Director", and "lower living standard budget".

§§2950, 2951. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2950, Pub. L. 88–452, title VI, §609, formerly §610, as added Pub. L. 89–253, §28, Oct. 9, 1965, 79 Stat. 978; amended Pub. L. 89–794, title VI, §601(b), Nov. 8, 1966, 80 Stat. 1468; Pub. L. 90–222, title I, §108(g), Dec. 23, 1967, 81 Stat. 716; renumbered §609 and amended Pub. L. 95–568, §§13(e), 17(a)(29), Nov. 2, 1978, 92 Stat. 2436, 2442, related to programs for the elderly poor.

Section 2951, Pub. L. 88–452, title VI, §610, formerly §610–1, as added Pub. L. 89–794, title VI, §606, Nov. 8, 1966, 80 Stat. 1470; amended Pub. L. 90–222, title I, §108(h), Dec. 23, 1967, 81 Stat. 716; Pub. L. 93–608, §1(23), Jan. 2, 1975, 88 Stat. 1970; Pub. L. 94–341, §2(a)(35), July 6, 1976, 90 Stat. 805; renumbered §610 and amended Pub. L. 95–568, §§13(e), (f), 17(a)(30), Nov. 2, 1978, 92 Stat. 2436, 2442, set forth provisions respecting wage comparability, minimum wages, salary relationship to previous earnings, and adjustments.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§§2961 to 2970. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2961, Pub. L. 88–452, title VI, §611, Aug. 20, 1964, 78 Stat. 532; Pub. L. 89–794, title VI, §607, Nov. 8, 1966, 80 Stat. 1470; Pub. L. 90–222, title I, §108(i), Dec. 23, 1967, 81 Stat. 716; Pub. L. 95–568, §17(a)(31), Nov. 2, 1978, 92 Stat. 2442, related to benefit limitations for those voluntarily poor.

Section 2962, Pub. L. 88–452, title VI, §612, Aug. 20, 1964, 78 Stat. 533; Pub. L. 90–222, title I, §108(j), Dec. 23, 1967, 81 Stat. 716, related to joint funding.

Section 2963, Pub. L. 88–452, title VI, §613, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89–794, title VI, §608, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 90–222, title I, §108(k), Dec. 23, 1967, 81 Stat. 717, related to unlawful activities.

Section 2964, Pub. L. 88–452, title VI, §614, Aug. 20, 1964, 78 Stat. 533, prohibited Federal control over curriculum, personnel, etc.

Section 2965, Pub. L. 88–452, title VI, §615, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89–253, §30(e), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–794, title VI, §609, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 91–177, title I, §101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, §2(a), Sept. 19, 1972, 86 Stat. 688; Pub. L. 93–644, §14(a), Jan. 4, 1975, 88 Stat. 2329; Pub. L. 95–568, §13(g), Nov. 2, 1978, 92 Stat. 2436, related to duration of program.

Section 2966, Pub. L. 88–452, title VI, §616, Aug. 20, 1964, 78 Stat. 533; Pub. L. 89–253, §29, Oct. 9, 1965, 79 Stat. 978; Pub. L. 89–794, title VI, §610, Nov. 8, 1966, 80 Stat. 1471; Pub. L. 90–222, title I, §108(l), Dec. 23, 1967, 81 Stat. 717; Pub. L. 91–177, title I, §110, Dec. 30, 1969, 83 Stat. 831; Pub. L. 92–424, §4, Sept. 19, 1972, 86 Stat. 690, related to transfer of funds.

Section 2967, Pub. L. 88–452, title VI, §617, as added Pub. L. 89–253, §30(f), Oct. 9, 1965, 79 Stat. 979, related to benefit distribution between urban and rural areas.

Section 2968, Pub. L. 88–452, title VI, §618, as added Pub. L. 89–794, title VI, §611, Nov. 8, 1966, 80 Stat. 1471, related to restrictions on additional positions.

Section 2969, Pub. L. 88–452, title VI, §619, as added Pub. L. 89–794, title VI, §612, Nov. 8, 1966, 80 Stat. 1472, set forth limitations on Federal administrative expenses.

Section 2970, Pub. L. 88–452, title VI, §620, as added Pub. L. 89–794, title VI, §614(a), Nov. 8, 1966, 80 Stat. 1472; amended Pub. L. 95–568, §13(h), Nov. 2, 1978, 92 Stat. 2436, related to maximum use of private enterprise resources.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11466

Ex. Ord. No. 11466, eff. Apr. 18, 1969, 34 F.R. 6727, formerly set out as a note under section 2962 of this title, which related to the administration of certain jointly funded projects, was superseded by Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, formerly set out as a note under section 7103 of Title 31, Money and Finance.

§2971. Repealed. Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436

Section, Pub. L. 88–452, title VI, §621, as added Pub. L. 90–222, title I, §108(m)(1), Dec. 23, 1967, 81 Stat. 717, related to responsibilities for "Follow Through" program.

§§2971a to 2971g. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2971a, Pub. L. 88–452, title VI, §621, formerly §622, as added Pub. L. 91–177, title I, §111(a), Dec. 30, 1969, 83 Stat. 831; renumbered §621, Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436, set forth advance funding requirements.

Section 2971b, Pub. L. 88–452, title VI, §622, formerly §623, as added Pub. L. 92–424, §22, Sept. 19, 1972, 86 Stat. 696; renumbered §622, Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436, related to publication of guidelines in the Federal Register.

Section 2971c, Pub. L. 88–452, title VI, §623, formerly §624, as added Pub. L. 92–424, §23, Sept. 19, 1972, 86 Stat. 696; renumbered §623, Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436, set forth nondiscrimination provisions.

Section 2971d, Pub. L. 88–452, title VI, §624, formerly §625, as added Pub. L. 92–424, §24, Sept. 19, 1972, 86 Stat. 697; amended Pub. L. 93–644, §9(d), Jan. 4, 1975, 88 Stat. 2314; renumbered §624, Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436, related to applicability, etc., of the poverty line.

Section 2971e, Pub. L. 88–452, title VI, §625, formerly §626, as added Pub. L. 93–355, §3(f), July 25, 1974, 88 Stat. 390; renumbered §625, Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436, related to independence of the Legal Services Corporation.

Section 2971f, Pub. L. 88–452, title VI, §626, as added Pub. L. 93–644, §9(e), Jan. 4, 1975, 88 Stat. 2314; renumbered §627, Pub. L. 94–341, §2(c), July 6, 1976, 90 Stat. 806; renumbered §626, Pub. L. 95–568, §13(i), Nov. 2, 1978, 92 Stat. 2436, set forth provisions relating to criminal activity and penalties.

Section 2971g, Pub. L. 88–452, title VI, §627, as added Pub. L. 93–644, §9(e), Jan. 4, 1975, 88 Stat. 2314; renumbered §628, Pub. L. 94–341, §2(c), July 6, 1976, 90 Stat. 806; renumbered §627 and amended Pub. L. 95–568, §§13(i), 17(a)(32), Nov. 2, 1978, 92 Stat. 2436, 2442, related to withholding of certain Federal taxes by antipoverty agencies.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART B—COORDINATION

§§2972 to 2978. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2972, Pub. L. 88–452, title VI, §630, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 717, related to coordination of activities and policy statement attendant thereto.

Section 2973, Pub. L. 88–452, title VI, §631, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 718; amended Pub. L. 95–568, §17(a)(33), Nov. 2, 1978, 92 Stat. 2442, related to establishment, etc., of Economic Opportunity Council.

Section 2974, Pub. L. 88–452, title VI, §632, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 718; amended Pub. L. 92–424, §27(b)(2), Sept. 19, 1972, 86 Stat. 705; Pub. L. 93–644, §9(c)(4), Jan. 4, 1975, 88 Stat. 2314; Pub. L. 95–568, §§13(j), 17(a)(34), Nov. 2, 1978, 92 Stat. 2436, 2442, set forth responsibilities of the Director.

Section 2975, Pub. L. 88–452, title VI, §633, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 719, related to cooperation of other Federal agencies.

Section 2976, Pub. L. 88–452, title VI, §634, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 719, related to combinations among projects and programs.

Section 2977, Pub. L. 88–452, title VI, §635, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 719; amended Pub. L. 95–568, §17(a)(35), Nov. 2, 1978, 92 Stat. 2443, related to establishment, etc., of information center.

Section 2978, Pub. L. 88–452, title VI, §636, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 720, prohibited duplication of existing functions by new departments or agencies.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2979. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section, Pub. L. 88–452, title VI, §637, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 720; amended Pub. L. 93–644, §9(c)(5), Jan. 4, 1975, 88 Stat. 2314, related to special responsibilities and training programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§§2979a, 2980. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2979a, Pub. L. 88–452, title VI, §638, as added Pub. L. 95–568, §13(k), Nov. 2, 1978, 92 Stat. 2436, related to utilization, etc., of regional offices.

Section 2980, Pub. L. 88–452, title VI, §639, formerly §638, as added Pub. L. 90–222, title I, §108(m)(3), Dec. 23, 1967, 81 Stat. 721; renumbered §639, Pub. L. 95–568, §13(k), Nov. 2, 1978, 92 Stat. 2436, defined applicable terms.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SUBCHAPTER VII—COMMUNITY ECONOMIC DEVELOPMENT

§§2981 to 2981c. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2981, Pub. L. 88–452, title VII, §701, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 697; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2315, set forth Congressional statement of purpose with respect to community economic development programs.

A prior section 2981, Pub. L. 88–452, title VII, §701, Aug. 20, 1964, 78 Stat. 534; Pub. L. 89–794, title VII, §701(a), Nov. 8, 1966, 80 Stat. 1472; Pub. L. 90–222, title I, §109, Dec. 23, 1967, 81 Stat. 722, respecting treatment of income for certain public assistance purposes, related to provisions of State plans and withholding of payments.

Section 2981a, Pub. L. 88–452, title VII, §702, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2315, defined "community development corporation".

Section 2981b, Pub. L. 88–452, title VII, §703, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2316; amended Pub. L. 95–568, §14(a), Nov. 2, 1978, 92 Stat. 2436, related to authorization of appropriations.

Section 2981c, Pub. L. 88–452, title VII, §704, as added Pub. L. 95–568, §14(b), Nov. 2, 1978, 92 Stat. 2436, related to establishment, etc., of advisory community investment boards, and the National Board.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART A—URBAN AND RURAL SPECIAL IMPACT PROGRAMS

§§2982 to 2982c. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2982, Pub. L. 88–452, title VII, §711, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 698; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2316, set forth Congressional statement of policy with respect to urban and rural special impact programs.

Section 2982a, Pub. L. 88–452, title VII, §712, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 698; amended Pub. L. 93–386, §2(b), Aug. 23, 1974, 88 Stat. 745; Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2316; Pub. L. 94–341, §2(b)(1), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §14(c), Nov. 2, 1978, 92 Stat. 2437, related to establishment and scope of programs.

Section 2982b, Pub. L. 88–452, title VII, §713, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 698; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2317; Pub. L. 95–568, §§14(d), (e), 17(a)(36), Nov. 2, 1978, 92 Stat. 2437, 2443, set forth financial assistance requirements for programs.

Section 2982c, Pub. L. 88–452, title VII, §714, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 699; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2318; Pub. L. 94–341, §2(b)(2), (3), July 6, 1976, 90 Stat. 805; Pub. L. 95–568, §14(f), Nov. 2, 1978, 92 Stat. 2438, related to Federal share of program costs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2982d. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 88–452, title VII, §715, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 700, related to Federal share of program costs, prior to general amendment of this subchapter by Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2315, and was covered by section 2982c of this title.

PART B—SPECIAL RURAL PROGRAMS

§§2983 to 2983b. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2983, Pub. L. 88–452, title VII, §721, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 700; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2318, set forth Congressional statement of purpose for special rural programs.

Section 2983a, Pub. L. 88–452, title VII, §722, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 700; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2318; Pub. L. 95–568, §14(g), Nov. 2, 1978, 92 Stat. 2438, related to financial assistance for programs.

Section 2983b, Pub. L. 88–452, title VII, §723, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 701; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2319, set forth limitations on assistance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

PART C—DEVELOPMENT LOANS TO COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS

§§2984, 2984a. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2984, Pub. L. 88–452, title VII, §731, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 701; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2319; Pub. L. 94–341, §2(b)(4), (5), 90 Stat. 805, 806; Pub. L. 95–568, §§14(h), 17(a)(37), Nov. 2, 1978, 92 Stat. 2438, 2443, set forth prerequisites, etc., for development loans for community economic development programs.

Section 2984a, Pub. L. 88–452, title VII, §732, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 702; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2320; Pub. L. 94–341, §2(b)(6), July 6, 1976, 90 Stat. 806; Pub. L. 95–568, §14(i), Nov. 2, 1978, 92 Stat. 2438, related to Model Community Economic Development Finance Corporation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2984b. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 88–452, title VII, §733, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 703, provided for evaluation and research and a report to Congress, prior to the general amendment of this subchapter by Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2315.

PART D—SUPPORTIVE PROGRAMS AND ACTIVITIES

§§2985 to 2985c. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2985, Pub. L. 88–452, title VII, §741, as added Pub. L. 92–424, §25(a), Sept. 19, 1972, 86 Stat. 703; amended Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2321; Pub. L. 94–341, §2(b)(7), (8), July 6, 1976, 90 Stat. 806, related to technical and training assistance for supportive programs and activities.

Section 2985a, Pub. L. 88–452, title VII, §742, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2321; amended 94–341, §2(b)(9)–(12), July 6, 1976, 90 Stat. 806; Pub. L. 95–568, §14(j), Nov. 2, 1978, 92 Stat. 2438, related to application of other resources.

Section 2985b, Pub. L. 88–452, title VII, §743, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2322; amended Pub. L. 94–341, §2(b)(13), July 6, 1976, 90 Stat. 806, related to application of Department of Housing and Urban Development programs.

Section 2985c, Pub. L. 88–452, title VII, §744, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2322; amended Pub. L. 94–341, §2(b)(14), (17)(A), (B), July 6, 1976, 90 Stat. 806, related to applicability of Department of Agriculture and Farmers Home Administration programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2985c–1. Repealed. Pub. L. 95–568, §14(k), Nov. 2, 1978, 92 Stat. 2438

Section, Pub. L. 88–452, title VII, §745, formerly §744(b), as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2322; renumbered §745 and amended Pub. L. 94–341, §2(b)(15), (17)(C), July 6, 1976, 90 Stat. 806, set forth provisions relating to report by Director on availability and effectiveness of Federal agency programs.

§§2985d to 2985g. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2985d, Pub. L. 88–452, title VII, §745, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2322; renumbered §746, Pub. L. 94–341, §2(b)(16), July 6, 1976, 90 Stat. 806; renumbered §745, Pub. L. 95–568, §14(k), Nov. 2, 1978, 92 Stat. 2438, related to coordination and eligibility.

Section 2985e, Pub. L. 88–452, title VII, §746, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2322; renumbered §747, Pub. L. 94–341, §2(b)(16), July 6, 1976, 90 Stat. 806; renumbered §746 and amended Pub. L. 95–568, §14(k), (l), Nov. 2, 1978, 92 Stat. 2438, 2439, related to evaluation, research, and demonstration.

Section 2985f, Pub. L. 88–452, title VII, §747, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat.

2323; renumbered §748, Pub. L. 94–341, §2(b)(16), July 6, 1976, 90 Stat. 806; renumbered §747, Pub. L. 95–568, §14(k), Nov. 2, 1978, 92 Stat. 2438, related to program planning grants.

Section 2985g, Pub. L. 88–452, title VII, §748, as added Pub. L. 93–644, §10(a), Jan. 4, 1975, 88 Stat. 2323; renumbered §749, Pub. L. 94–341, §2(16), July 6, 1976, 90 Stat. 806; renumbered §748, Pub. L. 95–568, §14(k), Nov. 2, 1978, 92 Stat. 2438, set forth nondiscrimination provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

SUBCHAPTER VIII—NATIVE AMERICAN PROGRAMS

§2991. Short title

This subchapter may be cited as the "Native American Programs Act of 1974".

(Pub. L. 88–452, title VIII, §801, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2323.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2991, Pub. L. 88–452, title VIII, §801, as added Pub. L. 89–794, title VIII, §801. Nov. 8, 1966, 80 Stat. 1472; amended Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722; Pub. L. 92–424, §26(a), Sept. 19, 1972, 86 Stat. 703, related to Congressional statement of purpose, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417. See section 4951 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116–101, §1, Dec. 20, 2019, 133 Stat. 3261, provided that: "This Act [amending sections 2991b–3 and 2992d of this title] may be cited as the 'Esther Martinez Native American Languages Programs Reauthorization Act'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–394, §1, Dec. 14, 2006, 120 Stat. 2705, provided that: "This Act [amending sections 2991b–3, 2992c, and 2992d of this title] may be cited as the 'Esther Martinez Native American Languages Preservation Act of 2006'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–361, §1, Nov. 10, 1998, 112 Stat. 3278, provided that: "This Act [amending sections 2991b–1 and 2992d of this title] may be cited as the 'Native American Programs Act Amendments of 1998'."

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–524, §1, Oct. 26, 1992, 106 Stat. 3434, provided that: "This Act [enacting section 2991b–3 of this title and amending section 2992d of this title], other than section 4 [enacting provisions set out as a note under section 2001 of Title 25, Indians], may be cited as the 'Native American Languages Act of 1992'."

Pub. L. 102–375, title VIII, §821, Sept. 30, 1992, 106 Stat. 1295, provided that: "This subtitle [subtitle C (§§821, 822) of title VIII of Pub. L. 102–375, enacting sections 2991b–2, 2991c, 2992–1, 2992a–1, and 2992b of this title, amending sections 2991a to 2991b–1, 2991d to 2992, 2992c, and 2992d of this title, and repealing former sections 2991c and 2992b of this title] may be cited as the 'Native American Programs Act Amendments of 1992'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–408, §1, Oct. 4, 1990, 104 Stat. 883, provided that: "This Act [amending sections 2991b and 2992d of this title] may be cited as the 'Indian Environmental Regulatory Enhancement Act of 1990'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–175, title V, §501, Nov. 29, 1987, 101 Stat. 973, provided that: "This title [enacting sections 2991b–1, 2991d–1 and 2992b–1 of this title and amending sections 2991a, 2991b, 2991d–1, 2991f, 2992c, and 2992d of this title] may be cited as the 'Native American Programs Act Amendments of 1987'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–558, title X, §1001, Oct. 30, 1984, 98 Stat. 2905, provided that: "This title [amending sections 2991b, 2992b to 2992d of this title] may be cited as the 'Native American Programs Act Amendments of 1984'."

§2991a. Congressional statement of purpose

The purpose of this subchapter is to promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives.

(Pub. L. 88–452, title VIII, §802, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324; amended Pub. L. 100–175, title V, §§504(b)(1), 506(c)(1), Nov. 29, 1987, 101 Stat. 975, 978; Pub. L. 102–375, title VIII, §822(21), Sept. 30, 1992, 106 Stat. 1300; Pub. L. 103–171, §5(1), Dec. 2, 1993, 107 Stat. 1991.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2991a, Pub. L. 88–452, title VIII, §802, as added Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1473, covered recruitment, selection, training, referral, and assignment of volunteers and consent of Governors of States in which these activities were conducted, prior to the general amendment of this subchapter by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722.

AMENDMENTS

1993—Pub. L. 103–171 substituted "Alaska" for "Alaskan".

1992—Pub. L. 102–375, which directed the substitution of "Alaska Native" for "Alaskan Native", could not be executed because the words "Alaskan Native" did not appear.

1987—Pub. L. 100–175, §506(c)(1), substituted "Native Hawaiians" for "Hawaiian Natives".

Pub. L. 100–175, §504(b)(1), inserted ", other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 504(b)(1) of Pub. L. 100–175 effective Oct. 1, 1987, and amendment by section 506(c)(1) of Pub. L. 100–175 effective upon expiration of 90-day period beginning Nov. 29, 1987, see section 701(a), (c) of Pub. L. 100–175, set out as a note under section 3001 of this title.

ALASKA FEDERATION OF NATIVES' STUDY AND REPORT WITH PROPOSALS TO IMPLEMENT RECOMMENDATIONS OF ALASKA NATIVES COMMISSION

Pub. L. 104–270, Oct. 9, 1996, 110 Stat. 3301, provided that:

"SECTION 1. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

"The Congress finds and declares the following:

"(1) The Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives (hereafter in this Act referred to as the 'Alaska Natives Commission') was established by Public Law 101–379 (42 U.S.C. 2991a note) following the publication in 1989 of the 'Report on the Status of Alaska Natives: A Call for Action' by the Alaska Federation of Natives and after extensive congressional hearings

which focused on the need for the first comprehensive assessment of the social, cultural, and economic condition of Alaska's 86,000 Natives since the enactment of the Alaska Native Claims Settlement Act, Public Law 92–203 [43 U.S.C. 1601 et seq.].

"(2) The 14-member Alaska Natives Commission held 15 regional hearings throughout Alaska between July 1992 and October 1993, and 2 statewide hearings in Anchorage coinciding with the Conventions of 1992 and 1993 of the Alaska Federation of Natives. In May 1994, the Alaska Natives Commission issued its 3 volume, 440 page report. As required by Public Law 101–379, the report was formally conveyed to the Congress, the President of the United States, and the Governor of Alaska.

"(3) The Alaska Natives Commission found that many Alaska Native individuals, families, and communities were experiencing a social, cultural, and economic crisis marked by rampant unemployment, lack of economic opportunity, alcohol abuse, depression, and morbidity and mortality rates that have been described by health care professionals as 'staggering'.

"(4) The Alaska Natives Commission found that due to the high rate of unemployment and lack of economic opportunities for Alaska Natives, government programs for the poor have become the foundation of many village economies. Displacing traditional Alaska Native social safety nets, these well-meaning programs have undermined the healthy interdependence and self-sufficiency of Native tribes and families and have put Native tribes and families at risk of becoming permanent dependencies of Government.

"(5) Despite these seemingly insurmountable problems, the Alaska Natives Commission found that Alaska Natives, building on the Alaska Native Claims Settlement Act, had begun a unique process of critical self-examination which, if supported by the United States Congress through innovative legislation, and effective public administration at all levels including traditional Native governance, could provide the basis for an Alaska Native social, cultural, economic, and spiritual renewal.

"(6) The Alaska Natives Commission recognized that the key to the future well-being of Alaska Natives lay in—

"(A) the systematic resumption of responsibility by Alaska Natives for the well-being of their members,

"(B) the strengthening of their economies,

"(C) the strengthening, operation, and control of their systems of governance, social services, education, health care, and law enforcement, and

"(D) exercising rights they have from their special relationship with the Federal Government and as citizens of the United States and Alaska.

"(7) The Alaska Natives Commission recognized that the following 3 basic principles must be respected in addressing the myriad of problems facing Alaska Natives:

"(A) Self-reliance.

"(B) Self-determination.

"(C) Integrity of Native cultures.

"(8) There is a need to address the problems confronting Alaska Natives. This should be done rapidly, with certainty, and in conformity with the real economic, social, and cultural needs of Alaska Natives.

"(9) Congress retains and has exercised its constitutional authority over Native affairs in Alaska subsequent to the Treaty of Cession and does so now through this Act.

"SEC. 2. ALASKA NATIVE IMPLEMENTATION STUDY.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) the Alaska Natives Commission adopted certain recommendations raising important policy questions which are unresolved in Alaska and which require further study and review before Congress considers legislation to implement solutions to address these recommendations; and

"(2) the Alaska Federation of Natives is the representative body of statewide Alaska Native interests best suited to further investigate and report to Congress with proposals to implement the recommendations of the Alaska Natives Commission.

"(b) GRANT.—The Secretary of Health and Human Services shall make a grant to the Alaska Federation of Natives to conduct the study and submit the report required by this section. Such grant may only be made if the Alaska Federation of Natives agrees to abide by the requirements of this section.

"(c) STUDY.—Pursuant to subsection (b), the Alaska Federation of Natives shall—

"(1) examine the recommendations of the Alaska Natives Commission;

"(2) examine initiatives in the United States, Canada, and elsewhere for successful ways that issues similar to the issues addressed by the Alaska Natives Commission have been addressed;

"(3) conduct hearings within the Alaska Native community on further ways in which the Commission's recommendations might be implemented; and

"(4) recommend enactment of specific provisions of law and other actions the Congress should take to

implement such recommendations.

"(d) CONSIDERATION OF LOCAL CONTROL.—In developing its recommendations pursuant to subsection (c)(4), the Alaska Federation of Natives shall give specific attention to the ways in which the recommendations may be achieved at the local level with maximum local control of the implementation of the recommendations.

"(e) REPORT.—Not later than 12 months after the date on which the grant is made under subsection (b), the Alaska Federation of Natives shall submit a report on the study conducted under this section, together with the recommendations developed pursuant to subsection (c)(4), to the President and the Congress and to the Governor and legislature of the State of Alaska. In addition, the Alaska Federation of Natives shall make the report available to Alaska Native villages and organizations and to the general public.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $350,000 for the grant under subsection (b).

"(g) ADDITIONAL STATE FUNDING.—The Congress encourages the State of Alaska to provide the additional funding necessary for the completion of the study under this section."

ALASKA NATIVES COMMISSION

Pub. L. 101–379, §12, Aug. 18, 1990, 104 Stat. 478, established a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives to conduct a comprehensive review of Federal and State policies and programs affecting Alaska Natives in order to identify specific actions that could be taken to help assure that public policy goals were more fully realized among Alaska Natives, further provided for membership, meetings, and other administrative affairs of the Commission, as well as specific powers and duties, further directed the Commission to submit, by no later than 18 months after its first meeting, a report with recommendations to the President, the Congress, the Governor of Alaska, and the legislature of the State of Alaska, and further provided for funding as well as termination of the Commission 180 days after the date of submission of its report.

NATIVE HAWAIIANS STUDY COMMISSION

Pub. L. 96–565, title III, §§301–307, Dec. 22, 1980, 94 Stat. 3324–3326, known as the Native Hawaiians Study Commission Act, established the Native Hawaiians Study Commission to study the culture, needs, and concerns of Native Hawaiians, and to issue a report and make recommendations to Congress. The Commission was required to have its first meeting not less than 90-days after Dec. 22, 1980, produce a draft report no later than 1 year after its first meeting and a final report no later than 9 months later. The Commission ceased to exist upon the expiration of the 60-day period following the submission of its final report.

§2991b. Financial assistance for Native American projects

(a) Authorization for financial assistance to public and nonprofit agencies; consultation with other Federal agencies to avoid duplication

The Commissioner is authorized to provide financial assistance, on a single year or multiyear basis, to public and nonprofit private agencies, including but not limited to, governing bodies of Indian Tribes on Federal and State reservations, Alaska Native villages and regional corporations established by the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and such public and nonprofit private agencies serving Native Hawaiians, and Indian and Alaska Native organizations in urban or rural areas that are not Indian reservations or Alaska Native villages, for projects pertaining to the purposes of this subchapter. The Commissioner is authorized to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act. In determining the projects to be assisted under this subchapter, the Commissioner shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized Tribe. To the greatest extent

practicable, the Commissioner shall ensure that each project to be assisted under this subchapter is consistent with the priorities established by the agency which receives such assistance.

(b) Economic development

(1) In general

The Commissioner may provide assistance under subsection (a) for projects relating to the purposes of this subchapter to a Native community development financial institution, as defined by the Secretary of the Treasury.

(2) Priority

With regard to not less than 50 percent of the total amount available for assistance under this section, the Commissioner shall give priority to any application seeking assistance for—

(A) the development of a Tribal code or court system for purposes of economic development, including commercial codes, training for court personnel, regulation pursuant to section 261 of title 25, and the development of nonprofit subsidiaries or other Tribal business structures;

(B) the development of a community development financial institution, including training and administrative expenses; or

(C) the development of a Tribal master plan for community and economic development and infrastructure.

(c) Limitations of financial assistance; exceptions; non-Federal contributions

Financial assistance extended to an agency under this subchapter shall not exceed 80 per centum of the approved costs of the assisted project, except that the Commissioner may approve assistance in excess of such percentage if the Commissioner determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Commissioner shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this subchapter.

(d) Assistance as addition to, and not substitution for, activities previously carried out without Federal assistance; waiver; nonreservation areas

(1) No project shall be approved for assistance under this subchapter unless the Commissioner is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Commissioner may waive this requirement in any case in which the Commissioner determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this subchapter.

(2) No project may be disapproved for assistance under this subchapter solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.

(e) Grants to improve Tribal regulation of environmental quality

(1) The Commissioner shall award grants to Indian Tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian Tribe to regulate environmental quality pursuant to Federal and Tribal environmental laws.

(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

(B) the development of Tribal laws on environmental quality, and

(C) the enforcement and monitoring of environmental quality laws.

(3) The 20 percent of the costs of planning, developing, and implementing a program for which a

grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this subchapter.

(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian Tribes to the Commissioner in such form as the Commissioner shall prescribe.

(Pub. L. 88–452, title VIII, §803, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324; amended Pub. L. 95–568, §17(a)(39), Nov. 2, 1978, 92 Stat. 2443; Pub. L. 98–558, title X, §1002, Oct. 30, 1984, 98 Stat. 2905; Pub. L. 100–175, title V, §§502(1), 504(a), 506(c)(2), Nov. 29, 1987, 101 Stat. 973, 975, 978; Pub. L. 101–408, §2, Oct. 4, 1990, 104 Stat. 883; Pub. L. 102–375, title VIII, §822(1), (21), Sept. 30, 1992, 106 Stat. 1295, 1300; Pub. L. 102–497, §9(a), Oct. 24, 1992, 106 Stat. 3257; Pub. L. 103–171, §5(2), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 116–261, §5(a), (d), Dec. 30, 2020, 134 Stat. 3313, 3314.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (a), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

This Act, referred to in subsec. (a), probably means the Native American Programs Act of 1974, Pub. L. 88–452, title VIII, as added by Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to this subchapter, see section 2991 of this title.

PRIOR PROVISIONS

A prior section 2991b, Pub. L. 88–452, title VIII, §803, as added Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1473, provided for stipend for volunteers, living, travel, and leave allowances, and subsistence, prior to the general amendment of this subchapter by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–261, §5(d)(1), (2), substituted "Tribe" for "tribe" and "Tribes" for "tribes".

Subsecs. (b) to (e). Pub. L. 116–261, §5(a), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

Subsec. (e)(1). Pub. L. 116–261, §5(d), substituted "Tribe" for "tribe", "Tribes" for "tribes", and "Tribal" for "tribal".

Subsec. (e)(2)(B). Pub. L. 116–261, §5(d)(3), substituted "Tribal" for "tribal".

Subsec. (e)(4). Pub. L. 116–261, §5(d)(2), substituted "Tribes" for "tribes".

1993—Subsec. (a). Pub. L. 103–171 substituted "areas that are not Indian reservations or Alaska Native villages" for "nonreservation areas".

1992—Subsec. (a). Pub. L. 102–497 struck out ", subject to the availability of funds appropriated under the authority of section 2992d(c) of this title," after "Commissioner is authorized" in second sentence.

Pub. L. 102–375, §822(21), substituted "Alaska Native villages" for "Alaskan Native villages".

Pub. L. 102–375, §822(1)(A), (B)(i), substituted "Commissioner" for "Secretary" wherever appearing and substituted "Indian and Alaska Native organizations" for "Indian organizations".

Pub. L. 102–375, §822(1)(B)(ii), which directed the substitution of "area that is not an Indian reservation or Alaska Native village" for "nonreservation area", could not be executed because the words "nonreservation area" did not appear.

Subsecs. (b), (c)(1), (d)(1), (4). Pub. L. 102–375, §822(1)(A), substituted "Commissioner" for "Secretary" wherever appearing.

1990—Subsec. (d). Pub. L. 101–408 added subsec. (d).

1987—Subsec. (a). Pub. L. 100–175, §506(c)(2), substituted "Native Hawaiians" for "Hawaiian Natives".

Pub. L. 100–175, §§502(1), 504(a), inserted ", on a single year or multiyear basis," after "assistance" in first sentence and inserted after first sentence "The Secretary is authorized, subject to the availability of funds

appropriated under the authority of section 2992d(c) of this title, to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act."

1984—Subsec. (a). Pub. L. 98–558, §1002(a), inserted at end "Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this subchapter is consistent with the priorities established by the agency which receives such assistance."

Subsec. (c)(1). Pub. L. 98–558, §1002(b), designated existing provisions as par. (1) and added par. (2).

1978—Pub. L. 95–568 substituted in subsecs. (b) and (c) "the Secretary determines" for "he determines".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by sections 502(1) and 504(a) of Pub. L. 100–175 effective Oct. 1, 1987, and amendment by section 506(c)(2) of Pub. L. 100–175 effective upon expiration of 90-day period beginning Nov. 29, 1987, see section 701(a), (c) of Pub. L. 100–175, set out as a note under section 3001 of this title.

§2991b–1. Loan fund; demonstration project

(a) Grant to Office of Hawaiian Affairs to establish revolving loan fund; purposes of fund; administrative costs; matching funds

(1) In order to provide funding that is not available from private sources, the Commissioner shall award a grant to the Office of Hawaiian Affairs of the State of Hawaii (referred to in this section as the "Office"), which shall use that grant to carry out, in the State of Hawaii, a demonstration project involving the establishment of a revolving loan fund—

(A) from which the Office shall make loans or loan guarantees to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

(2) The agreement under which a grant is awarded under paragraph (1) shall contain provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant and a requirement that the grantee contribute to the revolving loan fund an amount of non-Federal funds equal to the amount of such grant.

(b) Loans or loan guarantees to borrowers; determinations; term; interest rate; default and collection procedures; prohibition on self-lending

(1) The Office may make a loan or loan guarantee to a borrower under subsection (a)(1)(A) only if the Office determines that—

(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

(B) there is a reasonable prospect that the borrower will repay the loan.

(2) Each loan or loan guarantee made under subsection (a)(1)(A) shall be—

(A) for a term that does not exceed 7 years; and

(B) at a rate of interest that does not exceed a rate equal to the sum of—

(I) the most recently published prime rate (as published in the newspapers of general circulation in the State of Hawaii before the date on which the loan is made); and

(II) 3 percentage points.

(3) The Office may require any borrower of a loan made under subsection (a)(1)(A) to provide

such collateral as the Office determines to be necessary to secure the loan.

(4) Prior to making loans under subsection (a)(1)(A), the Office shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Commissioner. Such Office shall provide to each applicant for a loan under subsection (a)(1)(A), at the time application for the loan is made, a written copy of such procedures and definitions.

(5) The Office may not lend to itself any of the funds awarded under the grant.

(c) Notice to Commissioner of loans in default and uncollectability of such loans; instructions by Commissioner

(1) The Office shall provide the Commissioner at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the Office shall notify the Commissioner that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall include recommendations for future action to be taken by the Office.

(B) Upon receiving such notice, the Commissioner shall instruct the Office—

(i) to continue with its collection activities;

(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

(C) The Office shall carry out all instructions received under subparagraph (B) from the Commissioner.

(d) Payment of administrative costs; management and technical assistance

(1) The Office shall, out of funds available in the revolving loan fund established under such subsection—

(A) pay expenses incurred by the Office in administering the revolving loan fund; and

(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

(2) The Commissioner shall provide to the Office such management and technical assistance as the Office may request in order to carry out the provisions of this section.

(e) Regulations

Not later than 120 days after November 29, 1987, the Commissioner, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

(1) in making loans under subsection (a)(1)(A); and

(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.

The Commissioner may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

(f) Authorization of appropriations; investment in obligations of United States

(1) There is authorized to be appropriated for each of the fiscal years 2000 and 2001, $1,000,000 for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

(g) Reports to Congress; contents

(1) The Commissioner, in consultation with the Office, shall submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives not later than January 1 following each fiscal year, regarding the administration of this section in such fiscal year.

(2) Such report shall include the views and recommendations of the Commissioner with respect to the revolving loan fund established under subsection (a)(1) and with respect to loans made from such fund, and shall—

(A) describe the effectiveness of the operation of such fund in improving the economic and social self-sufficiency of Native Hawaiians;

(B) specify the number of loans made in such fiscal year;

(C) specify the number of loans outstanding as of the end of such fiscal year; and

(D) specify the number of borrowers who fail in such fiscal year to repay loans in accordance with the agreements under which such loans are required to be repaid.

(Pub. L. 88–452, title VIII, §803A, as added Pub. L. 100–175, title V, §506(a), Nov. 29, 1987, 101 Stat. 976; amended Pub. L. 102–375, title VIII, §822(2), Sept. 30, 1992, 106 Stat. 1296; Pub. L. 103–171, §5(3), Dec. 2, 1993, 107 Stat. 1991; Pub. L. 105–361, §3, Nov. 10, 1998, 112 Stat. 3278.)

EDITORIAL NOTES

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–361, §3(a)(1)(A), in introductory provisions, substituted "award a grant" for "award grants" and "use that grant to carry out" for "use such grants to establish and carry out".

Subsec. (a)(1)(A). Pub. L. 105–361, §3(a)(1)(B), inserted "or loan guarantees" after "make loans".

Subsec. (b)(1). Pub. L. 105–361, §3(a)(2)(A), substituted "a loan or loan guarantee to a borrower" for "loans to a borrower" in introductory provisions.

Subsec. (b)(2). Pub. L. 105–361, §3(a)(2)(B)(i), substituted "Each loan or loan guarantee made" for "Loans made" in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 105–361, §3(a)(2)(B)(ii), substituted "7 years" for "5 years".

Subsec. (b)(2)(B). Pub. L. 105–361, §3(a)(2)(B)(iii), substituted "that does not exceed a rate equal to the sum of—" for "that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made." and added cls. (I) and (II).

Subsec. (f)(1). Pub. L. 105–361, §3(a)(3), substituted "2000 and 2001," for "1992, 1993, and 1994,".

1993—Subsecs. (b) to (d)(1). Pub. L. 103–171, §5(3)(A), struck out "to which a grant is awarded under subsection (a)(1) of this section" before "may make loans" in subsec. (b)(1), before "may require any borrower" in subsec. (b)(3), before "shall establish written" in subsec. (b)(4), before "may not lend" in subsec. (b)(5), before "shall provide the Commissioner" in subsec. (c)(1), before "shall notify the Commissioner" in subsec. (c)(2)(A), and before "shall, out of funds" in subsec. (d)(1).

Subsec. (d)(2). Pub. L. 103–171, §5(3)(B), struck out "to which a grant is made under subsection (a)(1) of this section" after "Commissioner shall provide to the Office".

Subsec. (f)(1). Pub. L. 103–171, §5(3)(C), substituted "each of the fiscal years 1992, 1993, and 1994, $1,000,000" for "fiscal years 1988, 1989, and 1990 the aggregate amount $3,000,000 for all such fiscal years".

1992—Pub. L. 102–375, §822(2)(C), (D), substituted "Commissioner" for "Secretary" wherever appearing in subsecs. (a)(1), (b)(4), (c), (d)(2), and (e) and "Office" for "agency or organization" wherever appearing in subsecs. (b)(1), (3) to (5), (c), and (d).

Pub. L. 102–375, §822(2)(B), which directed the amendment of this section by substituting "Office" for "agency or organization to which a grant is awarded under subsection (a)(1) of this section" wherever appearing, could not be executed because the words "agency or organization to which a grant is awarded under subsection (a)(1) of this section" did not appear in the original.

Subsec. (a)(1). Pub. L. 102–375, §822(2)(A), substituted "the Office of Hawaiian Affairs of the State of Hawaii (referred to in this section as the 'Office')" for "one agency of the State of Hawaii, or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians", struck out "5-year" before "demonstration", and in subpar. (A) substituted "the Office" for "such agency or Native Hawaiian organization".

Subsec. (a)(2). Pub. L. 102–375, §822(2)(E), inserted before period at end "and a requirement that the grantee contribute to the revolving loan fund an amount of non-Federal funds equal to the amount of such

grant".

Subsec. (b)(6). Pub. L. 102–375, §822(2)(F) struck out par. (6) which prohibited making of loan from revolving fund after close of 5-year period beginning on Nov. 29, 1987.

Subsec. (f)(1). Pub. L. 102–375, §822(2)(G), which directed substitution of "each of the fiscal years 1992, 1993, and 1994, $1,000,000" for "fiscal years 1988, 1989, and 1990 the aggregate amount of $3,000,000 for all such fiscal years", could not be executed because the words "fiscal years 1988, 1989, and 1990 the aggregate amount of $3,000,000 for all such fiscal years" did not appear.

Subsec. (f)(3). Pub. L. 102–375, §822(2)(H), struck out par. (3) which read as follows:

"(A) All monies that are in the revolving loan fund at the close of the 5-year period beginning on November 29, 1987, and that are not otherwise needed (as determined by the Secretary) to carry out the provisions of this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(B) All monies deposited in the revolving loan fund after the close of such period pursuant to subsection (a)(1)(B) of this section shall be deposited into the Treasury of the United States as miscellaneous receipts."

Subsec. (g). Pub. L. 102–375, §822(2)(I), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

"(1) The Secretary, in consultation with the agency or organization to which a grant is awarded under subsection (a)(1) of this section, shall submit to the Congress—

"(A) an interim report not later than 2 years after November 29, 1987; and

"(B) a final report not later than 4 years after November 29, 1987;

regarding the administration of this section.

"(2) Each such report shall include the views and recommendations of the Secretary regarding—

"(A) the effectiveness of the demonstration project;

"(B) whether the demonstration project should be expanded to other groups eligible for assistance under this subchapter; and

"(C) whether the duration of the demonstration project should be extended."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon expiration of 90-day period beginning Nov. 29, 1987, see section 701(c) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§2991b–2. Establishment of Administration for Native Americans

(a) Establishment

There is established in the Department of Health and Human Services (referred to in this subchapter as the "Department") the Administration for Native Americans (referred to in this subchapter as the "Administration"), which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this subchapter as the "Commissioner"). The Administration shall be the agency responsible for carrying out the provisions of this subchapter.

(b) Commissioner

The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Duties

The Commissioner shall—

(1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this subchapter;

(2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other departments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;

(3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1), coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native

Americans, and provide quarterly reports and recommendations to the Secretary;

(4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the Secretary in preparing an annual report to the Congress about such conditions;

(5) give preference to agencies described in section 2991b(a) of this title that are eligible for assistance under this subchapter, in entering into contracts for technical assistance, training, and evaluation under this subchapter; and

(6) encourage agencies that carry out projects under this subchapter, to give preference to Native Americans, in hiring and entering into contracts to carry out such projects.

(d) Intra-Departmental Council on Native American Affairs

(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.

(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

(3) In addition to the duties described in subsection (c)(3), the Council shall, within 180 days following September 30, 1992, prepare a plan, including legislative recommendations, to allow Tribal governments and other organizations described in section 2991b(a) of this title to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

(e) Staffing levels

The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this subchapter. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.

(Pub. L. 88–452, title VIII, §803B, as added Pub. L. 102–375, title VIII, §822(3), Sept. 30, 1992, 106 Stat. 1296; amended Pub. L. 103–171, §5(4), Dec. 2, 1993, 107 Stat. 1992; Pub. L. 116–261, §5(d)(3), Dec. 30, 2020, 134 Stat. 3314.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (d)(3). Pub. L. 116–261 substituted "Tribal" for "tribal".

1993—Subsec. (c)(5). Pub. L. 103–171, §5(4)(A), substituted "agencies described in section 2991b(a) of this title that" for "individuals who".

Subsec. (c)(6). Pub. L. 103–171, §5(4)(B), substituted "Native Americans," for "such individuals".

§2991b–3. Grant program to ensure survival and continuing vitality of Native American languages

(a) Authority to award grants

The Secretary shall award a grant to any agency or organization that is—

(1) eligible for financial assistance under section 2991b(a) of this title; and

(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native

American languages.

(b) Purposes for which grants may be used

The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language;

(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project; and

(7)(A) Native American language nests, which are site-based educational programs that—

(i) provide instruction and child care through the use of a Native American language for at least 5 children under the age of 7 for an average of at least 500 hours per year per student;

(ii) provide classes in a Native American language for parents (or legal guardians) of students enrolled in a Native American language nest (including Native American language-speaking parents); and

(iii) ensure that a Native American language is the dominant medium of instruction in the Native American language nest;

(B) Native American language survival schools, which are site-based educational programs for school-age students that—

(i) provide an average of at least 500 hours of instruction through the use of 1 or more Native American languages for at least 10 students for whom a Native American language survival school is their principal place of instruction;

(ii) develop instructional courses and materials for learning Native American languages and for instruction through the use of Native American languages;

(iii) provide for teacher training;

(iv) work toward a goal of all students achieving—

(I) fluency in a Native American language; and

(II) academic proficiency in mathematics, reading (or language arts), and science; and

(v) are located in areas that have high numbers or percentages of Native American students; and

(C) Native American language restoration programs, which are educational programs that—

(i) operate at least 1 Native American language program for the community in which it serves;

(ii) provide training programs for teachers of Native American languages;

(iii) develop instructional materials for the programs;

(iv) work toward a goal of increasing proficiency and fluency in at least 1 Native American language;

(v) provide instruction in at least 1 Native American language; and

(vi) may use funds received under this section for—

(I) Native American language programs, such as Native American language immersion programs, Native American language and culture camps, Native American language programs provided in coordination and cooperation with educational entities, Native

American language programs provided in coordination and cooperation with local universities and colleges, Native American language programs that use a master-apprentice model of learning languages, and Native American language programs provided through a regional program to better serve geographically dispersed students;

(II) Native American language teacher training programs, such as training programs in Native American language translation for fluent speakers, training programs for Native American language teachers, training programs for teachers in schools to utilize Native American language materials, tools, and interactive media to teach Native American language; and

(III) the development of Native American language materials, such as books, audio and visual tools, and interactive media programs.

(c) Applications

For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

(2) a detailed description of the project for which such grant is requested;

(3) a statement of objectives that are consonant with the purpose described in subsection (a);

(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans;

(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons; and

(7) in the case of an application for a grant to carry out any purpose specified in subsection (b)(7)(B), a certification by the applicant that the applicant has not less than 3 years of experience in operating and administering a Native American language survival school, a Native American language nest, or any other educational program in which instruction is conducted in a Native American language.

(d) Participating organizations

If a Tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

(e) Limitations on funding

(1) Share

Notwithstanding any other provision of this subchapter, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(B)(i) may be provided from any private or non-Federal source; and

(ii) may include funds (including interest) distributed to a Tribe—

(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

(II) from funds collected and administered by the Federal Government on behalf of such Tribe or its constituent members; or

(III) by the Federal Government for general Tribal administration or Tribal development under a formula or subject to a Tribal budgeting priority system, such as, but not limited to,

funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) [1] or Tribal budget priority system.

(2) Duration

The Secretary may make grants made under subsection (a) on a 1-year, 2-year, 3-year, 4-year, or 5-year basis, except that grants made under such subsection for any purpose specified in subsection (b)(7) may be made only on a 3-year, 4-year, or 5-year basis.

(f) Administration

(1) The Secretary shall carry out this section through the Administration for Native Americans.

(2)(A) Not later than 180 days after October 26, 1992, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

(i) applications submitted under subsection (a);

(ii) evaluations carried out to comply with subsection (c)(4); and

(iii) the preservation of products required by subsection (c)(5).

(B) Such panel shall include, but not be limited to—

(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

(ii) a designee of the regional centers funded under section 3215 [1] of title 20;

(iii) representatives of national, Tribal, and regional organizations that focus on Native American language, or Native American cultural,[2] research, development, or training; and

(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian Tribes and Tribal organizations.

(C) The duties of such panel include—

(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

(ii) reviewing applications received under subsection (c);

(iii) providing to the Secretary a list of recommendations for the approval of such applications—

(I) in accordance with regulations issued by the Secretary; and

(II) the relative need for the project; and

(iv) reviewing evaluations submitted to comply with subsection (c)(4).

(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

(ii) Based on the Federal recognition of the sovereign authority of Indian Tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian Tribe may make a determination—

(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

(iii) Clause (ii) shall not be construed to authorize Indian Tribes—

(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).

(g) Emergency grants for Native American language preservation and maintenance

Not later than 180 days after the effective date of this subsection, the Secretary shall award grants to entities eligible to receive assistance under subsection (a)(1) to ensure the survival and continuing vitality of Native American languages during and after the public health emergency declared by the Secretary pursuant to section 247d of this title with respect to the COVID–19 pandemic.

(Pub. L. 88–452, title VIII, §803C, as added Pub. L. 102–524, §2, Oct. 26, 1992, 106 Stat. 3434; amended Pub. L. 109–394, §2, Dec. 14, 2006, 120 Stat. 2705; Pub. L. 116–101, §2, Dec. 20, 2019, 133 Stat. 3261; Pub. L. 116–261, §5(d), Dec. 30, 2020, 134 Stat. 3314; Pub. L. 117–2, title XI, §11004(b), Mar. 11, 2021, 135 Stat. 244.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Indian Self-Determination Act (25 U.S.C. 450f et seq.), referred to in subsec. (e)(1)(B)(ii)(III), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, which was classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25, Indians, prior to editorial reclassification as subchapter I (§5321 et seq.) of chapter 46 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

Section 3215 of title 20, referred to in subsec. (f)(2)(B)(ii), was in the original a reference to section 5135 of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10. Section 5135 of that Act was omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

The effective date of this subsection, referred to in subsec. (g), probably means the date of enactment of Pub. L. 117–2, which added subsec. (g) of this section and was approved Mar. 11, 2021.

AMENDMENTS

2021—Subsec. (g). Pub. L. 117–2 added subsec. (g).

2020—Subsecs. (d) to (f). Pub. L. 116–261 substituted "Tribe" for "tribe", "Tribes" for "tribes", and "Tribal" for "tribal" wherever appearing.

2019—Subsec. (b)(7)(A)(i). Pub. L. 116–101, §2(1)(A), substituted "5 children" for "10 children".

Subsec. (b)(7)(B)(i). Pub. L. 116–101, §2(1)(B), substituted "10 students" for "15 students".

Subsec. (e)(2). Pub. L. 116–101, §2(2), substituted "3-year, 4-year, or 5-year basis" for "or 3-year basis" and inserted ", 4-year, or 5-year" after "on a 3-year".

2006—Subsec. (b)(7). Pub. L. 109–394, §2(1), added par. (7).

Subsec. (c)(7). Pub. L. 109–394, §2(2), added par. (7).

Subsec. (e)(2). Pub. L. 109–394, §2(3), inserted ", except that grants made under such subsection for any purpose specified in subsection (b)(7) may be made only on a 3-year basis" before period at end.

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

§2991c. Technical assistance and training

(a) In general

The Commissioner shall provide, directly or through other arrangements—

(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this subchapter;

(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this subchapter; and

(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.

(b) Priority

In providing assistance under subsection (a), the Commissioner shall give priority to any application described in section 2991b(b)(2) of this title.

(Pub. L. 88–452, title VIII, §804, as added Pub. L. 102–375, title VIII, §822(4), Sept. 30, 1992, 106 Stat. 1298; Pub. L. 116–261, §5(b), Dec. 30, 2020, 134 Stat. 3313.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2991c, Pub. L. 88–452, title VIII, §804, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324, authorized Secretary to provide technical assistance and training in developing, conducting, and administering projects under this subchapter and short-term in-service training for specialized personnel, prior to repeal by Pub. L. 102–375, §822(4).

Another prior section 2991c, Pub. L. 88–452, title VIII, §804, as added Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1473; amended Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224, provided for applicability of specified Federal laws, oath or affirmation, and status of volunteers as Federal employees and as persons employed in executive branch of Federal Government, prior to the general amendment of this subchapter by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722.

AMENDMENTS

2020—Pub. L. 116–261 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§2991d. Research, demonstration, and pilot projects

(a) The Commissioner may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this subchapter.

(b) The Commissioner shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this subchapter. The plan shall set forth specific objectives to be achieved and priorities among such objectives.

(Pub. L. 88–452, title VIII, §805, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324; amended Pub. L. 102–375, title VIII, §822(5), Sept. 30, 1992, 106 Stat. 1298.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2991d, Pub. L. 88–452, title VIII, §805, as added Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1474, provided for special programs and projects and placing limitations on the use of appropriated funds, prior to the general amendment of this subchapter by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722.

AMENDMENTS

1992—Subsecs. (a), (b). Pub. L. 102–375 substituted "Commissioner" for "Secretary".

§2991d–1. Panel review of applications for assistance

(a) Establishment of formal panel; members

(1) The Commissioner shall establish a formal panel review process for purposes of—

(A) evaluating applications for financial assistance under sections 2991b and 2991d of this title; and

(B) determining the relative merits of the projects for which such assistance is requested.

(2) To implement the process established under paragraph (1), the Commissioner shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Commissioner shall give preference to American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives.

(b) Duties of panel

Each review panel appointed under subsection (a)(2) that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Commissioner a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Notice to Congressional committee chairman; information required

Upon the request of the chairman of the Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 2991b or 2991d of this title, the Commissioner shall transmit to the chairman written notice—

(1) identifying such application;

(2) containing a copy of the list submitted to the Commissioner under subsection (b)(3) in which such application is ranked;

(3) specifying which other applications ranked in such list have been approved by the Commissioner under sections 2991b and 2991d of this title; and

(4) if the Commissioner has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Commissioner for—

(A) approving the application with respect to which such notice is transmitted; and

(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

(Pub. L. 88–452, title VIII, §806, as added and amended Pub. L. 100–175, title V, §§502(4), 504(b)(2), Nov. 29, 1987, 101 Stat. 973, 975; Pub. L. 102–375, title VIII, §822(6), (21), Sept. 30, 1992, 106 Stat. 1298, 1300; Pub. L. 103–171, §5(5), Dec. 2, 1993, 107 Stat. 1992; Pub. L. 103–437, §15(k), Nov. 2, 1994, 108 Stat. 4593.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 806 of Pub. L. 88–452 was renumbered section 807 and is classified to section 2991e of this title.

Another prior section 806 of Pub. L. 88–452, title VIII, as added Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1474, provided for duration of VISTA program through June 30, 1970, and was classified to section 2991e of this title, prior to the general amendment of this subchapter by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted "Committee on Indian Affairs" for "Select Committee on Indian Affairs".

1993—Subsec. (a)(2). Pub. L. 103–171 substituted "Alaska" for "Alaskan".

1992—Pub. L. 102–375, §822(6), substituted "Commissioner" for "Secretary" wherever appearing.

Subsec. (a)(2). Pub. L. 102–375, §822(21), which directed the substitution of "Alaska Native" for "Alaskan Native", could not be executed because the words "Alaskan Native" did not appear.

1987—Subsec. (a)(2). Pub. L. 100–175, §504(b)(2), which directed that par. (2) be amended by inserting "other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives," was executed by making the insertion after "Native Hawaiians," to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE

Enactment and amendment by Pub. L. 100–175 effective Oct. 1, 1987, see section 701 of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§2991e. Announcement of research, demonstration, or pilot projects

(a) The Commissioner shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Commissioner determines that it would not be consistent with the purposes of this subchapter, the results, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcements required by subsection (a) shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

(Pub. L. 88–452, title VIII, §807, formerly §806, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2325; renumbered §807, Pub. L. 100–175, title V, §502(3), Nov. 29, 1987, 101 Stat. 973; amended Pub. L. 102–375, title VIII, §822(7), Sept. 30, 1992, 106 Stat. 1298.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 807 of Pub. L. 88–452 was renumbered section 808 and is classified to section 2991f of this title.

A prior section 2991e, Pub. L. 88–452, title VIII, §806, as added Pub. L. 89–794, title VIII, §801, Nov. 8, 1966, 80 Stat. 1474, provided for duration of the VISTA program through June 30, 1970, prior to the general amendment of this subchapter by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–375 substituted "Commissioner" for "Secretary" in two places.

§2991f. Submission of plans to State and local officials

(a) Submission to governing body of Indian reservation or Alaska Native village

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out on or in an Indian reservation or Alaska Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) Notification to chief executive officer of State or Territory

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a State or Territory other than on or in an Indian reservation or Alaska Native village or Hawaiian Homestead, unless the Commissioner has notified the chief executive officer of the State or Territory of the decision of the Commissioner to provide that assistance.

(c) Notification to local governing officials of political subdivision

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a city, county, or other major political subdivision of a State or Territory, other than on or in an Indian reservation or Alaska Native village, or Hawaiian Homestead, unless the Commissioner has notified the local governing officials of the political subdivision of the decision of the Commissioner to provide that assistance.

(Pub. L. 88–452, title VIII, §808, formerly §807, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2325; amended Pub. L. 95–568, §17(a)(40), Nov. 2, 1978, 92 Stat. 2443; renumbered §808 and amended Pub. L. 100–175, title V, §§502(3), 504(b)(3), Nov. 29, 1987, 101 Stat. 973, 975; Pub. L. 102–375, title VIII, §822(8), (21), Sept. 30, 1992, 106 Stat. 1298, 1300.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 808 of Pub. L. 88–452 was renumbered section 809 and is classified to section 2991g of this title.

AMENDMENTS

1992—Pub. L. 102–375 substituted "Alaska Native village" for "Alaskan Native village" and "Commissioner" for "Secretary" wherever appearing.

1987—Subsecs. (b), (c). Pub. L. 100–175, §504(b)(3), inserted "or territory" after "State" wherever appearing.

1978—Subsecs. (b), (c). Pub. L. 95–568 substituted "the decision of the Secretary" for "his decision".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, see section 701(a) of Pub. L. 100–175, set out as a note under section 3001 of this title.

§2991g. Records and audits

(a) Each agency which receives financial assistance under this subchapter shall keep such records as the Commissioner may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books,

documents, papers, and records of any agency which receives financial assistance under this subchapter that are pertinent to the financial assistance received under this subchapter.

(Pub. L. 88–452, title VIII, §809, formerly §808, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2325; renumbered §809, Pub. L. 100–175, title V, §502(3), Nov. 29, 1987, 101 Stat. 973; amended Pub. L. 102–375, title VIII, §822(9), Sept. 30, 1992, 106 Stat. 1298.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 809 of Pub. L. 88–452 was renumbered section 810 and is classified to section 2991h of this title.

AMENDMENTS

1992—Subsecs. (a), (b). Pub. L. 102–375 substituted "Commissioner" for "Secretary".

§2991h. Appeals, notice, and hearing

(a) The Commissioner shall prescribe procedures to assure that—

(1) financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this subchapter shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) If an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to the Secretary, not later than 30 days after the date of receipt of notification of such rejection, for a review of the grounds for such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration.

(Pub. L. 88–452, title VIII, §810, formerly §809, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2326; renumbered §810, Pub. L. 100–175, title V, §502(3), Nov. 29, 1987, 101 Stat. 973; amended Pub. L. 102–375, title VIII, §822(10), Sept. 30, 1992, 106 Stat. 1298.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 810 of Pub. L. 88–452 was renumbered section 811 and is classified to section 2992 of this title.

Another prior section 810 of Pub. L. 88–452, title VIII, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722, related to authority to establish full-time programs and was classified to section 2992 of this title, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417.

AMENDMENTS

1992—Pub. L. 102–375 substituted "Commissioner" for "Secretary", designated existing provisions as subsec. (a), and added subsec. (b).

§2992. Evaluation of projects

(a) Description and measurement of project impact, effectiveness, and structure and

mechanisms for delivery of services; frequency of evaluations

(1) The Commissioner shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this subchapter including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(2) The projects assisted under this subchapter shall be evaluated in accordance with this section not less frequently than at 3-year intervals.

(b) General standards for evaluation

Prior to obligating funds for the programs and projects covered by this subchapter with respect to fiscal year 1976, the Commissioner shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this subchapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this subchapter.

(c) Independent evaluations

In carrying out evaluations under this subchapter, the Commissioner may require agencies which receive assistance under this subchapter to provide for independent evaluations.

(d) Specificity of views

In carrying out evaluations under this subchapter, the Commissioner shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this subchapter about such programs and projects.

(e) Publication of results; submission to Congress

The Commissioner shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Commissioner shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) Evaluation results as United States property

The Commissioner shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this subchapter shall become the property of the United States.

(Pub. L. 88–452, title VIII, §811, formerly §810, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2326; renumbered §811, Pub. L. 100–175, title V, §502(3), Nov. 29, 1987, 101 Stat. 973; amended Pub. L. 102–375, title VIII, §822(11), Sept. 30, 1992, 106 Stat. 1298.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2992, Pub. L. 88–452, title VIII, §810, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722, related to authority to establish full-time programs, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417.

A prior section 811 of Pub. L. 88–452 was renumbered section 812 and is classified to section 2992a of this title.

Another prior section 811 of Pub. L. 88–452, title VIII, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 723; amended Pub. L. 92–424, §26(b), Sept. 19, 1972, 86 Stat. 703, related to terms of service and was classified to section 2992a of this title, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–375 substituted "Commissioner" for "Secretary", designated existing

provisions as par. (1), and added par. (2).

Subsecs. (b) to (f). Pub. L. 102–375, §822(11)(A), substituted "Commissioner" for "Secretary" wherever appearing.

§2992–1. Annual report

The Secretary shall, not later than January 31 of each year, prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives an annual report on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate.

(Pub. L. 88–452, title VIII, §811A, as added Pub. L. 102–375, title VIII, §822(12), Sept. 30, 1992, 106 Stat. 1299.)

§2992a. Labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this subchapter, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 3145 of title 40.

(Pub. L. 88–452, title VIII, §812, formerly §811, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2327; renumbered §812, Pub. L. 100–175, title V, §502(3), Nov. 29, 1987, 101 Stat. 973.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act" and "section 3145 of title 40" substituted for "section 2 of the Act of June 1, 1934", meaning section 2 of the Act of June 13, 1934, on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 2992a, Pub. L. 88–452, title VIII, §811, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 723; amended Pub. L. 92–424, §26(b), Sept. 19, 1972, 86 Stat. 703, related to terms of service, providing in: subsec. (a) for commitment to full-time service; subsec. (b) for one-year enrollment and shorter enrollment for volunteer associates; and subsec. (c) for oath or affirmation, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417.

A prior section 812 of Pub. L. 88–452 was renumbered section 813 and is classified to section 2992b of this title.

Another prior section 812 of Pub. L. 88–452, title VIII, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 723, related to support of full-time volunteers and was classified to section 2992b of this title, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417.

§2992a–1. Staff

In all personnel actions of the Administration, preference shall be given to individuals who are eligible for assistance under this subchapter. Such preference shall be implemented in the same fashion as the preference given to veterans referred to in section 2108(3)(C) of title 5. The Commissioner shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.

(Pub. L. 88–452, title VIII, §812A, as added Pub. L. 102–375, title VIII, §822(13), Sept. 30, 1992, 106 Stat. 1299.)

§2992b. Administration

Nothing in this subchapter shall be construed to prohibit interagency funding agreements made between the Administration and other agencies of the Federal Government for the development and implementation of specific grants or projects.

(Pub. L. 88–452, title VIII, §813, as added Pub. L. 102–375, title VIII, §822(14), Sept. 30, 1992, 106 Stat. 1299.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2992b, Pub. L. 88–452, title VIII, §813, formerly §812, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2327; amended Pub. L. 95–568, §17(a)(41), Nov. 2, 1978, 92 Stat. 2443; Pub. L. 98–558, title X, §1003, Oct. 30, 1984, 98 Stat. 2905; renumbered §813, Pub. L. 100–175, title V, §502(3), Nov. 29, 1987, 101 Stat. 973, related to administration, delegation of authority, and interagency funding agreements, prior to repeal by Pub. L. 102–375, title VIII, §822(14), Sept. 30, 1992, 106 Stat. 1299.

Another prior section 2992b, Pub. L. 88–452, title VIII, §812, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 723, related to support of full-time volunteers, providing in: subsec. (a) for stipend and allowances; subsec. (b) for payment upon completion of term and advancement of accrued stipend; and subsec. (c) for counseling, prior to repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417.

A prior section 813 of Pub. L. 88–452 was renumbered section 815 and is classified to section 2992c of this title.

§2992b–1. Additional requirements applicable to rulemaking

(a) In general

Notwithstanding subsection (a) of section 553 of title 5, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this subchapter.

(b) Interpretative rule or general statement of policy; waiver of notice and public procedure regarding any other rule

(1) Subparagraph (A) of the last sentence of section 553(b) of title 5 shall not apply with respect to any interpretative rule or general statement of policy—

(A) proposed under this subchapter; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this subchapter.

(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—

(A) proposed under this subchapter; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this subchapter.

(3) The first 2 sentences of section 553(b) of title 5 shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

(A) proposed under this subchapter; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this subchapter;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

(c) Effective date of rule or general statement of policy

Notwithstanding section 553(d) of title 5, no rule (including an interpretative rule) or general statement of policy that—

(1) is issued to carry out this subchapter; or

(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this subchapter;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5.

(d) Statutory citation required

Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Rule or general statement of policy necessary as result of legislation; time for issuance

Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this subchapter it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

(f) Copy of rule or general statement of policy to Congressional leaders

Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 88–452, title VIII, §814, as added Pub. L. 100–175, title V, §503(a), Nov. 29, 1987, 101 Stat. 974.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 814 of Pub. L. 88–452 was renumbered section 816 and is classified to section 2992d of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, see section 701(a) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§2992c. Definitions

As used in this subchapter, the term—

(1) "average" means the aggregate number of hours of instruction through the use of a Native American language to all students enrolled in a native language immersion program during a school year divided by the total number of students enrolled in the immersion program;

(2) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(3) "Indian reservation or Alaska Native village" includes the reservation of any federally or State recognized Indian Tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, and community under the jurisdiction of an Indian Tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaska Native village or group, including any lands selected by Alaska Natives or Alaska Native organizations under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.];

(4) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778;

(5) the term "rule" has the meaning given it in section 551(4) of title 5, as amended from time to time;

(6) "Secretary" means the Secretary of Health and Human Services; and

(7) the term "Native American Pacific Islander" means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.

(Pub. L. 88–452, title VIII, §815, formerly §813, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2327; amended Pub. L. 98–558, title X, §1004, Oct. 30, 1984, 98 Stat. 2906; renumbered §815 and amended Pub. L. 100–175, title V, §§502(2), 503(b), Nov. 29, 1987, 101 Stat. 973, 975; Pub. L. 102–375, title VIII, §822(21), Sept. 30, 1992, 106 Stat. 1300; Pub. L. 102–497, §9(b), Oct. 24, 1992, 106 Stat. 3257; Pub. L. 103–171, §5(6), Dec. 2, 1993, 107 Stat. 1992; Pub. L. 109–394, §3, Dec. 14, 2006, 120 Stat. 2707; Pub. L. 116–261, §5(d)(1), Dec. 30, 2020, 134 Stat. 3314.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (3), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

2020—Par. (3). Pub. L. 116–261 substituted "Tribe" for "tribe" in two places.

2006—Pub. L. 109–394 added par. (1) and redesignated former pars. (1) to (6) as (2) to (7), respectively.

1993—Par. (2). Pub. L. 103–171, §5(6)(A), substituted "selected by Alaska Natives" for "selected by Alaskan Natives".

Par. (4). Pub. L. 103–171, §5(6)(B), inserted semicolon at end.

1992—Par. (2). Pub. L. 102–375 substituted "Alaska Native village" for "Alaskan Native village" in two places and "Alaska Native organizations" for "Alaskan Native organizations".

Par. (6). Pub. L. 102–497 added par. (6).

1987—Pars. (4), (5). Pub. L. 100–175, §503(b), added par. (4) and redesignated former par. (4) as (5).

1984—Par. (4). Pub. L. 98–558 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, see section 701(a) of Pub. L. 100–175, set out as a note under section 3001 of this title.

§2992d. Authorization of appropriations

(a) There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter (other than sections 2991b(e), 2991b–1, 2991b–3 of this title, subsection (d) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations), $34,000,000 for each of fiscal years 2021 through 2025.

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this subchapter (other than sections 2991b(e), 2991b–1, 2991b–3, 2991c of this title, subsection (d) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations) for a fiscal year shall be expended to carry out section 2991b(a) of this title for such fiscal year.

(c) There is authorized to be appropriated $8,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, for the purpose of carrying out the provisions of section 2991b(e) of this title.

(d)(1) For fiscal year 1994, there are authorized to be appropriated such sums as may be necessary for the purpose of—

(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

(2) Such a plan shall be delivered to the Congress not later than 30 days after September 30, 1992.

(e) There are authorized to be appropriated to carry out section 2991b–3 of this title $13,000,000 for each of fiscal years 2020 through 2024.

(f) In addition to amounts otherwise available, there is appropriated for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $20,000,000 to remain available until expended, to carry out section 2291b–3(g) of this title.

(Pub. L. 88–452, title VIII, §816, formerly §814, as added Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2327; amended Pub. L. 95–568, §15, Nov. 2, 1978, 92 Stat. 2439; Pub. L. 98–558, title X, §1005, Oct. 30, 1984, 98 Stat. 2906; renumbered §816 and amended Pub. L. 100–175, title V, §§502(2), 505, 506(b), Nov. 29, 1987, 101 Stat. 973, 975, 978; Pub. L. 100–581, title II, §215, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101–408, §3, Oct. 4, 1990, 104 Stat. 883; Pub. L. 102–375, title VIII, §822(15)–(20), Sept. 30, 1992, 106 Stat. 1299; Pub. L. 102–497, §9(c), Oct. 24, 1992, 106 Stat. 3258; Pub. L. 102–524, §3, Oct. 26, 1992, 106 Stat. 3437; Pub. L. 103–171, §5(6), Dec. 2, 1993, 107 Stat. 1992; Pub. L. 105–361, §2, Nov. 10, 1998, 112 Stat. 3278; Pub. L. 109–394, §4, Dec. 14, 2006, 120 Stat. 2707; Pub. L. 116–101, §3, Dec. 20, 2019, 133 Stat. 3261; Pub. L. 116–261, §5(c), Dec. 30, 2020, 134 Stat. 3314; Pub. L. 117–2, title XI, §11004(a), Mar. 11, 2021, 135 Stat. 244.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (f). Pub. L. 117–2 added subsec. (f).

2020—Subsec. (a). Pub. L. 116–261 substituted "2991b(e)" for "2991b(d)", "$34,000,000" for "such sums as may be necessary", and "2021 through 2025" for "1999, 2000, 2001, and 2002".

Subsecs. (b), (c). Pub. L. 116–261, §5(c)(1), substituted "2991b(e)" for "2991b(d)".

2019—Subsecs. (a), (b). Pub. L. 116–101, §3(b), substituted "subsection (d)" for "subsection (e)".

Subsec. (e). Pub. L. 116–101, §3(a), substituted "$13,000,000 for each of fiscal years 2020 through 2024." for "such sums as may be necessary for each of fiscal years 2008, 2009, 2010, 2011, and 2012."

2006—Subsec. (e). Pub. L. 109–394 substituted "2008, 2009, 2010, 2011, and 2012" for "1999, 2000, 2001, and 2002".

1998—Subsec. (a). Pub. L. 105–361, §2(1), substituted "for each of fiscal years 1999, 2000, 2001, and 2002." for "for fiscal years 1992, 1993, 1994, and 1995."

Subsec. (c). Pub. L. 105–361, §2(2), substituted "for each of fiscal years 1999, 2000, 2001, and 2002," for "for each of the fiscal years 1992, 1993, 1994, 1995, and 1996,".

Subsec. (e). Pub. L. 105–361, §2(3), substituted "such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002." for ", $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997."

1993—Subsecs. (a), (b). Pub. L. 103–171, §5(6)(A), substituted "2991b–1," for "2991b–1".

Subsec. (c). Pub. L. 103–171, §5(6)(B), substituted "is" for "are".

Subsec. (d). Pub. L. 103–171, §5(6)(D), redesignated subsec. (e) as (d).

Subsec. (e). Pub. L. 103–171, §5(6)(D), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 103–171, §5(6)(C), substituted "fiscal year 1994" for "fiscal years 1992 and 1993".

Subsec. (f). Pub. L. 103–171, §5(6)(D), redesignated subsec. (f) as (e).

1992—Subsec. (a). Pub. L. 102–524, §3(1), inserted reference to section 2991b–3 of this title.

Pub. L. 102–375, §822(15), substituted ", 2991b–1 of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations" for "and 2991b–1 of this title" and "1992, 1993, 1994, and 1995" for "1988, 1989, 1990, and 1991".

Subsec. (b). Pub. L. 102–524, §3(1), inserted reference to section 2991b–3 of this title.

Pub. L. 102–375, §822(16), substituted ", 2991b–1, 2991c of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations" for "and 2991b–1 of this title".

Subsec. (c). Pub. L. 102–497 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "There are authorized to be appropriated $500,000 for each of the fiscal years 1992, 1993, 1994, and 1995 for the purpose of providing financial assistance to other Native American Pacific Islanders (including American Samoan Natives) under section 2991b(a) of this title."

Pub. L. 102–375, §822(17), (18), redesignated par. (1) as subsec. (c), substituted "There are" for "Except as provided in paragraph (2), there are", substituted "1992, 1993, 1994, and 1995" for "1988, 1989, 1990, and 1991", and struck out par. (2) which read as follows: "No funds may be appropriated under paragraph (1) for a fiscal year unless the amount appropriated under subsection (a) of this section for such fiscal year exceeds 105 percent of the amount appropriated under subsection (a) of this section for fiscal year 1987."

Subsec. (d). Pub. L. 102–497, §9(c)(2), redesignated subsec. (d) as (c).

Pub. L. 102–375, §822(19), struck out "1991," before "1992,".

Subsec. (e). Pub. L. 102–375, §822(20), added subsec. (e).

Subsec. (f). Pub. L. 102–524, §3(2), added subsec. (f).

1990—Subsecs. (a), (b). Pub. L. 101–408, §3(1), inserted reference to section 2991b(d).

Subsec. (d). Pub. L. 101–408, §3(2), added subsec. (d).

1988—Subsec. (c)(2). Pub. L. 100–581 substituted "fiscal year 1987" for "the preceding fiscal year".

1987—Subsec. (a). Pub. L. 100–175, §506(b), inserted "(other than section 2991b–1 of this title)" after "this subchapter".

Pub. L. 100–175, §505(1), substituted "1988, 1989, 1990, and 1991" for "1979 through 1986".

Subsec. (b). Pub. L. 100–175, §506(b), inserted "(other than section 2991b–1 of this title)" after "this subchapter".

Subsec. (c). Pub. L. 100–175, §505(2), added subsec. (c).

1984—Pub. L. 98–558 designated existing provisions as subsec. (a), substituted "1986" for "1981", and added subsec. (b).

1978—Pub. L. 95–568 substituted appropriations authorization for fiscal years 1979 through 1981 for prior such authorization for fiscal years 1975 through 1977.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 505 of Pub. L. 100–175 effective Oct. 1, 1987, and amendment by section 506(b) of Pub. L. 100–175 effective upon expiration of 90-day period beginning Nov. 29, 1987, see section 701(a), (c) of Pub. L. 100–175, set out as a note under section 3001 of this title.

§§2993 to 2993b. Repealed. Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417

Section 2993, Pub. L. 88–452, title VIII, §820, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 724; amended Pub. L. 92–424, §26(c), Sept. 19, 1972, 86 Stat. 703, related to community service programs, providing in: subsec. (a) for term of service and range of activities; subsec. (b) for support and allowances; and subsec. (c) for allowance of service as non-Federal contribution.

Section 2993a, Pub. L. 88–452, title VIII, §821, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 724; amended Pub. L. 92–424, §26(d), Sept. 19, 1972, 86 Stat. 703, related to special volunteer programs.

Section 2993b, Pub. L. 88–452, title VIII, §822, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 724, related to demonstration projects to help young adult criminal offenders.

Such former provisions are covered by various sections as follows:

Former Sections	*Present Sections*
2993(a)	See 4992(a)
2993(b)	See 4974(c)
2993(c)	Repealed
2993a	4973(a), 4992(a)
2993b	Repealed

§§2994 to 2994d. Repealed. Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417

Section 2994, Pub. L. 88–452, title VIII, §831, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 725, related to coordination with other programs.

Section 2994a, Pub. L. 88–452, title VIII, §832, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 725, related to participation of older persons.

Section 2994b, Pub. L. 88–452, title VIII, §833, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 726; amended Pub. L. 90–623, §5(b), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 91–177, title I, §112(b), Dec. 30, 1969, 83 Stat. 832; Pub. L. 92–424, §3(d)(3), Sept. 19, 1972, 86 Stat. 689, related to application of Federal law.

Section 2994c, Pub. L. 88–452, title VIII, §834, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 726, related to special limitations.

Section 2994d, Pub. L. 88–452, title VIII, §835, as added Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 726; amended Pub. L. 91–177, title I, §101(b), Dec. 30, 1969, 83 Stat. 827; Pub. L. 92–424, §2(a), Sept. 19, 1972, 86 Stat. 688, related to duration of program.

Such former provisions are covered by various sections as follows:

Former Sections	*Present Sections*
2994	5050
2994a	4957
2994b(a)	5055(a)
2994b(b)(1), (2)	5055(b)(1) to (3)
2994b(c)(1), (2)	5055(c)(1), (2)
2994c	5044
2994d	5053

SUBCHAPTER IX—EVALUATION

§§2995 to 2995c. Repealed. Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519

Section 2995, Pub. L. 88–452, title IX, §901, as added Pub. L. 92–424, §27(a), Sept. 19, 1972, 86 Stat. 704; amended Pub. L. 93–644, §12, Jan. 4, 1975, 88 Stat. 2328; Pub. L. 95–568, §17(a)(42), Nov. 2, 1978, 92 Stat. 2443, related to program and project evaluation.

Section 2995a, Pub. L. 88–452, title IX, §902, as added Pub. L. 92–424, §27(a), Sept. 19, 1972, 86 Stat. 704; amended Pub. L. 93–644, §12, Jan. 4, 1975, 88 Stat. 2329; Pub. L. 95–568, §17(a)(43), Nov. 2, 1978, 92 Stat. 2443, related to cooperation and consultation with other Federal agencies.

Section 2995b, Pub. L. 88–452, title IX, §903, as added Pub. L. 92–424, §27(a), Sept. 19, 1972, 86 Stat. 704; amended Pub. L. 93–644, §12, Jan. 4, 1975, 88 Stat. 2329, related to evaluation by other Federal agencies.

Section 2995c, Pub. L. 88–452, title IX, §904, as added Pub. L. 95–568, §16, Nov. 2, 1978, 92 Stat. 2439, set forth authorization of appropriations.

A prior section 2995c, Pub. L. 88–452, title IX, §904, as added Pub. L. 92–424, §27(a), Sept. 19, 1972, 86 Stat. 705, which provided for the publication of summaries of evaluations of the results of research, was omitted as superseded in the general reorganization and amendment of this subchapter by Pub. L. 93–644, §12, Jan. 4, 1975, 88 Stat. 2327.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 9912(a) of this title, prior to the general amendment of chapter 106 (§9901 et seq.) of this title by Pub. L. 105–285.

§2995d. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 88–452, title IX, §905, as added Pub. L. 92–424, §27(a), Sept. 19, 1972, 86 Stat. 705, allowed head of any agency administering a program authorized under this chapter to conduct evaluations and take other action to same extent as Director under this subchapter, prior to the general amendment of this subchapter by Pub. L. 93–644, §12, Jan. 4, 1975, 88 Stat. 2327.

SUBCHAPTER X—LEGAL SERVICES CORPORATION

§2996. Congressional findings and declaration of purpose

The Congress finds and declares that—

(1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

(2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

(3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this chapter;

(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

(Pub. L. 88–452, title X, §1001, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 378; amended Pub. L. 95–222, §2, Dec. 28, 1977, 91 Stat. 1619.)

EDITORIAL NOTES

AMENDMENTS

1977—Par. (3). Pub. L. 95–222 inserted provision relating to assistance in improving opportunities for low-income persons consistent with this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–222, §17(b), Dec. 28, 1977, 91 Stat. 1624, provided that: "The amendments made by provisions of this Act other than sections 11 and 15 [amending this section and sections 2996c, 2996e, 2996f, 2996g, 2996h, 2996i, and 2996j of this title] shall be effective on the date of enactment of this Act [Dec. 28, 1977]."

SHORT TITLE

This subchapter is known as the "Legal Services Corporation Act", see Short Title note set out under section 2701 of this title.

§2996a. Definitions

As used in this subchapter, the term—

(1) "Board" means the Board of Directors of the Legal Services Corporation;

(2) "Corporation" means the Legal Services Corporation established under this subchapter;

(3) "eligible client" means any person financially unable to afford legal assistance;

(4) "Governor" means the chief executive officer of a State;

(5) "legal assistance" means the provision of any legal services consistent with the purposes and provisions of this subchapter;

(6) "recipient" means any grantee, contractee, or recipient of financial assistance described in clause (A) of section 2996e(a)(1) of this title;

(7) "staff attorney" means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this subchapter; and

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 88–452, title X, §1002, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 378.)

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§2996b. Legal Services Corporation

(a) Establishment; purpose

There is established in the District of Columbia a private nonmembership nonprofit corporation,

which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

(b) Principal office; agent for service of process

The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.

(c) Status of Corporation under tax laws

The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of title 26 and as an organization described in section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26. If such treatments are conferred in accordance with the provisions of title 26, the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of title 26 relevant to the conduct of organizations exempt from taxation.

(Pub. L. 88–452, title X, §1003, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 379; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

EDITORIAL NOTES

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954" wherever appearing, which for purposes of codification was translated as "title 26" thus requiring no change in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSITION TO LEGAL SERVICES CORPORATION PROGRAM

Pub. L. 93–355, §3(a)–(d)(1), (e), July 25, 1974, 88 Stat. 389, 390, provided that:

"(a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act) [this subchapter], the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3), 230, 232 [sections 2809(a)(3), 2823, and 2825 of this title], or any other provision of the Economic Opportunity Act of 1964 [this chapter].

"(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity [now the Director of the Office of Community Services] or the head of any successor authority, to be employed directly or held or used primarily, in connection with any function of the Director of the Office of Economic Opportunity or the head of any successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964 [this chapter], shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to the Corporation.

"(c) Collective-bargaining agreements in effect on the date of enactment of this Act [July 25, 1974], covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

"(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity [now the Director of the Office of Community Services] or the head of any successor authority shall take such

action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation—

"(A) to assist the Corporation in preparing to undertake, and in the initial undertaking of, its responsibilities under this title [this subchapter];

"(B) out of appropriations available to him, to make funds available to meet the organizational and administrative expenses of the Corporation;

"(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 [this chapter] or successor authority; and

"(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 [this chapter] or successor authority.

Whenever the Director of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act [July 25, 1974], he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation, subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

"(2) [Omitted. Provided for the repeal of section 2809(a)(3) of this title.]

"(e) There are authorized to be appropriated for the fiscal year ending June 30, 1975, such sums as may be necessary for carrying out this section."

§2996c. Board of Directors

(a) Establishment; membership

The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States. Effective with respect to appointments made after December 28, 1977, but not later than July 31, 1978, the membership of the Board shall be appointed so as to include eligible clients, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public.

(b) Term of office

The term of office of each member of the Board shall be three years, except that five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(c) Board members not deemed officers or employees of United States

The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

(d) Chairman

The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

(e) Removal

A member of the Board may be removed by a vote of seven members for malfeasance in office or

for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(f) State advisory councils

Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this subchapter and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(g) Open meetings; applicability of Government in the Sunshine provisions

All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this subchapter shall be open and shall be subject to the requirements and provisions of section 552b of title 5 (relating to open meetings).

(h) Quarterly meetings

The Board shall meet at least four times during each calendar year.

(Pub. L. 88–452, title X, §1004, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 379; amended Pub. L. 95–222, §§3, 4, Dec. 28, 1977, 91 Stat. 1619.)

EDITORIAL NOTES

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–222, §3, inserted provision relating to appointments made after Dec. 28, 1977.

Subsec. (g). Pub. L. 95–222, §4, substituted provisions relating to applicability of section 552b of title 5, for provisions setting forth requirements respecting availability of minutes of public meetings.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

COMPENSATION OF MEMBERS OF BOARD OF DIRECTORS

Pub. L. 97–377, title I, §101(d), Dec. 21, 1982, 96 Stat. 1876, provided: "That no member of the Board of Directors of the Legal Services Corporation shall be compensated for his services to the Corporation except for the payment of an attendance fee at meetings of the Board at a rate not to exceed the highest daily rate for grade fifteen (15) of the General Schedule and necessary travel expenses to attend Board meetings in accordance with the Standard Government Travel Regulations."

§2996d. Officers and employees

(a) Appointment of president; outside compensation of officers prohibited; terms

The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his

period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

(b) Power of president to appoint and remove employees; nonpartisan appointments

(1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this subchapter.

(c) Conflict of interest

No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

(d) Compensation

Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5.

(e) Officers and employees not deemed officers and employees of Federal Government; Corporation not deemed a department, agency, or instrumentality of Federal Government; review of annual budget

(1) Except as otherwise specifically provided in this subchapter, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

(2) Nothing in this subchapter shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

(f) Exceptions

Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of title 5: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

(g) Freedom of information

The Corporation and its officers and employees shall be subject to the provisions of section 552 of title 5 (relating to freedom of information).

(Pub. L. 88–452, title X, §1005, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 380.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REIMBURSEMENT OF OFFICERS OR EMPLOYEES

Pub. L. 97–377, title I, §101(d), Dec. 21, 1982, 96 Stat. 1876, provided: "That no officer or employee of the Legal Services Corporation or a recipient program shall be reimbursed for membership in a private club, or be paid severance pay in excess of what would be paid a Federal employee for comparable service."

§2996e. Powers, duties, and limitations

(a) Powers of nonprofit corporation; additional powers

To the extent consistent with the provisions of this subchapter, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through non-governmental arrangements),

for the purpose of providing legal assistance to eligible clients under this subchapter, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this subchapter;

(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this subchapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(3) to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance—

(A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

(b) Disciplinary powers; representational questions; interference with professional responsibilities of attorneys; bar membership; restrictions; languages other than English

(1)(A) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this subchapter and the rules, regulations, and guidelines promulgated pursuant to this subchapter, and to terminate, after a hearing in accordance with section 2996j of this title, financial support to a recipient which fails to comply.

(B) No question of whether representation is authorized under this subchapter, or the rules, regulations or guidelines promulgated pursuant to this subchapter, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this subchapter or the rules, regulations, and guidelines promulgated pursuant to this subchapter, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 2996j of this title.

(3) The Corporation shall not, under any provision of this subchapter, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this subchapter as "professional responsibilities") or abrogate as to attorneys in programs assisted under this subchapter the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this subchapter are carried out in a manner consistent with attorneys' professional responsibilities.

(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this subchapter unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient

(except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this subchapter, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 2996f(a)(6) of this title. The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 2996f(a)(5) of this title, which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 2996j of this title, for suspension of legal assistance supported under this subchapter, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 2996j of this title, the termination of such assistance or employment, as deemed appropriate for the violation in question.

(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this subchapter.

(c) Participation in litigation; lobbying activities

The Corporation shall not itself—

(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this subchapter or a regulation promulgated under this subchapter is an issue, and shall not participate on behalf of any client other than itself; or

(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

(d) Miscellaneous prohibitions

(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

(e) Political activities of Corporation employees and staff attorneys

(1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(2) Employees of the Corporation and staff attorneys shall be deemed to be State or local employees for purposes of chapter 15 of title 5, except that no staff attorney may be a candidate in a partisan political election.

(f) Harassment; malicious abuse of legal process

If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

(Pub. L. 88–452, title X, §1006, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 381; amended Pub. L. 95–222, §§5(a), (b), 6, 7(a), 8, Dec. 28, 1977, 91 Stat. 1619, 1620.)

EDITORIAL NOTES

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95–222, §5(a), (b), substituted ", or" for "and not" and in par. (A) inserted exception for broad general legal or policy research.

Subsec. (b)(1). Pub. L. 95–222, §6(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(1). Pub. L. 95–222, §6(b), inserted provisions setting forth situations when the Corporation may participate in litigation.

Subsec. (d)(6). Pub. L. 95–222, §6(c), added par. (6).

Subsec. (e)(2). Pub. L. 95–222, §7(a), inserted provisions relating to staff attorneys.

Subsec. (f). Pub. L. 95–222, §8, substituted "the court shall" for "the court may".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

§2996f. Grants and contracts

(a) Requisites

With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this subchapter, the Corporation shall—

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this subchapter;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

(i) the liquid assets and income level of the client,

(ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,

(iii) the cost of living in the locality, and

(iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof—

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this subchapter of the recipient or the Corporation.

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this subchapter and give preference in filling such positions to qualified persons who reside in the community to be served;

(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this subchapter or predecessor authority under this chapter which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 2996j of this title;

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities; and

(11) ensure that an indigent individual whose primary residence is subject to civil forfeiture is represented by an attorney for the Corporation in such civil action.

(b) Limitations on uses

No funds made available by the Corporation under this subchapter, either by grant or contract, may be used—

(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with an offense in an Indian tribal court;

(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(4) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;

(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act [50 U.S.C. 3801 et seq.] or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law; or

(11) to provide legal assistance in a manner inconsistent with the Assisted Suicide Funding

Restriction Act of 1997 [42 U.S.C. 14401 et seq.].

(c) Recipient organizations

In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 2809(a)(3) [1] of this title, which on July 25, 1974, has a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this subchapter, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) Program evaluation

The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this subchapter to insure that the provisions of this subchapter and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter are carried out.

(e) Corporation president authorized to make grants and enter into contracts

The president of the Corporation is authorized to make grants and enter into contracts under this subchapter.

(f) Public notification

At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) Staff-attorney program study

The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this chapter and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

(h) Study and report to Congress on special needs of eligible clients

The Corporation shall conduct a study on whether eligible clients who are—

(1) veterans,
(2) native Americans,
(3) migrants or seasonal farm workers,
(4) persons with limited English-speaking abilities, and
(5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services [2]

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress not later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement

appropriate recommendations.

(Pub. L. 88–452, title X, §1007, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 383; amended Pub. L. 95–222, §§7(b), 9(a), (b)(1), (c), 10–13, Dec. 28, 1977, 91 Stat. 1620–1623; Pub. L. 105–12, §9(o), Apr. 30, 1997, 111 Stat. 28; Pub. L. 106–185, §2(d), Apr. 25, 2000, 114 Stat. 211; Pub. L. 111–211, title II, §234(d), July 29, 2010, 124 Stat. 2282.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (b)(10), is act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (b)(11), is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§14401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of this title and Tables.

Section 2809 of this title, referred to in subsec. (c), was repealed by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111–211 added par. (2) and struck out former par. (2) which read as follows: "to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a misdemeanor or lesser offense or its equivalent in an Indian tribal court;".

2000—Subsec. (a)(11). Pub. L. 106–185 added par. (11).

1997—Subsec. (b)(11). Pub. L. 105–12 added par. (11).

1977—Subsec. (a)(2)(B)(iv). Pub. L. 95–222, §9(a), substituted provisions setting forth factors which may be included in determining financial ability, for provisions setting forth factors required to be included in determining financial ability.

Subsec. (a)(2)(C). Pub. L. 95–222, §9(b)(1), expanded existing provisions by requiring the Corporation to establish procedures for determining and implementing priorities and criteria for such priorities, and inserted provisions relating to appropriate training and support services.

Subsec. (a)(5). Pub. L. 95–222, §9(c), in introductory text inserted prohibition relating to influencing the passage or defeat of State proposals by initiative referendum, in subpar. (A) substituted provisions relating to representation by an employee of a recipient for any eligible client, for provisions relating to representation by an attorney as attorney for any eligible client, and in subpar. (B) designated existing provision as cl. (i), inserted exception for testifying, drafting, or reviewing measures, and added cl. (ii).

Subsec. (a)(6). Pub. L. 95–222, §7(b), struck out provisions relating to prohibitions against political activities by staff attorneys of the types described under cls. (B) and (C) of this par. and section 1502(a) of title 5.

Subsec. (b). Pub. L. 95–222, §10, redesignated and reorganized provisions of former par. (1) as pars. (1) to (3) and, as so redesignated, enumerated criteria for assistance under such pars., redesignated former pars. (2) and (3) as (4) and (5), respectively, struck out former par. (4) relating to assistance to any unemancipated person of less than eighteen years of age, redesignated former par. (5) as (6), redesignated former par. (6) as (7) and, as so redesignated, inserted provision relating to initiation and provision relating to acting as an organizer, and struck out provisions relating to organization, assistance or encouragement to organize, or to plan for the creation, formation or structuring of entities, and provision respecting guidelines for assistance to clients, redesignated former par. (7) as (9) and, as so redesignated, inserted exception for legal advice to clients, reenacted par. (8) without change, and redesignated former par. (9) as (10) and, as so redesignated, inserted exception for actions concerning classifications prior to July 1, 1973.

Subsec. (c). Pub. L. 95–222, §11, substituted provisions requiring recipients to include at least one-third membership of eligible clients or eligible clients who may also be representatives of associations or organizations of eligible clients, for provisions requiring recipients to include at least one individual eligible to receive legal assistance.

Subsec. (f). Pub. L. 95–222, §12, inserted provision requiring notice to principal local bar association, if any, of community.

Subsec. (h). Pub. L. 95–222, §13, added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–185 applicable to any forfeiture proceeding commenced on and after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106–185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, and also subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as an Effective Date note under section 14401 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by sections 7(b), 9(a), (b)(1), (c), 10, 12, and 13 of Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

Pub. L. 95–222, §17(a)(1), Dec. 28, 1977, 91 Stat. 1624, provided that: "The amendment made by section 11 of this Act [amending this section] shall be effective six months after the first day of the first calendar month following the date of enactment of this Act [Dec. 28, 1977]."

IMPLEMENTATION OF SYSTEM FOR COMPETITIVE AWARD OF GRANTS AND CONTRACTS

Pub. L. 101–515, title VI, §607 (part), Nov. 5, 1991, 104 Stat. 2153, provided: "That after October 1, 1991, (but not before) the Board of Directors of the Legal Services Corporation shall develop and implement a system for the competitive award of all grants and contracts, including support centers, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence".

Pub. L. 101–162, title VI, §608 (part), Nov. 21, 1989, 103 Stat. 1036, provided: "That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts".

Pub. L. 100–459, title VI, §605, Oct. 1, 1988, 102 Stat. 2227, provided: "That a Board of Directors of the Legal Services Corporation, composed of individuals nominated by the President after January 20, 1989 and subsequently confirmed by the United States Senate, shall develop and implement a system for the competitive award of all grants and contracts, including support centers, to take effect after September 30, 1989."

[1] *See References in Text note below.*

[2] *So in original. Probably should be followed by a comma.*

§2996g. Records and reports

(a) Authority to require reports

The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this subchapter regarding

activities carried out pursuant to this subchapter.

(b) Authority to require recordkeeping; access to records

The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Annual report to President and Congress; contents

The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress. Such report shall include a description of services provided pursuant to section 2996f(a)(2)(C)(i) and (ii) of this title.

(d) Copies and retention of reports

Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this subchapter shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

(e) Publication in Federal Register of rules, regulations, guidelines and instructions

The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

(Pub. L. 88–452, title X, §1008, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 386; amended Pub. L. 95–222, §9(b)(2), Dec. 28, 1977, 91 Stat. 1621.)

EDITORIAL NOTES

AMENDMENTS

1977—Subsec. (c). Pub. L. 95–222 inserted provisions setting forth required contents of annual report.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to filing annual report with Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 2 on page 202 of House Document No. 103–7.

§2996h. Audits

(a) Annual audit; availability of records; filing and inspection of report

(1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made

available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the Government Accountability Office and shall be available for public inspection during business hours at the principal office of the Corporation.

(b) Audit by Government Accountability Office

(1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Government Accountability Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the Government Accountability Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the Government Accountability Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 3523(c) of title 31.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the President, together with such recommendations with respect thereto as he shall deem advisable.

(c) Annual financial audit of recipient persons or bodies

(1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this subchapter to provide for, an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation.

(2) Upon request, the Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, or person or entity, which relate to the disposition or use of funds received from the Corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

(d) Attorney-client privilege

Notwithstanding the provisions of this section or section 2996g of this title, neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege.

(Pub. L. 88–452, title X, §1009, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 387; amended Pub. L. 95–222, §14, Dec. 28, 1977, 91 Stat. 1623; Pub. L. 104–66, title II, §2111, Dec. 21, 1995, 109 Stat. 730; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

CODIFICATION

In subsec. (b)(2), "section 3523(c) of title 31" substituted for "section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b))" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2004—Subsecs. (a)(3), (b)(1), (2). Pub. L. 108–271 substituted "Government Accountability Office" for

"General Accounting Office" wherever appearing.

1995—Subsec. (c)(2). Pub. L. 104–66 substituted "Upon request, the" for "The" in first sentence.

1977—Subsec. (b)(2). Pub. L. 95–222 inserted provisions relating to duration of retention of books, etc., by Corporation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

§2996i. Financing

(a) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $90,000,000 for fiscal year 1975, $100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation $205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations.

(b) Availability of funds

Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds

Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this subchapter, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this subchapter.

(d) Limitations on grant or contract authority

Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 2996e(a)(3) of this title in any such year.

(Pub. L. 88–452, title X, §1010, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 388; amended Pub. L. 95–222, §§5(c), 15, Dec. 28, 1977, 91 Stat. 1619, 1623.)

EDITORIAL NOTES

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–222, §15, inserted provisions authorizing appropriations for fiscal year 1978 and two succeeding fiscal years, and substituted provisions requiring appropriations to be made for not more than two fiscal years and payments in annual installments at beginning of each fiscal year in appropriated amounts, for provisions requiring appropriations to be for not more than two fiscal years, and, if for more than one year, in payments in annual installments at beginning of each fiscal year in appropriated amounts.

Subsec. (d). Pub. L. 95–222, §5(c), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 5(c) of Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

Pub. L. 95–222, §17(a)(2), Dec. 28, 1977, 91 Stat. 1624, provided that: "The amendment made by section 15 of this Act [amending this section] shall be effective with respect to fiscal years beginning after September 30, 1977."

§2996j. Special limitations

The Corporation shall prescribe procedures to insure that—

(1) financial assistance under this subchapter shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this subchapter shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this subchapter has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.

(Pub. L. 88–452, title X, §1011, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 388; amended Pub. L. 95–222, §16, Dec. 28, 1977, 91 Stat. 1624.)

EDITORIAL NOTES

AMENDMENTS

1977—Par. (2). Pub. L. 95–222 inserted provisions relating to function and appointment of an independent hearing examiner, and the time for any hearings.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–222 effective Dec. 28, 1977, see section 17(b) of Pub. L. 95–222, set out as a note under section 2996 of this title.

§2996k. Coordination

The President may direct that appropriate support functions of the Federal Government may be made available to the Corporation in carrying out its activities under this subchapter, to the extent not inconsistent with other applicable law.

(Pub. L. 88–452, title X, §1012, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 388.)

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11874. DELEGATION OF FUNCTIONS TO DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 11874 eff. July 25, 1975, 40 F.R. 31737, provided:

By virtue of the authority vested in me by Section 1012 of the Economic Opportunity Act of 1964, as amended by the Legal Services Corporation Act of 1974 (88 Stat. 388, 42 U.S.C. 2996k), and Section 301 of Title 3 of the United States Code, and as President of the United States, the Director of the Office of Management and Budget is hereby designated and empowered to exercise the authority vested in the President by said Section 1012 of the Economic Opportunity Act of 1964, as amended [this section], to direct that appropriate support functions of the Federal Government may be made available to the Legal Services Corporation in carrying out its activities, to the extent not inconsistent with other applicable law. Such functions shall be provided under terms and conditions as may be agreed upon by the Legal Services Corporation and the Federal agencies involved.

GERALD R. FORD.

§2996*l*. Reservation of right to repeal, alter, or amend

The right to repeal, alter, or amend this subchapter at any time is expressly reserved.

(Pub. L. 88–452, title X, §1013, as added Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 388.)

CHAPTER 35—PROGRAMS FOR OLDER AMERICANS

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SUBCHAPTER I—DECLARATION OF OBJECTIVES AND DEFINITIONS

§3001. Congressional declaration of objectives

The Congress hereby finds and declares that, in keeping with the traditional American concept of

the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

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

(2) The best possible physical and mental health (including access to person-centered, trauma-informed services as appropriate) which science can make available and without regard to economic status.

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

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

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

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

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

(8) Efficient community services, including access to low-cost transportation, which provide a choice in supported living arrangements and social assistance in a coordinated manner and which are readily available when needed, with emphasis on maintaining a continuum of care for vulnerable older individuals.

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

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

(Pub. L. 89–73, title I, §101, July 14, 1965, 79 Stat. 219; Pub. L. 93–29, title I, §102, May 3, 1973, 87 Stat. 30; Pub. L. 95–478, title I, §101, Oct. 18, 1978, 92 Stat. 1513; Pub. L. 97–115, §2(a)(1), Dec. 29, 1981, 95 Stat. 1595; Pub. L. 98–459, title I, §102, Oct. 9, 1984, 98 Stat. 1767; Pub. L. 100–175, title I, §101, Nov. 29, 1987, 101 Stat. 928; Pub. L. 102–375, title I, §101, title IX, §904(a)(1), Sept. 30, 1992, 106 Stat. 1197, 1305; Pub. L. 116–131, title I, §102, Mar. 25, 2020, 134 Stat. 242.)

EDITORIAL NOTES

AMENDMENTS

2020—Par. (2). Pub. L. 116–131 inserted "(including access to person-centered, trauma-informed services as appropriate)" after "health".

1992—Par. (4). Pub. L. 102–375, §101, inserted ", including support to family members and other persons providing voluntary care to older individuals needing long-term care services" after "homes".

Par. (8). Pub. L. 102–375, §904(a)(1), substituted "vulnerable older individuals" for "the vulnerable elderly".

1987—Pub. L. 100–175, §101(1), substituted "United States," for "United States and" and inserted ", and of Indian tribes" after "subdivisions".

Par. (3). Pub. L. 100–175, §101(2), substituted "Obtaining and maintaining suitable" for "Suitable".

Par. (7). Pub. L. 100–175, §101(3), substituted "Participating in and contributing to" for "Pursuit of".

Par. (10). Pub. L. 100–175, §101(4), substituted "lives," for "lives and", and inserted ", and protection against abuse, neglect, and exploitation" before period at end.

1984—Par. (4). Pub. L. 98–459, §102(a), inserted reference to a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes.

Par. (8). Pub. L. 98–459, §102(b), inserted reference to emphasis on maintaining a continuum of care for

the vulnerable elderly.

Par. (10). Pub. L. 98–459, §102(c), inserted reference to full participation in the planning and operation of community-based services and programs provided for the benefit of older people.

1981—Par. (7). Pub. L. 97–115 included a reference to education and training.

1978—Par. (8). Pub. L. 95–478 included objective of community services which provide a choice in supported living arrangements.

1973—Par. (8). Pub. L. 93–29 inserted reference to access to low-cost transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 103–171, §4(b), Dec. 2, 1993, 107 Stat. 1991, provided that: "The amendments made by—

"(1) sections 303(a)(2), 303(a)(3), 304 (excluding paragraphs (1) and (2) of subsection (a)), 305, 306, 307, and 317 [enacting sections 3030g–21 and 3030g–22 of this title and amending sections 3023 to 3027 of this title], and

"(2) title VII [enacting sections 3058 to 3058ee of this title and amending sections 1395i–3, 1396r, 3012, 3018, 3021, 3023, 3027, 3030d, and 3030l of this title],

of the Older Americans Act Amendments of 1992 (Public Law 102–375; 106 Stat. 1221 et seq.) shall not apply with respect to fiscal year 1993."

Pub. L. 102–375, title IX, §905, Sept. 30, 1992, 106 Stat. 1309, provided that:

"(a) IN GENERAL.—Except as provided in section 811(b) [42 U.S.C. 1766 note], any other provision of this Act [see Tables for classification] (other than this section), and in subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act [Sept. 30, 1992].

"(b) APPLICATION OF AMENDMENTS.—

"(1) FEDERAL COUNCIL ON AGING.—Incumbent members of the Federal Council on Aging may serve on the Council until their successors are appointed under section 204 of the Older Americans Act of 1965 (42 U.S.C. 3015) as amended by section 205 of this Act.

"(2) STATE AND COMMUNITY PROGRAMS ON AGING.—The amendments made by sections 303(a)(2), 303(a)(3), 303(f), 304, 305, 306, 307, 316, 317, and 320 [enacting sections 3030g–11 to 3030g–13, 3030g–21, 3030g–22, and 3030p to 3030r of this title and amending sections 3023 to 3027 of this title] shall not apply with respect to fiscal year 1992.

"(3) PROJECT REPORTS.—The amendments made by sections 410, 411, 413, 414, 415, 416, 418, and 419 [enacting sections 3035i, 3035j, 3035l to 3035o, 3035q, and 3035r of this title] shall not apply with respect to fiscal year 1992.

"(4) COMMUNITY SERVICE EMPLOYMENT.—The amendments made by sections 501, 504, and 506 [enacting section 3056h of this title and amending sections 3056, 3056d, and 3056e of this title] shall not apply with respect to fiscal year 1992.

"(5) INDIAN AND NATIVE HAWAIIAN PROGRAMS.—The amendments made by sections 601 and 603 [amending sections 3057e and 3057j of this title] shall not apply with respect to fiscal year 1992.

"(6) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.—The amendments made by title VII [enacting sections 3058 to 3058k and 3058aa to 3058ee of this title and amending sections 1395i–3, 1396r, 3012, 3018, 3021, 3023, 3027, 3030d, and 3030l of this title] shall not apply with respect to fiscal year 1992."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–175, title VII, §701, Nov. 29, 1987, 101 Stat. 983, provided that:

"(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act [see Short Title of 1987 Amendment note below] shall take effect on October 1, 1987.

"(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act [enacting sections 3030h to 3030p, 3035f, 3035g, 3056g, and 3057 to 3057n of this title, amending sections 3001, 3002, 3011 to 3013, 3015 to 3018, 3020c, 3021 to 3029, 3030a, 3030d, 3030g, 3030aa, 3030bb, 3030jj, 3031, 3032, 3035a, 3035b, 3035d, 3037, 3056, 3056a, 3056d, 3056e, and 3056f of this title, repealing sections 3058 to 3058d of this title, enacting provisions set out as notes under this section, sections 3026, 3027, and 3057b of this title, and section 2 of Title 29, and repealing provisions set out as a note under section 3058 of this title] shall not apply with respect to—

"(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965 [section 3026(a)

of this title], or

"(2) any State plan submitted under section 307(a) of such Act [section 3027(a) of this title], and approved for any fiscal year beginning before the date of the enactment of this Act [Nov. 29, 1987].

"(c) EFFECTIVE DATE OF SECTION 506.—The amendments made by section 506 of this Act [enacting section 2991b–1 of this title and amending sections 2991a, 2991b, and 2992d of this title] shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 29, 1987]."

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–459, title VIII, §803, Oct. 9, 1984, 98 Stat. 1793, provided that:

"(a) Except as provided in subsection (b), this Act and the amendments made by this Act [enacting sections 3030aa, 3030bb, 3030jj, 3034, and 3037b of this title, amending this section, sections 1762a, 3011 to 3013, 3015 to 3018, 3020b, 3021 to 3029, 3030a, 3030c, 3030d, 3031, 3032, 3035, 3035a to 3035e, 3037, 3037a, 3056, 3056a, 3056d to 3056f, 3057a, 3057c, and 3057g of this title and sections 623, 630, and 631 of Title 29, Labor, and enacting provisions set out as notes under this section, section 3056 of this title, and section 631 of Title 29, and amending provisions set out as a note under former section 3045 of this title] shall take effect on the date of the enactment of this Act [Oct. 9, 1984].

"(b)(1) The amendment made by section 206(a) [amending section 3017 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 9, 1984].

"(2) The amendment made by section 206(d) [amending section 3017 of this title] shall take effect on the first day of the first fiscal year beginnning [sic] after the date of the enactment of this Act [Oct. 9, 1984].

"(3) The amendment made by section 411(b) [amending section 3037 of this title] shall not apply with respect to any grant or payment made before the date of the enactment of this Act [Oct. 9, 1984].

"(4) The amendment made by section 701 [enacting subchapter XI of this chapter] shall take effect on October 1, 1984."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–478, title V, §504, Oct. 18, 1978, 92 Stat. 1559, provided that: "This Act [see Short Title of 1978 Amendment note below], and the amendments made by this Act, shall take effect at the close of September 30, 1978."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–131, §1, Mar. 25, 2020, 134 Stat. 240, provided that: "This Act [enacting and amending numerous sections and provisions set out as notes throughout this chapter] may be cited as the 'Supporting Older Americans Act of 2020'."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–144, §1, Apr. 19, 2016, 130 Stat. 334, provided that: "This Act [see Tables for classification] may be cited as the 'Older Americans Act Reauthorization Act of 2016'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–19, §1, Apr. 23, 2007, 121 Stat. 84, provided that: "This Act [amending section 3030a of this title and enacting provisions set out as a note under section 3030a of this title] may be cited as the 'Older Americans Reauthorization Technical Corrections Act'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–365, §1(a), Oct. 17, 2006, 120 Stat. 2522, provided that: "This Act [see Tables for classification] may be cited as the 'Older Americans Act Amendments of 2006'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–501, §1, Nov. 13, 2000, 114 Stat. 2226, provided that: "This Act [see Tables for classification] may be cited as the 'Older Americans Act Amendments of 2000'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–171, §1, Dec. 2, 1993, 107 Stat. 1988, provided that: "This Act [see Tables for classification] may be cited as the 'Older Americans Act Technical Amendments of 1993'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–375, §1(a), Sept. 30, 1992, 106 Stat. 1195, provided that: "This Act [see Tables for classification] may be cited as the 'Older Americans Act Amendments of 1992'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–175, §1, Nov. 29, 1987, 101 Stat. 926, provided that: "This Act [enacting sections 280c to 280c–5, 2991b–1, 2991d–1, 2992b–1, 3030h to 3030p, 3035f, 3035g, 3056g, and 3057 to 3057n of this title, amending this section and sections 1766, 2991a, 2991b, 2991d–1, 2991f, 2992c, 2992d, 3002, 3011 to 3013, 3015 to 3018, 3020c, 3021 to 3029, 3030a, 3030d, 3030g, 3030aa, 3030bb, 3030jj, 3031, 3032, 3035a, 3035b, 3035d, 3037, 3056, 3056a, 3056d, 3056e, and 3056f of this title, repealing sections 3058 to 3058d, of this title, enacting provisions set out as notes under this section, sections 201, 285e–2, 2991, 3026, 3027, and 3057b of this title, and section 2 of Title 29, Labor, and repealing provisions set out as a note under section 3058 of this title] may be cited as the 'Older Americans Act Amendments of 1987'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–269, §1, Apr. 1, 1986, 100 Stat. 78, provided: "That this Act [amending section 3030a of this title and enacting provisions set out as notes under section 3030a of this title] may be cited as the 'Older Americans Act Amendments of 1986'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–459, §1, Oct. 9, 1984, 98 Stat. 1767, provided that: "This Act [enacting sections 3030aa, 3030bb, 3030jj, 3034, 3037b, and 3058 to 3058d of this title, amending this section, sections 1762a, 3011 to 3013, 3015 to 3018, 3020b, 3021 to 3029, 3030a, 3030c, 3030d, 3031, 3032, 3035, 3035a to 3035e, 3037, 3037a, 3056, 3056a, 3056d to 3056f, 3057a, 3057c, and 3057g of this title, and sections 623, 630, and 631 of Title 29, Labor, and enacting provisions set out as notes under this section, sections 3056 and 3058 of this title, and section 631 of Title 29, and amending provisions set out as a note under section 3045 of this title] may be cited as the 'Older Americans Act Amendments of 1984'."

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–115, §1(a), Dec. 29, 1981, 95 Stat. 1595, provided that: "This act [enacting sections 3031, 3032, 3035 to 3035e, 3037, and 3037a of this title, amending this section, sections 3002 to 3003, 3012, 3013, 3015 to 3020d, 3021 to 3028, 3030, 3030a, 3030d, 3030g, 3035b, 3035e, 3036, 3056, 3056a, 3056c, 3056d, 3056f, 3057 to 3057g, 8622, 9902 to 9904, and 9911 of this title, and section 1087–2 of Title 20, Education, repealing section 3014 of this title, and enacting a provision set out as a note under section 3045 of this title] may be cited as the 'Older Americans Act Amendments of 1981'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–478, §1(a), Oct. 18, 1978, 92 Stat. 1513, provided that: "This Act [enacting sections 3020b to 3020d, 3030 to 3030g, 3035b to 3035h, 3057 to 3057g and 6106a of this title, amending this section, sections 3002, 3011 to 3017, 3020a, 3021 to 3029, 3031 to 3035, 3036 to 3037a, 3056 to 3056f, 5001, 5011, 5012, 5082, 6101, 6103 and 6104 of this title, repealing sections 3035a, 3041 to 3041f, 3042 and 3045 to 3045i of this title, enacting provisions set out as notes under this section and sections 1975c, 3021, and 3045 of this title, amending provisions set out as a note under this section, and repealing provision set out as a note under section 3056 of this title] may be cited as the 'Comprehensive Older Americans Act Amendments of 1978'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–135, §1, Nov. 28, 1975, 89 Stat. 713, provided: "That this Act [enacting chapter 76 and sections 3002, 3020a, 3024, 3028, 3034, 3045f, and 3056 to 3056f of this title, amending sections 289k–5, 3002, 3012, 3014, 3015, 3022, 3023, 3024, 3025, 3026, 3028, 3033, 3034, 3037, 3037a, 3041d, 3041f, 3045b, 3045d, 3045e, 3045f, 3045g, 5011, 5012, and 5082 of this title and sections 1008a, 1208a, and 1341 of Title 20, Education, repealing sections 3061 to 3067 of this title, enacting provisions set out as notes under section 5001 of this title and section 871 of Title 29, Labor, and amending provisions set out as a note under section 2809 of this title] may be cited as the 'Older Americans Amendments of 1975'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–29, §1, May 3, 1973, 87 Stat. 30, provided: "That this Act [enacting chapter 35A of this title, subchs. III to V of this chapter, sections 3003, 3012, 3013 to 3020, 3044, 3045 of this title, and sections 351, 351c, 361 to 364, 1008a, and 1208a of Title 20, Education, amending this section, sections 3011, 3012, 3044a, 3044b, 3044e, and 3045a to 3045f of this title, and sections 351c, 351d, 351e, 1211, 1504, and 1505 of Title 20, repealing former subchs. III (sections 3021 to 3024a, and 3025 of this title), IV (sections 3031 and 3032 of this title), V (sections 3041 to 3043 of this title), and VIII (sections 3051 to 3055 of this title) of this chapter, and enacting provisions set out as notes under sections 2809, 3044b, and 3061 of this title and section 361 of Title 20] may be cited as the 'Older Americans Comprehensive Services Amendments of 1973'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90–42, §1, July 1, 1967, 81 Stat. 106, provided: "That this Act [enacting section 3043 of this title and amending sections 3002, 3021, 3022, 3024, 3031, and 3051 to 3053 of this title] may be cited as the 'Older Americans Act Amendments of 1967'."

SHORT TITLE

Pub. L. 89–73, §1, July 14, 1965, 79 Stat. 218, provided: "That this Act [enacting this chapter] may be cited as the 'Older Americans Act of 1965'."

Pub. L. 89–73, title III, §371, as added Pub. L. 106–501, title III, §316(2), Nov. 13, 2000, 114 Stat. 2253, provided that: "This part [part E (§§371–376) of title III of Pub. L. 89–73, enacting part E of subchapter III of this chapter] may be cited as the 'National Family Caregiver Support Act'."

Pub. L. 89–73, title V, §501, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2563, provided that: "This title [enacting subchapter IX of this chapter] may be cited as the 'Community Service Senior Opportunities Act'."

Pub. L. 89–73, title V, §501, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2267, provided that title V of Pub. L. 89–73, enacting former subchapter IX of this chapter, could be cited as the "Older American Community Service Employment Act", prior to the general amendment of title V of Pub. L. 89–73 by Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2563.

Pub. L. 89–73, title V, §501, formerly title IX, §901, as added by Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 720, and renumbered by Pub. L. 95–478, title I, §105(a), Oct. 18, 1978, 92 Stat. 1547, provided that title V of Pub. L. 89–73, enacting former subchapter IX of this chapter, could be cited as the "Older American Community Service Employment Act", prior to the general amendment of title V of Pub. L. 89–73 by Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2267.

REGULATIONS

Pub. L. 102–375, title IX, §902, Sept. 30, 1992, 106 Stat. 1305, provided that: "Except as otherwise specifically provided, the Secretary of Health and Human Services shall, not later than 120 days after the date of the enactment of this Act [Sept. 30, 1992], issue proposed regulations to carry out the amendments made by titles I through VII [see Tables for classification]."

PRINCIPLES FOR PERSON-DIRECTED SERVICES AND SUPPORTS DURING SERIOUS ILLNESS

Pub. L. 116–131, title VI, §604, Mar. 25, 2020, 134 Stat. 269, provided that:

"(a) DEFINITIONS.—

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Administration for Community Living.

"(2) COVERED AGENCY.—The term 'covered agency' means—

"(A) a State agency or area agency on aging; and

"(B) a Federal agency other than the Department of Health and Human Services, and a unit of that Department other than the Administration on Aging, that the Assistant Secretary determines performs functions for which the principles are relevant, and the Centers for Medicare & Medicaid Services.

"(3) PRINCIPLES.—The term 'principles' means the Principles for Person-directed Services and Supports during Serious Illness, issued by the Administration for Community Living on September 1, 2017, or an updated set of such Principles.

"(4) STATE AGENCY.—The term 'State agency' has the meaning given the term in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(b) DISSEMINATION.—The Administrator shall disseminate the principles to appropriate stakeholders within the aging network, as determined by the Assistant Secretary, and to covered agencies. The covered agencies may use the principles in setting priorities for service delivery and care plans in programs carried out by the agencies.

"(c) FEEDBACK.—The Administrator shall solicit, on an ongoing basis, feedback on the principles from covered agencies, experts in the fields of aging and dementia, and stakeholders who provide or receive disability services.

"(d) REPORT.—Not less often than once, but not more often than annually, during the 3 years after the date of enactment of this Act [Mar. 25, 2020], the Administrator shall prepare and submit to Congress a report describing the feedback received under subsection (c) and indicating if any changes or updates are needed to the principles."

[For definitions of "area agency on aging" and "Assistant Secretary" as used in section 604 of Pub. L.

116–131, set out above, as being the same as those given in section 3002 of this title, see section 4 of Pub. L. 116–131, set out as a note below.]

GUIDANCE ON SERVING HOLOCAUST SURVIVORS

Pub. L. 114–144, §10, Apr. 19, 2016, 130 Stat. 352, provided that:

"(a) IN GENERAL.—Because the services under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) are critical to meeting the urgent needs of Holocaust survivors to age in place with dignity, comfort, security, and quality of life, the Assistant Secretary for Aging shall issue guidance to States, that shall be applicable to States, area agencies on aging, and providers of services for older individuals, with respect to serving Holocaust survivors, including guidance on promising practices for conducting outreach to that population. In developing the guidance, the Assistant Secretary for Aging shall consult with experts and organizations serving Holocaust survivors, and shall take into account the possibility that the needs of Holocaust survivors may differ based on geography.

"(b) CONTENTS.—The guidance shall include the following:

"(1) How nutrition service providers may meet the special health-related or other dietary needs of participants in programs under the Older Americans Act of 1965, including needs based on religious, cultural, or ethnic requirements.

"(2) How transportation service providers may address the urgent transportation needs of Holocaust survivors.

"(3) How State long-term care ombudsmen may address the unique needs of residents of long-term care facilities for whom institutional settings may produce sights, sounds, smells, emotions, and routines, that can induce panic, anxiety, and retraumatization as a result of experiences from the Holocaust.

"(4) How supportive services providers may consider the unique needs of Holocaust survivors.

"(5) How other services provided under that Act, as determined by the Assistant Secretary for Aging, may serve Holocaust survivors.

"(c) DATE OF ISSUANCE.—The guidance described in subsection (a) shall be issued not later than 180 days after the date of enactment of this Act [Apr. 19, 2016]."

STUDY OF EFFECTIVENESS OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS

Pub. L. 102–375, title II, §211, Sept. 30, 1992, 106 Stat. 1215, as amended by Pub. L. 103–171, §4(a)(2), Dec. 2, 1993, 107 Stat. 1991, provided that not later than Jan. 1, 1995, the Assistant Secretary for Aging, in consultation with State agencies, State Long-Term Care Ombudsmen, the National Ombudsman Resource Center, and professional ombudsmen associations, directly, or by grant or contract, was to conduct a study and submit a report to Congress analyzing separately with respect to each State effectiveness of State long-term care ombudsman programs.

STUDY ON BOARD AND CARE FACILITY QUALITY

Pub. L. 102–375, title II, §212, Sept. 30, 1992, 106 Stat. 1216, provided that:

"(a) ARRANGEMENT FOR STUDY COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of board and care facilities for older individuals (as defined in section 102 [42 U.S.C. 3002] of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the disabled.

"(b) SCOPE OF STUDY.—The study shall include—

"(1) an examination of existing quality, health, and safety requirements for board and care facilities and the enforcement of such requirements for their adequacy and effectiveness, with special attention to their effectiveness in promoting good personal care;

"(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in assuring the health and safety of residents of board and care facilities; and

"(3) specific recommendations to the Congress and the Secretary, by not later than 20 months after the date of the enactment of this Act [Sept. 30, 1992], concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

"(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members as appointed from among the following:

"(1) NATIONAL ACADEMY OF SCIENCES.—The members of the National Academy of Sciences with experience in long-term care. The members so appointed shall include—

"(A) physicians;

"(B) experts on the administration of drugs to older individuals, and disabled individuals

receiving long-term care services; and

"(C) experts on the enforcement of life-safety codes in long-term care facilities.

"(2) RESIDENTS.—Residents of board and care facilities (including privately owned board and care facilities), and representatives of such residents or of organizations that advocate on behalf of such residents. Members so appointed shall include—

"(A) residents of a nonprofit board and care facility; or

"(B) individuals who represent—

"(i) residents of nonprofit board and care facilities; or

"(ii) organizations that advocate on behalf of residents of nonprofit board and care facilities.

"(3) OPERATORS.—Operators of board and care facilities (including privately owned board and care facilities), and individuals who represent such operators or organizations that represent the interests of such operators. Members so appointed shall include—

"(A) operators of a nonprofit board and care facility; or

"(B) individuals who represent—

"(i) operators of nonprofit board and care facilities; or

"(ii) organizations that represent the interests of operators of nonprofit board and care facilities.

"(4) OFFICERS.—

"(A) STATE OFFICERS.—Elected and appointed State officers who have responsibility relating to the health and safety of residents of board and care facilities.

"(B) REPRESENTATIVES.—Representatives of such officers or of organizations representing such officers.

"(C) OTHER INDIVIDUALS.—Other individuals with relevant expertise.

"(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the study committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

"(e) INVOLVEMENT OF OTHERS.—

"(1) GOVERNMENT OFFICIALS.—The study committee shall conduct its work in a manner that provides for the consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the study committee.

"(2) EXPERTS.—The study committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the study committee.

"(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the study committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a) and the recommendations made under subsection (b).

"(g) BOARD AND CARE FACILITY DEFINED.—In this section, the term 'board and care facility' means a facility described in section 1616(e) of the Social Security Act (42 U.S.C. 1372e(e) [42 U.S.C. 1382e(e)]).

"(h) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years."

STUDY ON HOME CARE QUALITY

Pub. L. 102–375, title II, §213, Sept. 30, 1992, 106 Stat. 1218, provided that:

"(a) ESTABLISHMENT STUDY OF COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of home care services for older individuals and disabled individuals.

"(b) SCOPE OF STUDY.—The study shall include—

"(1) an examination of existing quality, health and safety requirements for home care services and the enforcement of such requirements for their adequacy, effectiveness, and appropriateness;

"(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in ensuring the health and safety of patients and clients of home care services; and

"(3) specific recommendations to the Congress and the Secretary, not later than 20 months after the date of the enactment of this Act [Sept. 30, 1992], concerning the establishment of minimum national standards for the quality, health, and safety of patients and clients of such services and the enforcement of

such standards.

"(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members appointed from among—

"(1) individuals with experience in long-term care, including nonmedical home care services;

"(2) patients and clients of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.]) or individuals who represent such patients and clients or organizations that advocate on behalf of such patients and clients;

"(3) providers of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such providers or organizations that advocate on behalf of such providers;

"(4) elected and appointed State officers who have responsibility relating to the health and safety of patients and clients of home care services, or representatives of such officers or of organizations representing such officers; and

"(5) other individuals with relevant expertise.

"(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

"(e) INVOLVEMENT OF OTHERS.—

"(1) MEMBERS AND OFFICIALS.—The committee shall conduct its work in a manner that provides for consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the committee.

"(2) INDIVIDUAL OR ORGANIZATION WITH EXPERTISE.—The committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the committee.

"(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a).

"(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years."

LONG-TERM HEALTH CARE WORKERS

Pub. L. 102–375, title VIII, subtitle A, Sept. 30, 1992, 106 Stat. 1293–1295, provided that:

"SEC. 801. DEFINITIONS.

"As used in this subtitle:

"(1) NURSING HOME NURSE AIDE.—The term 'nursing home nurse aide' means an individual employed at a nursing or convalescent home who assists in the care of patients at such home under the direction of nursing and medical staff.

"(2) HOME HEALTH CARE AIDE.—The term 'home health care aide' means an individual who—

"(A) is employed by a government, charitable, nonprofit, or proprietary agency; and

"(B) cares for elderly, convalescent, or handicapped individuals in the home of the individuals by performing routine home assistance (such as housecleaning, cooking, and laundry) and assisting in the health care of such individuals under the direction of a physician or nurse.

"SEC. 802. INFORMATION REQUIREMENTS.

"(a) NATIONAL CENTER FOR HEALTH STATISTICS.—The Director of the National Center for Health Statistics of the Centers for Disease Control [now Centers for Disease Control and Prevention] shall collect, and prepare a report containing—

"(1) demographic information on home health care aides and nursing home nurse aides, including information on the—

"(A) age, race, marital status, education, number of children and other dependents, gender, and primary language, of the aides; and

"(B) location of facilities at which the aides are employed in—

"(i) rural communities; or

"(ii) urban or suburban communities; and

"(2) information on the role of the aides in providing institution-based and home-based long-term care.

"(b) DEPARTMENT OF LABOR.—The Secretary of Labor shall—

"(1) collect, and prepare a report containing, information on home health care aides, including—
"(A) information on conditions of employment, including—
"(i) the length of employment of the aides with the current employer of the aides;
"(ii) the number of aides who are—
"(I) employed by a for-profit employer;
"(II) employed by a nonprofit private employer;
"(III) employed by a charitable employer;
"(IV) employed by a government employer; or
"(V) independent contractors;
"(iii) the number of full-time, part-time, and temporary positions for the aides;
"(iv) the ratio of the aides to professional staff;
"(v) the types of tasks performed by the aides, the level of skill needed to perform the tasks, and whether the tasks are completed in a institution-based or home-based setting; and
"(vi) the average number and range of hours worked each week by the aides; and
"(B) information on availability of the employment benefits for home health care aides and a description of the benefits, including—
"(i) information on health insurance coverage;
"(ii) the type of pension plan coverage;
"(iii) the amount of vacation leave;
"(iv) wage rates; and
"(v) the extent of work-related training provided; and
"(2) collect, and prepare a report containing, information on nursing home nurse aides, including—
"(A) the information described in subparagraphs (A) and (B) of paragraph (1); and
"(B) information on—
"(i) the type of facility of the employer of the aides, such as a skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)), or an intermediate care facility within the meaning of section 1121(a) of the Social Security Act (42 U.S.C. 1320a(a));
"(ii) the number of beds at the facility; and
"(iii) the ratio of the aides to residents of the facility.

"SEC. 803. REPORTS.

"(a) REPORTS TO COMMISSIONER ON AGING [now ASSISTANT SECRETARY FOR AGING].—
"(1) TRANSMITTAL.—
"(A) NATIONAL CENTER FOR HEALTH STATISTICS REPORT.—Not later than March 1, 1994, the Director of the National Center for Health Statistics of the Centers for Disease Control [now Centers for Disease Control and Prevention] shall transmit to the Commissioner on Aging the report required by section 802(a).
"(B) DEPARTMENT OF LABOR REPORTS.—
"(i) HOME HEALTH CARE AIDES.—Not later than March 1, 1993, the Secretary of Labor shall transmit to the Commissioner on Aging a plan for the collection of the information described in section 802(b)(1). Not later than March 1, 1995, the Secretary of Labor shall transmit to the Commissioner on Aging the report required by section 802(b)(1).
"(ii) NURSING HOME NURSE AIDES.—Not later than March 1, 1994, the Secretary of Labor shall transmit to the Commissioner on Aging the report required by section 802(b)(2).
"(2) PREPARATION.—
"(A) NATIONAL CENTER FOR HEALTH STATISTICS REPORT.—The report required by section 802(a) shall be prepared and organized in such a manner as the Director of the National Center for Health Statistics may determine to be appropriate.
"(B) DEPARTMENT OF LABOR REPORTS.—The reports required by paragraphs (1) and (2) of section 802(b) shall be prepared and organized in such a manner as the Secretary of Labor may determine to be appropriate.
"(3) PRESENTATION OF INFORMATION.—The reports required by section 802 shall not identify by name individuals supplying information for purposes of the reports. The reports shall present information collected in the aggregate.
"(b) REPORT TO CONGRESS.—The Commissioner on Aging [now Assistant Secretary for Aging] shall review the reports required by section 802 and shall submit to the appropriate committees of Congress a report containing—
"(1) the reports required by section 802;
"(2) the comments of the Commissioner on the reports; and

"(3) additional information, regarding the roles of nursing home nurse aides and home health care aides in providing long-term care, obtained through the State Long-Term Care Ombudsman program established under sections 307(a)(12) and 712 of the Older Americans Act of 1965 [now 42 U.S.C. 3027(a)(9), 3058g].

"SEC. 804. OCCUPATIONAL CODE.

"The Secretary of Labor shall include an occupational code covering nursing home nurse aides and an occupational code covering home health care aides in each wage survey of relevant industries conducted by the Department of Labor that begins after the date of enactment of this Act [Sept. 30, 1992]."

LIMITATION ON AUTHORITY TO ENTER INTO CONTRACTS

Pub. L. 102–375, title IX, §901, Sept. 30, 1992, 106 Stat. 1305, provided that: "Any authority to enter into contracts under this Act [see Tables for classification] or an amendment made by this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriations Acts."

WHITE HOUSE CONFERENCE ON AGING

Pub. L. 100–175, title II, Nov. 29, 1987, 101 Stat. 967–971, as amended by Pub. L. 102–375, title VIII, §§831–836, 839(a), Sept. 30, 1992, 106 Stat. 1300–1305; Pub. L. 103–171, §6, Dec. 2, 1993, 107 Stat. 1992; Pub. L. 106–501, §211, Nov. 13, 2000, 114 Stat. 2235; Pub. L. 109–365, title IX, §901(a), Oct. 17, 2006, 120 Stat. 2598, provided that:

"SEC. 201. AUTHORIZATION OF THE CONFERENCE.

"(a) AUTHORITY TO CALL CONFERENCE.—Not later than December 31, 2005, the President shall convene the White House Conference on Aging in order to fulfill the purpose set forth in subsection (c) and to make fundamental policy recommendations regarding programs that are important to older individuals and to the families and communities of such individuals.

"(b) PLANNING AND DIRECTION.—The Conference described in subsection (a) shall be planned and conducted under the direction of the Secretary, in cooperation with the Assistant Secretary for Aging, the Director of the National Institute on Aging, the Administrator of the Health Care Financing Administration, the Social Security Administrator, and the heads of such other Federal agencies serving older individuals as are appropriate. Planning and conducting the Conference includes the assignment of personnel.

"(c) PURPOSE.—The purpose of the Conference described in subsection (a) shall be to gather individuals representing the spectrum of thought and experience in the field of aging to—

"(1) evaluate the manner in which the objectives of this Act [probably means the Older Americans Act of 1965, Pub. L. 89–73, which enacted this chapter] can be met by using the resources and talents of older individuals, of families and communities of such individuals, and of individuals from the public and private sectors;

"(2) evaluate the manner in which national policies that are related to economic security and health care are prepared so that such policies serve individuals born from 1946 to 1964 and later, as the individuals become older individuals, including an examination of the Social Security, Medicare, and Medicaid programs carried out under titles II, XVIII, and XIX of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq., and 1396 et seq.) in relation to providing services under this Act, and determine how well such policies respond to the needs of older individuals; and

"(3) develop not more than 50 recommendations to guide the President, Congress, and Federal agencies in serving older individuals.

"(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

"(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

"(A) representatives of Federal, State, and local governments,

"(B) professional and lay people who are working in the field of aging, and

"(C) representatives of the general public, particularly older individuals.

"(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging. Delegates shall include individuals who are professionals, individuals who are nonprofessionals, minority individuals, individuals from low-income families, representatives of Federal, State, and local governments, and individuals from rural areas. A majority of such delegates shall be age 55 or older.

"SEC. 202. CONFERENCE ADMINISTRATION.

"(a) ADMINISTRATION.—In administering this section, the Secretary shall—

"(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,

"(2) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

"(3) make available for public comment a proposed agenda, prepared by the Policy Committee, for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

"(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

"(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, and as part of the White House Conference on Aging, ensure that—

"(1) the agenda prepared under subsection (a)(3) for the Conference is published in the Federal Register not later than 30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda, and

"(2) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities, [and]

"(3) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference, and

"(4) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

"(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title. Gifts of cash shall be available in addition to amounts appropriated to carry out this title. Gifts may be earmarked by the donor or the executive committee for a specific purpose.

"(d) RECORDS.—The Secretary shall maintain records regarding—

"(1) the sources, amounts, and uses of gifts accepted under subsection (c); and

"(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.

"SEC. 203. POLICY COMMITTEE; RELATED COMMITTEES.

"(a) POLICY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 17 members to be selected, not later than 2 years prior to the date on which the Conference convenes, as follows:

"(A) PRESIDENTIAL APPOINTEES.—Nine members shall be selected by the President and shall include—

"(i) three members who are officers or employees of the United States; and

"(ii) six members with experience in the field of aging, including providers and consumers of aging services.

"(B) HOUSE APPOINTEES.—Two members shall be selected by the Speaker of the House of Representatives, after consultation with the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, and two members shall be selected by the Minority Leader of the House of Representatives, after consultation with such committees.

"(C) SENATE APPOINTEES.—Two members shall be selected by the Majority Leader of the Senate, after consultation with members of the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, and two members shall be selected by the Minority Leader of the Senate, after consultation with members of such committees.

"(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not later than 30 days after the last member is selected under subsection (a).

Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

"(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

"(B) formulate and approve a proposed agenda for the Conference not later than 90 days after the first meeting of the Policy Committee for the Secretary;

"(C) make recommendations for participants and delegates of the Conference;

"(D) establish the number of delegates to be selected under section 201(d)(2);

"(E) establish an executive committee consisting of three to five members, with a majority of such members being age 55 or older, to work with Conference staff; and

"(F) establish other committees as needed that have a majority of members who are age 55 or older.

"(3) VOTING; CHAIRPERSON.—

"(A) VOTING.—The Policy Committee shall act by the vote of a majority of the members present. A quorum of Committee members shall not be required to conduct Committee business.

"(B) CHAIRPERSON.—The President shall select the chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee.

"(b) ADVISORY AND OTHER COMMITTEES.—

"(1) IN GENERAL.—The President shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate. The President shall consider for appointment to the advisory committee individuals recommended by the Policy Committee.

"(2) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

"(c) COMPOSITION OF COMMITTEES.—Each committee established under subsection (b) shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older, and individuals who are Native Americans.

"(d) COMPENSATION.—Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily equivalent of the maximum rate of pay payable under section 5376 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

"SEC. 204. REPORT OF THE CONFERENCE.

"(a) PRELIMINARY REPORT.—Not later than 100 days after the date on which the Conference adjourns, the Policy Committee shall publish and deliver to the chief executive officers of the States a preliminary report on the Conference. Comments on the preliminary report of the Conference shall be accepted by the Policy Committee.

"(b) FINAL REPORT.—Not later than 6 months after the date on which the Conference adjourns, the Policy Committee shall publish and transmit to the President and to Congress recommendations resulting from the Conference and suggestions for any administrative action and legislation necessary to implement the recommendations contained within the report.

"SEC. 205. DEFINITIONS.

"For the purposes of this title—

"(1) the term 'area agency on aging' has the meaning given the term in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002),

"(2) the term 'State agency on aging' means the State agency designated under section 305(a)(1) of the Act,

"(3) the term 'Secretary' means the Secretary of Health and Human Services,

"(4) the term 'Conference' means the White House Conference on Aging, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

"SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section [title]—

"(A) such sums as may be necessary for the first fiscal year in which the Policy Committee plans the Conference and for the following fiscal year; and

"(B) such sums as may be necessary for the fiscal year in which the Conference is held.

"(2) CONTRACTS.—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriations Acts.

"(b) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 202(c) shall remain available for obligation or expenditure until the expiration of the one-year period beginning on the date the Conference adjourns.

"(2) UNOBLIGATED FUNDS.—Except as provided in paragraph (3), any such funds neither expended nor obligated before the expiration of the one-year period beginning on the date the Conference adjourns shall be available to carry out the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

"(3) CONFERENCE NOT CONVENED.—If the Conference is not convened before December 31, 2005, such funds neither expended nor obligated before such date shall be available to carry out the Older Americans Act of 1965."

[For reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, see section 2(d)(3) of Pub. L. 110–372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.]

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

[Pub. L. 102–375, title VIII, §837, Sept. 30, 1992, 106 Stat. 1304, provided that: "All personnel assigned or engaged under [former] section 202(b) or section 203(a)(5) [now section 202(a)(5)] of the Older Americans Act Amendments of 1987 [Pub. L. 100–175, set out above] (42 U.S.C. 3001 note) as in effect immediately before the date of the enactment of this Act [Sept. 30, 1992] shall continue to be assigned or engaged under such section after such date notwithstanding the amendments made by this subtitle [amending title II of Pub. L. 100–175, set out above]."]

Pub. L. 95–478, title II, §§201–207, Oct. 18, 1978, 92 Stat. 1551–1554, as amended by Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, authorized the President to call a White House Conference on Aging in 1981 to develop recommendations relating to economic well-being, health care, housing, social services, and employment of the aging.

DEFINITIONS

Pub. L. 116–131, §4, Mar. 25, 2020, 134 Stat. 241, provided that: "In this Act [see Short Title of 2020 Amendment note set out above], the terms 'area agency on aging', 'Assistant Secretary', 'greatest social need', 'older individual', and 'Secretary' have the meanings given such terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11022

Ex. Ord. No. 11022, May 14, 1962, 27 F.R. 4659, as amended by Ex. Ord. No. 11376, Oct. 17, 1967, 32 F.R. 14545; Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053, which established the President's Council on Aging and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, §12, Aug. 17, 1982, 47 F.R. 36099, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

§3002. Definitions

For the purposes of this chapter—

(1) The term "abuse" means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.

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

(3) The term "adult protective services" means such services provided to adults as the Secretary may specify and includes services such as—

(A) receiving reports of adult abuse, neglect, or exploitation;

(B) investigating the reports described in subparagraph (A);

(C) case planning, monitoring, evaluation, and other casework and services; and

(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.

(4) The term "Aging and Disability Resource Center" means an entity, network, or consortium established by a State as part of the State system of long-term care, to provide a coordinated and integrated system for older individuals and individuals with disabilities (as defined in section 12102 of this title), and the caregivers of older individuals and individuals with disabilities, that provides, in collaboration with (as appropriate) area agencies on aging, centers for independent living (as described in part C of chapter 1 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.)), and other aging or disability entities—

(A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care services, and Federal or State programs that provide long-term care services and supports through home and community-based service programs;

(B) person-centered counseling to assist individuals in assessing their existing or anticipated long-term care needs and goals, and developing and implementing a person-centered plan for long-term services, supports, and care that is consistent with the desires and choices of such an individual and designed to meet the individual's specific needs, goals, and circumstances;

(C) access for individuals to the full range of publicly-supported long-term care services and supports for which the individuals may be eligible, including home and community-based service options, by serving as a convenient point of entry for such programs and supports; and

(D) in cooperation with area agencies on aging, centers for independent living described in part C of chapter 1 of title VII of the Rehabilitation Act of 1973, and other community-based entities, including other aging or disability entities, information and referrals regarding available home and community-based services for individuals who are at risk for residing in, or who reside in, institutional settings, so that the individuals have the choice to remain in or to return to the community.

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

(A) State agencies, area agencies on aging, title VI [subchapter X of this chapter] grantees, and the Administration; and

(B) organizations that—

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

(II) are institutions of higher education; and

(ii) receive funding under this chapter.

(6) The term "area agency on aging" means an area agency on aging designated under section 3025(a)(2)(A) of this title or a State agency performing the functions of an area agency on aging under section 3025(b)(5) of this title.

(7) The term "Assistant Secretary" means the Assistant Secretary for Aging.

(8)(A) The term "assistive device" includes an assistive technology device.

(B) The terms "assistive technology", "assistive technology device", and "assistive technology service" have the meanings given such terms in section 3002 of title 29.

(C) The term "State assistive technology entity" means the agency, office, or other entity designated under subsection (c)(1) of section 3003 of title 29 to carry out State activities under such section.

(9) The term "at risk for institutional placement" means, with respect to an older individual, that

such individual is unable to perform at least 2 activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision) and is determined by the State involved to be in need of placement in a long-term care facility.

(10) The term "board and care facility" means an institution regulated by a State pursuant to section 1382e(e) of this title.

(11) The term "case management service"—

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

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

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

(B) includes services and coordination such as—

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

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

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

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

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

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

(I) the older individual; or

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

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

(12) The term "civic engagement" means an individual or collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.

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

(14) The term "disease prevention and health promotion services" means—

(A) health risk assessments;

(B) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, immunization status, and nutrition screening (including screening for malnutrition);

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

(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), infectious disease, and vaccine-preventable disease,

prevention of sexually transmitted diseases, as well as alcohol and substance abuse reduction, chronic pain management, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition;

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

(i) an institution of higher education;

(ii) a local educational agency, as defined in section 8801 [1] of title 20; or

(iii) a community-based organization;

(F) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

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

(H) screening for fall-related traumatic brain injury and other fall-related injuries, coordination of treatment, rehabilitation and related services, and referral services related to such injury or injuries;

(I) educational programs on the availability, benefits, and appropriate use of preventive health services covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

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

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

(L) services that are a part of responses to a public health emergency or emerging health threat;

(M) gerontological counseling;

(N) screening for the prevention of negative health effects associated with social isolation and coordination of supportive services and health care to address negative health effects associated with social isolation; and

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

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

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

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

(17) The term "elder justice" means—

(A) from a societal perspective, efforts to—

(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and

(ii) protect older individuals with diminished capacity while maximizing their autonomy; and

(B) from an individual perspective, the recognition of an older individual's rights, including the right to be free of abuse, neglect, and exploitation.

(18)(A) The terms "exploitation" and "financial exploitation" mean the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or

fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

(B) In subparagraph (A), the term "caregiver" means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an older individual.

(19) The term "family violence" has the same meaning given the term in the Family Violence Prevention and Services Act [42 U.S.C. 10401 et seq.].

(20) The term "fiduciary"—

(A) means a person or entity with the legal responsibility—

(i) to make decisions on behalf of and for the benefit of another person; and

(ii) to act in good faith and with fairness; and

(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

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

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

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

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

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

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

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

(A) physical and mental disabilities;

(B) language barriers; and

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

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

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

(25) The term "Hispanic-serving institution" has the meaning given the term in section 1101a of title 20.

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

(27) Except for the purposes of subchapter X of this chapter, the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92–203; 85 Stat. 688) [43 U.S.C. 1601 et seq.]) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

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

(A) provides the individuals with current information on opportunities and services available

to the individuals within their communities, including information relating to assistive technology;

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

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

(D) to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

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

(i) older individuals with greatest social need;

(ii) older individuals with greatest economic need; and

(iii) older individuals at risk for institutional placement.

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

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

(A) services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

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

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

(F) personal care services; and

(G) other in-home services as defined—

(i) by the State agency in the State plan submitted in accordance with section 3027 of this title; and

(ii) by the area agency on aging in the area plan submitted in accordance with section 3026 of this title.

(31) The term "institution of higher education" has the meaning given the term in section 1001 of title 20.

(32) The term "integrated long-term care"—

(A) means items and services that consist of—

(i) with respect to long-term care—

(I) long-term care items or services provided under a State plan for medical assistance under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and

(II) any other supports, items, or services that are available under any federally funded long-term care program; and

(ii) with respect to other health care, items and services covered under—

(I) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(II) the State plan for medical assistance under the Medicaid program; or

(III) any other federally funded health care program; and

(B) includes items or services described in subparagraph (A) that are provided under a public or private managed care plan or through any other service provider.

(33) The term "legal assistance"—

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

(B) includes—

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

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

(34) The term "long-term care" means any service, care, or item (including an assistive device), including a disease prevention and health promotion service, an in-home service, and a case management service—

(A) intended to assist individuals in coping with, and to the extent practicable compensate for, a functional impairment in carrying out activities of daily living;

(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and

(C) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

(35) The term "long-term care facility" means—

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

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

(C) a board and care facility; and

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

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

(37) The term "Native American" means—

(A) an Indian as defined in paragraph (26); and

(B) a Native Hawaiian, as defined in section 3057k of this title.

(38) The term "neglect" means—

(A) the failure of a caregiver (as defined in paragraph (18)(B)) or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

(B) self-neglect.

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

(40) The term "older individual" means an individual who is 60 years of age or older.

(41) The term "person-centered, trauma-informed", with respect to services, means services provided through an aging program that—

(A) use a holistic approach to providing services or care;

(B) promote the dignity, strength, and empowerment of victims of trauma; and

(C) incorporate evidence-based practices based on knowledge about the role of trauma in trauma victims' lives.

(42) The term "physical harm" means bodily injury, impairment, or disease.

(43) The term "planning and service area" means an area designated by a State agency under section 3025(a)(1)(E) of this title, including a single planning and service area described in section

3025(b)(5)(A) of this title.

(44) The term "poverty line" means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 9902(2) of this title.[2]

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

(46) The term "Secretary" means the Secretary of Health and Human Services, except that for purposes of subchapter IX such term means the Secretary of Labor.

(47) The term "self-directed care" means an approach to providing services (including programs, benefits, supports, and technology) under this chapter intended to assist an individual with activities of daily living, in which—

(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;

(B) such individual is provided with such information and assistance as are necessary and appropriate to enable such individual to make informed decisions about the individual's care options;

(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual's ability to direct and control the individual's receipt of such services, are assessed by the area agency on aging (or other agency designated by the area agency on aging) involved;

(D) based on the assessment made under subparagraph (C), the area agency on aging (or other agency designated by the area agency on aging) develops together with such individual and the individual's family, caregiver (as defined in paragraph (18)(B)), or legal representative—

(i) a plan of services for such individual that specifies which services such individual will be responsible for directing;

(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and

(iii) a budget for such services; and

(E) the area agency on aging or State agency provides for oversight of such individual's self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this chapter.

(48) The term "self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, and medical care;

(B) obtaining goods and services necessary to maintain physical health, mental and behavioral health, or general safety; or

(C) managing one's own financial affairs.

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

(A) is likely to continue indefinitely; and

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

(50) The term "sexual assault" has the meaning given the term in section 10447 of title 34.[1]

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

(52) The term "State agency" means the agency designated under section 3025(a)(1) of this title.

(53) The term "State system of long-term care" means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care for individuals in such State.

(54) The term "supportive service" means a service described in section 3030d(a) of this title.

(55) The term "traumatic brain injury" has the meaning given such term in section 280b–1c(d) of this title.

(56) Except for the purposes of subchapter X of this chapter, the term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

(Pub. L. 89–73, title I, §102, July 14, 1965, 79 Stat. 219; Pub. L. 90–42, §5(a), July 1, 1967, 81 Stat. 107; Pub. L. 91–69, §10(a), Sept. 17, 1969, 83 Stat. 114; Pub. L. 94–135, title I, §§104(b), 114(a), Nov. 28, 1975, 89 Stat. 714, 725; Pub. L. 95–478, title V, §503(a), Oct. 18, 1978, 92 Stat. 1559; Pub. L. 97–115, §2(a)(2), (3), Dec. 29, 1981, 95 Stat. 1595; Pub. L. 100–175, title I, §§136(a)(1), 146(a), 182(a), (b)(1), Nov. 29, 1987, 101 Stat. 942, 950, 964; Pub. L. 100–628, title VII, §705(1), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(a), (b)(1)(A), title IX, §904(a)(2), Sept. 30, 1992, 106 Stat. 1197, 1200, 1306; Pub. L. 103–171, §§2(1), 3(a)(1), Dec. 2, 1993, 107 Stat. 1988, 1989; Pub. L. 105–244, title I, §102(a)(13)(C), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 106–501, title I, §101, title VIII, §801(a), Nov. 13, 2000, 114 Stat. 2227, 2291; Pub. L. 108–36, title IV, §416, June 25, 2003, 117 Stat. 831; Pub. L. 109–365, title I, §101, Oct. 17, 2006, 120 Stat. 2523; Pub. L. 114–144, §§2, 9(1), Apr. 19, 2016, 130 Stat. 334, 351; Pub. L. 116–131, title I, §§103, 104(1), 105, 106(1), 107–113, title VII, §701(1), Mar. 25, 2020, 134 Stat. 242–245, 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in par. (4), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355. Part C of title VII of the Act is classified generally to subpart 3 (§796f et seq.) of part A of subchapter VII of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Social Security Act, referred to in pars. (14) and (32), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 8801 of title 20, referred to in par. (14)(E)(ii), was repealed by Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986. See section 7801 of Title 20, Education.

The Family Violence Prevention and Services Act, referred to in par. (19), is title III of Pub. L. 98–457, as added Pub. L. 111–320, title II, §201, Dec. 20, 2010, 124 Stat. 3484, which is classified generally to chapter 110 (§10401 et seq.) of this title. For complete classification of this Act to the Code, see section 10401(a) of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (27), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act of the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Section 10447 of title 34, referred to in par. (50), was subsequently amended and no longer defines "sexual assault". However, it now refers to definitions in section 12291 of Title 34, Crime Control and Law Enforcement, which defines "sexual assault" in subsec. (a).

AMENDMENTS

2020—Par. (4). Pub. L. 116–131, §103(1), in introductory provisions, inserted ", in collaboration with (as appropriate) area agencies on aging, centers for independent living (as described in part C of chapter 1 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.)), and other aging or disability entities" after "provides".

Par. (4)(B). Pub. L. 116–131, §103(2), substituted "plan for long-term services, supports, and care that is consistent with the desires and choices" for "plan for long-term care that is consistent with the desires".

Par. (4)(D). Pub. L. 116–131, §103(3), substituted "part C of chapter 1 of title VII of the Rehabilitation Act of 1973, and other community-based entities, including other aging or disability entities," for "part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), and other community-based entities,".

Par. (8)(C). Pub. L. 116–131, §104(1), added subpar. (C).

Par. (14)(B). Pub. L. 116–131, §106(1), inserted "(including screening for malnutrition)" after "nutrition screening".

Pub. L. 116–131, §105(1), inserted "immunization status," after "oral health,".

Par. (14)(D). Pub. L. 116–131, §108, inserted "chronic pain management," after "substance abuse reduction,".

Pub. L. 116–131, §107, inserted "prevention of sexually transmitted diseases," after "vaccine-preventable disease,".

Pub. L. 116–131, §105(2), inserted "infectious disease, and vaccine-preventable disease, as well as" after "cardiovascular disease),".

Par. (14)(G). Pub. L. 116–131, §109, inserted "and screening for suicide risk" after "depression".

Par. (14)(H) to (O). Pub. L. 116–131, §110, added subpars. (H), (L), and (N), redesignated former subpars. (H), (I), (J), (K), and (L) as (I), (J), (K), (M), and (O), respectively, and, in subpar. (O), substituted "(A) through (N)" for "(A) through (K)".

Par. (35)(C). Pub. L. 116–131, §111, struck out "for purposes of sections 3027(a)(12) and 3058g of this title," before "a board".

Par. (37)(A). Pub. L. 116–131, §701(1), substituted "paragraph (26)" for "paragraph (5)".

Par. (41). Pub. L. 116–131, §112(2), added par. (41). Former par. (41) redesignated (42).

Pars. (42) to (54). Pub. L. 116–131, §112(1), redesignated pars. (41) to (53) as (42) to (54), respectively. Former par. (54) redesignated (55), then (56).

Par. (55). Pub. L. 116–131, §113(2), added par. (55).

Par. (56). Pub. L. 116–131, §§112(1), 113(1), redesignated par. (54) as (55), then (56).

2016—Par. (1). Pub. L. 114–144, §2(1), added par. (1) and struck out former par. (1) which defined "abuse".

Par. (3). Pub. L. 114–144, §2(2), added par. (3) and struck out former par. (3) which defined "adult child with a disability".

Par. (4). Pub. L. 114–144, §2(3), added par. (4) and struck out former par. (4) which defined "Aging and Disability Resource Center".

Par. (14)(B). Pub. L. 114–144, §2(4), inserted "oral health," after "bone density,".

Par. (14)(G). Pub. L. 114–144, §9(1)(A), inserted "and behavioral" after "mental".

Par. (17). Pub. L. 114–144, §2(5), added par. (17) and struck out former par. (17) which defined "elder justice".

Par. (18)(A). Pub. L. 114–144, §2(6), substituted "terms 'exploitation' and 'financial exploitation' mean" for "term 'exploitation' means".

Par. (36). Pub. L. 114–144, §9(1)(B), inserted "and behavioral" after "mental".

Par. (47)(B). Pub. L. 114–144, §9(1)(C), inserted "and behavioral" after "mental".

2006—Pub. L. 109–365, §101(b), redesignated pars. (1) to (54) as (45), (7), (50), (39), (26), (27), (54), (13), (48), (8), (29), (14), (1), (2), (3), (5), (6), (10), (30), (37), (11), (15), (16), (18), (21), (22), (23), (24), (28), (31), (33), (35), (36), (38), (40), (41), (42), (43), (44), (51), (53), (19), (49), (4), (9), (12), (17), (20), (25), (34), (46), (47), (52), and (32), respectively.

Par. (10). Pub. L. 109–365, §101(a)(1), added par. (10) and struck out former par. (10) which read as follows: "The term 'assistive technology' means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations."

Par. (12)(D). Pub. L. 109–365, §101(a)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: "health promotion programs, including but not limited to programs relating to prevention and reduction of effects of chronic disabling conditions (including osteoporosis and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;".

Par. (24). Pub. L. 109–365, §101(a)(3), added par. (24) and struck out former par. (24) which read as follows: "The term 'exploitation' means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain."

Par. (29)(E)(iii). Pub. L. 109–365, §101(a)(4), added cl. (iii).

Par. (32)(D). Pub. L. 109–365, §101(a)(5), inserted ", including an assisted living facility," after "home".

Par. (34). Pub. L. 109–365, §101(a)(6), added par. (34) and struck out former par. (34) which read as follows: "The term 'neglect' means—

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

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

Pars. (44) to (54). Pub. L. 109–365, §101(a)(7), added pars. (44) to (54).

2003—Par. (42). Pub. L. 108–36 struck out "(42 U.S.C. 10408)" before period at end.

2000—Par. (3). Pub. L. 106–501, §101(1), substituted "and the Commonwealth of the Northern Mariana Islands" for "the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands".

Par. (12). Pub. L. 106–501, §101(2), added par. (12) and struck out former par. (12) which read as follows: "The term 'Trust Territory of the Pacific Islands' includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau."

Par. (18). Pub. L. 106–501, §101(3), redesignated par. (19) as (18) and struck out former par. (18) which read as follows: "The term 'art therapy' means the use of art and artistic processes specifically selected and administered by an art therapist, to accomplish the restoration, maintenance, or improvement of the mental, emotional, or social functioning of an older individual."

Par. (19). Pub. L. 106–501, §101(4), added par. (19) and struck out former par. (19) which read as follows: "The term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law."

Pub. L. 106–501, §101(3), redesignated par. (20) as (19). Former par. (19) redesignated (18).

Par. (20). Pub. L. 106–501, §101(4), added par. (20) and struck out former par. (20) which read as follows: "The term 'caretaker' means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) uncompensated care to an older individual who needs supportive services."

Pub. L. 106–501, §101(3), redesignated par. (21) as (20). Former par. (20) redesignated (19).

Par. (21). Pub. L. 106–501, §101(3), redesignated par. (22) as (21). Former par. (21) redesignated (20).

Par. (22). Pub. L. 106–501, §101(5), redesignated par. (24) as (22). Former par. (22) redesignated (21).

Par. (23). Pub. L. 106–501, §101(5), redesignated par. (25) as (23) and struck out former par. (23) which read as follows: "The term 'dance-movement therapy' means the use of psychotherapeutic movement as a process facilitated by a dance-movement therapist, to further the emotional, cognitive, or physical health of an older individual."

Pars. (24) to (31). Pub. L. 106–501, §101(5), redesignated pars. (26) to (33) as (24) to (31), respectively. Former pars. (24) and (25) redesignated (22) and (23), respectively.

Par. (32). Pub. L. 106–501, §101(5), redesignated par. (34) as (32). Former par. (32) redesignated (30).

Par. (33). Pub. L. 106–501, §101(5), redesignated par. (35) as (33). Former par. (33) redesignated (31).

Par. (34). Pub. L. 106–501, §101(6), redesignated par. (37) as (34). Former par. (34) redesignated (32).

Par. (34)(C). Pub. L. 106–501, §801(a), which directed that par. (34)(C) be amended by substituting "3027(a)(9)" for "3027(a)(12)", could not be executed because "3027(a)(12)" did not appear in text.

Par. (35). Pub. L. 106–501, §101(6), redesignated par. (38) as (35). Former par. (35) redesignated (33).

Par. (36). Pub. L. 106–501, §101(6), redesignated par. (39) as (36) and struck out former par.(36) which read as follows: "The term 'music therapy' means the use of musical or rhythmic interventions specifically selected by a music therapist to accomplish the restoration, maintenance, or improvement of social or emotional functioning, mental processing, or physical health of an older individual."

Pars. (37) to (41). Pub. L. 106–501, §101(6), redesignated pars. (40) to (44) as (37) to (41), respectively. Former pars. (37) to (39) redesignated (34) to (36), respectively.

Pars. (42), (43). Pub. L. 106–501, §101(7), added pars. (42) and (43). Former pars. (42) and (43) redesignated (39) and (40), respectively.

Par. (44). Pub. L. 106–501, §101(6), redesignated par. (44) as (41).

1998—Par. (32). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

1993—Par. (2). Pub. L. 103–171, §3(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'Commissioner' means, unless the context otherwise requires, the Commissioner of the Administration."

Par. (3). Pub. L. 103–171, §2(1), substituted "Virgin Islands of the United States" for "Virgin Islands".

1992—Par. (2). Pub. L. 102–375, §904(a)(2), which directed amendment of par. (2) by substituting "United States Virgin Islands" for "Virgin Islands", could not be executed because "Virgin Islands" did not appear in par. (2).

Pub. L. 102–375, §102(b)(1)(A), substituted "Administration" for "Administration on Aging".

Pars. (13) to (44). Pub. L. 102–375, §102(a), added pars. (13) to (44).

1988—Par. (10). Pub. L. 100–628, §705(1)(A), redesignated par. (8) defining "assistive technology" as (10).

Par. (11). Pub. L. 100–628, §705(1)(A), redesignated par. (9) defining "information and referral" as (11).

Par. (12). Pub. L. 100–628, §705(1)(B), redesignated par. (8) defining "Trust Territory of the Pacific Islands" as (12).

1987—Par. (1). Pub. L. 100–175, §182(a), substituted "except that for purposes of subchapter IX such term means the Secretary of Labor" for "other than for purposes of subchapter IX".

Par. (3). Pub. L. 100–175, §182(b)(1)(A), substituted "means any of the several States," for "includes" and "the Commonwealth of Puerto Rico" for "Puerto Rico".

Par. (8). Pub. L. 100–175, §182(b)(1)(B), added par. (8) defining "Trust Territory of the Pacific Islands".

Pub. L. 100–175, §146(a), added par. (8) defining "assistive technology".

Pub. L. 100–175, §136(a)(1), added par. (8) defining "disability".

Par. (9). Pub. L. 100–175, §146(a), added par. (9) defining "information and referral".

Pub. L. 100–175, §136(a)(1), added par. (9) defining "severe disability".

1981—Par. (1). Pub. L. 97–115, §2(a)(2), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Par. (3). Pub. L. 97–115, §2(a)(3)(A), inserted reference to the Commonwealth of the Northern Mariana Islands.

Pars. (6), (7). Pub. L. 97–115, §2(a)(3)(B), (C), substituted "Except for the purposes of subchapter X of this chapter, the term" for "The term".

1978—Par. (1). Pub. L. 95–478, §503(a)(1), inserted ", other than for purposes of subchapter IX".

Pars. (4) to (7). Pub. L. 95–478, §503(a)(2), redesignated second par. (4), which was enacted by Pub. L. 94–135, §104(b), as par. (5) and redesignated existing pars. (5) and (6) as (6) and (7), respectively.

1975—Par. (1). Pub. L. 94–135, §114(a), substituted a period for the semicolon.

Pars. (4) to (6). Pub. L. 94–135, §104(b), added pars. (4) to (6).

1969—Par. (3). Pub. L. 91–69 enlarged term "State" to include the Trust Territory of the Pacific Islands.

1967—Par. (2). Pub. L. 90–42, §5(a)(1), inserted ", unless the context otherwise requires," after "means".

Par. (4). Pub. L. 90–42, §5(a)(2), enlarged term nonprofit institution or organization to include nonprofit agencies.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

[1] See References in Text note below.

[2] So in original. A closing parenthesis probably should follow "this title".

[3] So in original. Probably should refer to paragraph (13).

§3003. Congressional declaration of additional objectives

The Congress finds that millions of older citizens in this Nation are suffering unnecessary harm

from the lack of adequate services. It is therefore the purpose of this Act, in support of the objectives of the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], to—

(1) make available comprehensive programs which include a full range of health, education, and supportive services to our older citizens who need them,

(2) give full and special consideration to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need.

(3) provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older citizens, and, where applicable, also furnish meaningful employment opportunities for many individuals, including older persons, young persons, and volunteers from the community, and

(4) insure that the planning and operation of such programs will be undertaken as a partnership of older citizens, community agencies, and State and local governments, with appropriate assistance from the Federal Government.

(Pub. L. 93–29, title I, §101, May 3, 1973, 87 Stat. 30; Pub. L. 97–115, §3(d), Dec. 29, 1981, 95 Stat. 1597.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93–29, May 3, 1973, 87 Stat. 30, known as the Older Americans Comprehensive Services Amendments of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 3001 of this title and Tables.

The Older Americans Act of 1965, referred to in text, is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Older Americans Act of 1965 which comprises this chapter.

AMENDMENTS

1981—Par. (1). Pub. L. 97–115 substituted "supportive services" for "social services".

SUBCHAPTER II—ADMINISTRATION ON AGING

§3011. Establishment of Administration on Aging

(a) Function and operation

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

(b) Appointment of Assistant Secretary

The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate.

(c) Office for American Indian, Alaskan Native, and Native Hawaiian Programs; Director

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

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

(3) The Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging shall—

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

(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 3018(a) of this title to be submitted by the Assistant Secretary;

(B) serve as the effective and visible advocate in behalf of older individuals who are Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting such individuals, with particular attention to services provided to Native Americans by the Indian Health Service;

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

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

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

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

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

(H) develop and provide technical assistance and training programs to grantees under subchapter X;

(I) promote coordination—

(i) between the administration of subchapter III and the administration of subchapter X; and

(ii) between programs established under subchapter III by the Assistant Secretary and programs established under subchapter X by the Assistant Secretary;

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

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

(d) Office of Long-Term Care Ombudsman Programs

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

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

(B) No individual shall be appointed Director if—

(i) the individual has been employed within the previous 2 years by—
(I) a long-term care facility;
(II) a corporation that then owned or operated a long-term care facility; or
(III) an association of long-term care facilities;

(ii) the individual—
(I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or
(II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or

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

(3) The Director shall—
(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;
(B) review and make recommendations to the Assistant Secretary regarding—
(i) the approval of the provisions in State plans submitted under section 3027(a) of this title that relate to State Long-Term Care Ombudsman programs; and
(ii) the adequacy of State budgets and policies relating to the programs;

(C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Assistant Secretary regarding—
(i) policies designed to assist State Long-Term Care Ombudsmen; and
(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 3027(a)(9) of this title and section 3058g of this title, including provision of service to residents of board and care facilities and of similar adult care facilities;

(D) keep the Assistant Secretary and the Secretary fully and currently informed about—
(i) problems relating to State Long-Term Care Ombudsman programs; and
(ii) the necessity for, and the progress toward, solving the problems;

(E) review, and make recommendations to the Secretary and the Assistant Secretary regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;
(F) make recommendations to the Assistant Secretary and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State Long-Term Care Ombudsman programs;
(G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care Ombudsman programs;
(H) administer the National Ombudsman Resource Center established under section 3012(a)(18) of this title and make recommendations to the Assistant Secretary regarding the operation of the National Ombudsman Resource Center;
(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this chapter;
(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 3027(a)(9) of this

title and section 3058g of this title;

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

(L) not later than 180 days after April 19, 2016, establish standards applicable to the training required by section 3058g(h)(5) of this title; and

(M) collect and analyze best practices related to responding to elder abuse, neglect, and exploitation in long-term care facilities, and publish a report of such best practices.

(e) Elder abuse prevention and services

(1) The Assistant Secretary is authorized to designate within the Administration a person to have responsibility for elder abuse prevention and services.

(2) It shall be the duty of the Assistant Secretary, acting through the person designated to have responsibility for elder abuse prevention and services, and in coordination with the heads of State adult protective services programs and the Director of the Office of Long-Term Care Ombudsman Programs—

(A) to develop objectives, priorities, policy, and a long-term plan for—

(i) facilitating the development, implementation, and continuous improvement of a coordinated, multidisciplinary elder justice system in the United States;

(ii) providing Federal leadership to support State efforts in carrying out elder justice programs and activities relating to—

(I) elder abuse prevention, detection, treatment, intervention, and response;

(II) training of individuals regarding the matters described in subclause (I); and

(III) the development of a State comprehensive elder justice system, as defined in section 3058aa–1(b) of this title;

(iii) establishing Federal guidelines and disseminating best practices for uniform data collection and reporting by States;

(iv) working with States, the Department of Justice, and other Federal entities to annually collect, maintain, and disseminate data relating to elder abuse, neglect, and exploitation, to the extent practicable;

(v) establishing an information clearinghouse to collect, maintain, and disseminate information concerning best practices and resources for training, technical assistance, and other activities to assist States and communities to carry out evidence-based programs to prevent and address elder abuse, neglect, and exploitation;

(vi) conducting research related to elder abuse, neglect, and exploitation;

(vii) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in subchapter XI;

(viii) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings; and

(ix) promoting collaborative efforts and diminishing duplicative efforts in the development and carrying out of elder justice programs at the Federal, State and local levels; and

(B) to assist States and other eligible entities under subchapter XI to develop strategic plans to better coordinate elder justice activities, research, and training.

(3) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and section 3058aa–1 of this title.

(f) Mental health services

(1) The Assistant Secretary may designate an officer or employee who shall be responsible for the administration of mental and behavioral health services authorized under this chapter.

(2) It shall be the duty of the Assistant Secretary, acting through the individual designated under paragraph (1), to develop objectives, priorities, and a long-term plan for supporting State and local

efforts involving education about and prevention, detection, and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction.

(g) Research, Demonstration, and Evaluation Center for the Aging Network

(1) The Assistant Secretary shall, as appropriate, coordinate the research and evaluation functions of this chapter under a Research, Demonstration, and Evaluation Center for the Aging Network (in this subsection referred to as the "Center"), which shall be headed by a director designated by the Assistant Secretary from individuals described in paragraph (4).

(2) The purpose of the Center shall be—

(A) to coordinate, as appropriate, research, research dissemination, evaluation, demonstration projects, and related activities carried out under this chapter;

(B) to provide assessment of the programs and interventions authorized under this chapter; and

(C) to increase the repository of information on evidence-based programs and interventions available to the aging network, which information shall be applicable to existing programs and interventions and help in the development of new evidence-based programs and interventions.

(3) Activities of the Center shall include, as appropriate, conducting, promoting, coordinating, and providing support for—

(A) research and evaluation activities that support the objectives of this chapter, including—

(i) evaluation of new and existing programs and interventions authorized by this chapter; and

(ii) research on and assessment of the relationship between programs and interventions under this chapter and the health outcomes, social determinants of health, quality of life, and independence of individuals served under this chapter;

(B) demonstration projects that support the objectives of this chapter, including activities to bring effective demonstration projects to scale with a prioritization of projects that address the needs of underserved populations, and promote partnerships among aging services, community-based organizations, and Medicare and Medicaid providers, plans, and health (including public health) systems;

(C) outreach and dissemination of research findings; and

(D) technical assistance related to the activities described in this paragraph.

(4) The director shall be an individual with substantial knowledge of and experience in aging and health policy, and research administration.

(5) Not later than October 1, 2020, and at 5-year intervals thereafter, the director shall prepare and publish in the Federal Register for public comment a draft of a 5-year plan that—

(A) outlines priorities for research, research dissemination, evaluation, demonstration projects, and related activities;

(B) explains the basis for such priorities; and

(C) describes how the plan will meet the needs of underserved populations.

(6) The director shall coordinate, as appropriate, research, research dissemination, evaluation, and demonstration projects, and related activities with appropriate agency program staff, and, as appropriate, with other Federal departments and agencies involved in research in the field of aging.

(7) Not later than December 31, 2020, and annually thereafter, the director shall prepare, and submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, the Special Committee on Aging of the Senate, and the Committee on Education and Labor of the House of Representatives, a report on the activities funded under this section and subchapter IV.

(8) The director shall, as appropriate, consult with experts on aging research and evaluation and aging network stakeholders on the implementation of the activities described under paragraph (3) of this subsection.

(9) The director shall coordinate, as appropriate, all research and evaluation authorities under this chapter.

(Pub. L. 89–73, title II, §201, July 14, 1965, 79 Stat. 220; Pub. L. 93–29, title II, §201(a), May 3, 1973, 87 Stat. 30; Pub. L. 93–351, §2(a), July 12, 1974, 88 Stat. 357; Pub. L. 95–478, title V, §503(b)(1), Oct. 18, 1978, 92 Stat. 1559; Pub. L. 98–459, title II, §201, Oct. 9, 1984, 98 Stat. 1767; Pub. L. 100–175, title I, §§102, 107(a), 182(c), Nov. 29, 1987, 101 Stat. 928, 931, 964; Pub. L. 102–375, title I, §102(b)(1)(A), (2), title II, §201, title IX, §904(a)(3), Sept. 30, 1992, 106 Stat. 1200, 1201, 1202, 1306; Pub. L. 103–171, §3(a)(2), Dec. 2, 1993, 107 Stat. 1989; Pub. L. 106–501, title VIII, §801(b)(1), Nov. 13, 2000, 114 Stat. 2291; Pub. L. 109–365, title II, §201, Oct. 17, 2006, 120 Stat. 2527; Pub. L. 114–144, §§3(a), 9(2), Apr. 19, 2016, 130 Stat. 335, 352; Pub. L. 116–131, title I, §127(a), Mar. 25, 2020, 134 Stat. 252.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (g). Pub. L. 116–131 added subsec. (g).

2016—Subsec. (d)(3)(H). Pub. L. 114–144, §3(a)(1)(A), substituted "3012(a)(18)" for "3012(a)(21)".

Subsec. (d)(3)(L). Pub. L. 114–144, §3(a)(1)(C), substituted "April 19, 2016" for "September 30, 1992" and "3058g(h)(5) of this title; and" for "3058g(h)(4) of this title."

Subsec. (d)(3)(M). Pub. L. 114–144, §3(a)(1)(B), (D), added subpar. (M).

Subsec. (e)(2). Pub. L. 114–144, §3(a)(2), inserted ", and in coordination with the heads of State adult protective services programs and the Director of the Office of Long-Term Care Ombudsman Programs" after "and services".

Subsec. (f)(1). Pub. L. 114–144, §9(2), inserted "and behavioral" after "mental".

2006—Subsecs. (e), (f). Pub. L. 109–365 added subsecs. (e) and (f).

2000—Subsec. (d)(3)(C)(ii), (J). Pub. L. 106–501 substituted "3027(a)(9)" for "3027(a)(12)".

1993—Subsec. (a). Pub. L. 103–171, §3(a)(2)(A), (D), substituted "an Assistant Secretary for Aging" for "a Commissioner on Aging" and substituted "the Assistant Secretary" for "the Commissioner" wherever appearing.

Subsec. (b). Pub. L. 103–171, §3(a)(2)(D), substituted "Assistant Secretary" for "Commissioner".

Subsec. (c)(2). Pub. L. 103–171, §3(a)(2)(B)(i), (D), substituted "a Director of the Office for" for "an Associate Commissioner on" and "Assistant Secretary" for "Commissioner".

Subsec. (c)(3). Pub. L. 103–171, §3(a)(2)(B)(ii), (D), substituted "Director of the Office for" for "Associate Commissioner on" in introductory provisions and "Assistant Secretary" for "Commissioner" wherever appearing in subpars. (A), (E), and (I)(ii).

Subsec. (d)(2). Pub. L. 103–171, §3(a)(2)(C), (D), substituted "a Director of the Office of Long-Term Care Ombudsman Programs" for "an Associate Commissioner for Ombudsman Programs" in subpar. (A), "Director" for "Associate Commissioner" wherever appearing, and "Assistant Secretary" for "Commissioner" in two places in subpar. (A).

Subsec. (d)(3). Pub. L. 103–171, §3(a)(2)(C)(ii), (D), substituted "Director" for "Associate Commissioner" in introductory provisions and "Assistant Secretary" for "Commissioner" in subpars. (B) to (F) and (H).

1992—Subsec. (a). Pub. L. 102–375, §§102(b)(2), 201(a), struck out "(hereinafter in this chapter referred to as the 'Administration')" after "Administration on Aging" and "(hereinafter in this chapter referred to as the 'Commissioner')" after "Commissioner on Aging" and inserted "(including the functions of the Commissioner carried out through regional offices)" after "functions of the Commissioner".

Subsec. (c)(1). Pub. L. 102–375, §102(b)(1)(A), substituted "Administration" for "Administration on Aging".

Subsec. (c)(3)(A)(i). Pub. L. 102–375, §904(a)(3)(A), inserted "individuals who are" before "Native Americans".

Subsec. (c)(3)(B). Pub. L. 102–375, §§201(b)(1), 904(a)(3)(A), (B), inserted "individuals who are" before "Native Americans within" and substituted "affecting such individuals, with particular attention to services provided to Native Americans by the Indian Health Service" for "affecting older Native Americans".

Subsec. (c)(3)(E). Pub. L. 102–375, §904(a)(3)(A), (C), substituted "this chapter" for "the chapter" and inserted "individuals who are" after "older".

Subsec. (c)(3)(F). Pub. L. 102–375, §201(b)(2), inserted before semicolon ", including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans".

Subsec. (c)(3)(G). Pub. L. 102–375, §904(a)(3)(A), inserted "individuals who are" before "Native

Americans".

Subsec. (c)(3)(I), (J). Pub. L. 102–375, §201(b)(3)–(5), added subpars. (I) and (J).

Subsec. (d). Pub. L. 102–375, §201(c), added subsec. (d).

1987—Subsec. (a). Pub. L. 100–175, §182(c), substituted "the functions of the Commissioner" for "his functions".

Pub. L. 100–175, §102, substituted "between the Commissioner and the Secretary" for "between the Commissioner and the Office of the Secretary" and "responsible to the Secretary" for "responsible to the Office of the Secretary".

Subsec. (c). Pub. L. 100–175, §107(a), added subsec. (c).

1984—Subsec. (a). Pub. L. 98–459, §201(1), (3), (4), substituted "the agency" for "the principal agency", inserted provision requiring establishment of a direct reporting relationship between Commissioner and Office of the Secretary, and substituted "approve or require" for "approve".

Pub. L. 98–459, §201(2), which directed that "the functions of the Administration" be substituted for "his functions" in second sentence could not be executed because "his functions" appeared only in third sentence.

1978—Subsec. (a). Pub. L. 95–478 substituted "subchapter IX" for "subchapter VI and as otherwise specifically provided by the Older Americans Comprehensive Services Amendments of 1973".

1974—Subsec. (a). Pub. L. 93–351 struck out provisions which had authorized the Secretary of Health, Education, and Welfare, under certain conditions, to approve a delegation of the functions of the Commissioner on Aging to officers not directly responsible to the Commissioner.

1973—Subsec. (a). Pub. L. 93–29 added subsec. (a). Former provision established the Administration on Aging in the Department of Health, Education, and Welfare.

Subsec. (b). Pub. L. 93–29 struck out provision respecting the direction of the Administration by a Commissioner on Aging, now incorporated in subsec. (a) of this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

Pub. L. 103–171, §3(c), Dec. 2, 1993, 107 Stat. 1991, provided that: "Any reference to the Commissioner on Aging in any order, rule, guideline, contract, grant, suit, or proceeding that is pending, enforceable, or in effect on the date of the enactment of this Act [Dec. 2, 1993] shall be deemed to be a reference to the Assistant Secretary for Aging."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

MODIFICATION OF DELEGATION OF FUNCTIONS OF COMMISSIONER ON AGING IN EFFECT ON JULY 12, 1974

Pub. L. 93–351, §2(b), July 12, 1974, 88 Stat. 357, provided that: "Any delegation of the functions of the Commissioner on Aging [now Assistant Secretary for Aging] in effect on the date of enactment of this Act [July 12, 1974], issued pursuant to section 201(a) of such Act [subsec. (a) of this section], shall be modified by the Commissioner to comply with the provisions of the amendment made by this section [amending this section]."

§3012. Functions of Assistant Secretary

(a) Duties and functions of Administration

It shall be the duty and function of the Administration to—

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

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

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

(4) administer the grants provided by this chapter, but not approve an application submitted by an applicant for a grant for an activity under a provision of this chapter for which such applicant previously received a grant under such provision unless the Assistant Secretary determines—

(A) the activity for which such application was submitted is being operated, or was operated, effectively to achieve its stated purpose; and

(B) such applicant has complied with the assurances provided to the Assistant Secretary with the application for such previous grant.[1]

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

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

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

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

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

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

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

(12)(A) consult and coordinate activities with the Administrator of the Centers for Medicare & Medicaid Services and the heads of other Federal entities to implement and build awareness of programs providing benefits affecting older individuals; and

(B) carry on a continuing evaluation of the programs and activities related to the objectives of this chapter, with particular attention to the impact of the programs and activities carried out under—

(i) titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.);

(ii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

(iii) the National Housing Act (12 U.S.C. 1701 et seq.) relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;

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

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

(15) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies on aging, and service providers, in providing services to older individuals with greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals and older individuals residing in rural areas;

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

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

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

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

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

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

(C) the extent to which each area agency on aging designated under section 3025(a) of this title satisfied the requirements of paragraphs (2) and (4)(A) of section 3026(a) of this title;

(17) obtain from—

(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.]; and

(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] (or assistance under a State plan program under title XVI of that Act);

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

(18)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the "Center"), under the administration of the Director of the Office of Long-Term Care Ombudsman Programs, that will—

(i) by grant or contract—

(I) conduct research;

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

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

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

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

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

(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 2000;

(19) conduct strict monitoring of State compliance with the requirements in effect, under this chapter to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this chapter in all contractual and commercial relationships;

(20)(A) encourage, and provide technical assistance to, States, area agencies on aging, and service providers to carry out outreach and benefits enrollment assistance to inform and enroll older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including—

(i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or assistance under a State plan program under such title;

(ii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.);

(iii) benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(iv) benefits under any other applicable program; and

(B) at the election of the Assistant Secretary and in cooperation with related Federal agency partners administering the Federal programs, make a grant to or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment, which shall—

(i) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(ii) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

(iii) create and support efforts for Aging and Disability Resource Centers, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as benefits enrollment centers for the programs;

(iv) develop and maintain an information clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals with greatest economic need in the programs for which the individuals are eligible; and

(v) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on effective outreach, screening, enrollment, and follow-up strategies;

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

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

(23) develop guidelines and a model job description for choosing and evaluating legal assistance developers referred to in sections 3027(a)(13) and 3058j of this title;

(24) establish and carry out pension counseling and information programs described in section 3020e–1 of this title;

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

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

(A) uniform definitions and nomenclature;

(B) standardized data collection procedures;

(C) a participant identification and description system;

(D) procedures for collecting information on services needed by older individuals (including services that would permit such individuals to receive long-term care in home and community-based settings), as identified by service providers in assisting clients through the provision of the supportive services; and

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

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

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

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

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

(28) make available to States, area agencies on aging, and service providers information and technical assistance to support the provision of evidence-based disease prevention and health promotion services, including information and technical assistance on delivery of such services in different settings;

(29) provide information and technical assistance to States, area agencies on aging, and service providers, in collaboration with relevant Federal agencies, on providing efficient, person-centered transportation services, including across geographic boundaries;

(30) identify model programs and provide information and technical assistance to States, area agencies on aging, and service providers (including providers operating multipurpose senior centers), to support the modernization of multipurpose senior centers;

(31) provide technical assistance to and share best practices with States, area agencies on aging, and Aging and Disability Resource Centers, on how to collaborate and coordinate services with health care entities, such as Federally-qualified health centers, as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)), in order to improve care coordination for individuals with multiple chronic illnesses;

(32) provide technical assistance to, and share best practices with, State agencies and area agencies on aging on how to collaborate and coordinate activities and develop long-range emergency preparedness plans with local and State emergency response agencies, relief organizations, local and State governments, Federal agencies as appropriate, and any other institutions that have responsibility for disaster relief service delivery;

(33) with input from aging network stakeholders, including caregivers, develop objectives, priorities, and a long-term plan for supporting State and local efforts involving education about prevention of, detection of, and response to negative health effects associated with social isolation among older individuals, and submit a report to Congress on this effort by January 2021; and

(34) provide (to the extent practicable) a standardized notification to State agencies, area agencies on aging, providers of services under this chapter, and grantees or contract awardees under this chapter, through an electronic format (e-mail or other electronic notification), of the availability of, or updates to, policies, practices, and procedures under this chapter.

(b) Development and implementation of comprehensive, coordinated systems for long-term care

To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels that enable older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, the Assistant Secretary shall, consistent with the applicable provisions of this subchapter—

(1) collaborate, coordinate, and consult with other Federal entities responsible for formulating and implementing programs, benefits, and services related to providing long-term care, and may make grants, contracts, and cooperative agreements with funds received from other Federal entities;

(2) conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying State systems of long-term care to—

(A) respond to the needs and preferences of older individuals and family caregivers; and

(B) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(3) establish criteria for and promote the implementation (through area agencies on aging, service providers, and such other entities as the Assistant Secretary determines to be appropriate) of evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals;

(4) facilitate, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, and other heads of Federal entities as appropriate, the provision of long-term care in home and community-based settings, including the provision of such care through self-directed care models that—

(A) provide for the assessment of the needs and preferences of an individual at risk for institutional placement to help such individual avoid unnecessary institutional placement and depletion of income and assets to qualify for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(B) respond to the needs and preferences of such individual and provide the option—

(i) for the individual to direct and control the receipt of supportive services provided; or

(ii) as appropriate, for a person who was appointed by the individual, or is legally acting on the individual's behalf, in order to represent or advise the individual in financial or service coordination matters (referred to in this paragraph as a "representative" of the individual), to direct and control the receipt of those services; and

(C) assist an older individual (or, as appropriate, a representative of the individual) to develop a plan for long-term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services;

(5) provide for the Administration to play a lead role with respect to issues concerning home and community-based long-term care, including—

(A) directing (as the Secretary or the President determines to be appropriate) or otherwise participating in departmental and interdepartmental activities concerning long-term care;

(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care;

(C) making recommendations to the Secretary with respect to home and community-based long-term care, including recommendations based on findings made through projects conducted under paragraph (2); and

(D) when feasible, developing, in consultation with States and national organizations, a consumer-friendly tool to assist older individuals and their families in choosing home and community-based services, with a particular focus on ways for consumers to assess how providers protect the health, safety, welfare, and rights, including the rights provided under section 3030c–1 of this title, of older individuals;

(6) promote, in coordination with other appropriate Federal agencies—

(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

(B) the availability of information and resources to assist in such planning;

(7) ensure access to, and the dissemination of, information about all long-term care options and service providers, including the availability of integrated long-term care;

(8) implement in all States Aging and Disability Resource Centers—

(A) to serve as visible and trusted sources of information on the full range of long-term care options, including both institutional and home and community-based care, which are available in the community;

(B) to provide personalized and consumer-friendly assistance to empower individuals to identify and articulate goals of care and to make informed decisions about their care options;

(C) to provide coordinated and streamlined access to all publicly supported long-term care

options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

(D) to help individuals to respond to or plan ahead for their long-term care needs;

(E) to assist (in coordination with the entities carrying out the health insurance information, counseling, and assistance program (receiving funding under section 1395b–4 of this title) in the States) beneficiaries, and prospective beneficiaries, under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in understanding and accessing prescription drug and preventative health benefits under the provisions of, and amendments made by, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; and

(F) to provide information and referrals regarding available home and community-based services for individuals who are at risk for residing in, or who reside in, institutional settings, so that the individuals have the choice to remain in or to return to the community;

(9) establish, either directly or through grants or contracts, national technical assistance programs to assist State agencies, area agencies on aging, and community-based service providers funded under this chapter in implementing—

(A) home and community-based long-term care systems, including evidence-based programs; and

(B) evidence-based disease prevention and health promotion services programs, including delivery of such services in different settings; and

(C) activities for increasing business acumen, capacity building, organizational development, innovation, and other methods of growing and sustaining the capacity of the aging network to serve older individuals and caregivers most effectively;

(10) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards and measures for use by States to determine the extent to which their State systems of long-term care fulfill the objectives described in this subsection; and

(11) conduct such other activities as the Assistant Secretary determines to be appropriate.

(c) Encouragement of participation by volunteer groups, utilization of older individuals, and cost savings

The Assistant Secretary, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall—

(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that are active in supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement programs or activities to the maximum extent feasible;

(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs of national concern, including the engagement of older individuals in the activities of public and nonprofit organizations such as community-based organizations, including faith-based organizations; and

(3) encourage other community capacity-building initiatives involving older individuals, with particular attention to initiatives that demonstrate effectiveness and cost savings in meeting critical needs.

(d) National Center on Elder Abuse

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

(2) In operating the Center, the Assistant Secretary shall—

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

(B) develop and maintain an information clearinghouse on all programs (including private

programs) showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

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

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

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

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

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

(C) The Assistant Secretary shall—

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

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

(4) The Assistant Secretary shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this chapter and not less than the amount of resources made available to the Resource Center on Elder Abuse for fiscal year 2000.

(e) National Aging Information Center

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

(i) provide information about grants and projects under subchapter IV;

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

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

(II) census data on aging demographics; and

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

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

(iv) analyze the information collected under section 3011(c)(3)(F) of this title by the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging;

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

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

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

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

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

grant awarded, or contract entered into, to carry out the project or activity.

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

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

(f) Development of performance outcome measures

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

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

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

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

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

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

(g) Training and provision of services addressing elder justice and exploitation

The Assistant Secretary shall, as appropriate, ensure that programs authorized under this chapter include appropriate training in the prevention of abuse, neglect, and exploitation and provision of services that address elder justice and the exploitation of older individuals.

(h) Publication of funded centers and demonstration projects

The Assistant Secretary shall publish, on an annual basis, a list of centers and demonstration projects funded under each subchapter of this chapter. The Assistant Secretary shall ensure that this information is also directly provided to State agencies and area agencies on aging.

(i) RAISE Family Caregivers Act

The Assistant Secretary shall carry out the RAISE Family Caregivers Act (42 U.S.C. 3030s note).

(Pub. L. 89–73, title II, §202, July 14, 1965, 79 Stat. 220; Pub. L. 93–29, title II, §201(b), May 3, 1973, 87 Stat. 31; Pub. L. 94–135, title I, §114(b), (c), Nov. 28, 1975, 89 Stat. 725; Pub. L. 95–478, title I, §102(a), title V, §503(b)(2), (4), Oct. 18, 1978, 92 Stat. 1513, 1559; Pub. L. 97–115, §§2(b), (c), 3(d), Dec. 29, 1981, 95 Stat. 1595, 1597; Pub. L. 98–459, title II, §202, Oct. 9, 1984, 98 Stat. 1768; Pub. L. 100–175, title I, §§103(a), 105(a), 106(a), 155(a), Nov. 29, 1987, 101 Stat. 928, 930, 952; Pub. L. 102–321, title I, §163(c)(2)(A), July 10, 1992, 106 Stat. 377; Pub. L. 102–375, title I, §102(b)(10)(A), title II, §202(a)–(f), title VII, §708(c)(1), title IX, §904(a)(4), Sept. 30, 1992, 106 Stat. 1202, 1205–1208, 1292, 1306; Pub. L. 103–82, title IV, §405(g)(1), Sept. 21, 1993, 107 Stat. 921; Pub. L. 103–171, §§2(2), (3), 3(a)(3), Dec. 2, 1993, 107 Stat. 1988, 1990; Pub. L. 106–501, title

II, §201, title VIII, §801(b)(2), Nov. 13, 2000, 114 Stat. 2229, 2291; Pub. L. 109–365, title II, §202, Oct. 17, 2006, 120 Stat. 2528; Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(BB), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(BB), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 114–144, §§3(b), 9(3), Apr. 19, 2016, 130 Stat. 336, 352; Pub. L. 116–131, title I, §§114–117(a), 118(a), 122(a), 123(b), title VII, §701(2), (3), Mar. 25, 2020, 134 Stat. 245, 246, 248, 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(12)(B)(i), (17)(B), (20)(A)(i), (ii) and (b)(4)(A), (8)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI, XVIII, and XIX of that Act are classified generally to subchapters XVI (§1381 et seq.), XVIII (§1395 et seq.), and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Age Discrimination in Employment Act of 1967, referred to in subsec. (a)(12)(B)(ii), is Pub. L. 90–202, Dec. 15, 1967, 81 Stat. 602, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The National Housing Act, referred to in subsec. (a)(12)(B)(iii), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (a)(17)(A), (20)(A)(iii), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, referred to in subsec. (b)(8)(E), is Pub. L. 108–173, Dec. 8, 2003, 117 Stat. 2066. For complete classification of this Act to the Code, see Short Title of 2003 Amendment note set out under section 1305 of this title and Tables.

The RAISE Family Caregivers Act, referred to in subsec. (i), is Pub. L. 115–119, Jan. 22, 2018, 132 Stat. 23, also known as the Recognize, Assist, Include, Support, and Engage Family Caregivers Act of 2017, which is set out as a note under section 3030s of this title.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2020—Subsec. (a)(4). Pub. L. 116–131, §114(a)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "administer the grants provided by this chapter;".

Subsec. (a)(5). Pub. L. 116–131, §123(b), inserted "cultural experiences, activities, and services, including in the arts," after "education),".

Subsec. (a)(23). Pub. L. 116–131, §701(2), substituted "sections 3027(a)(13) and 3058j of this title" for "sections 3027(a)(18) and 3058j(b)(2) of this title".

Subsec. (a)(28). Pub. L. 116–131, §117(a)(1), inserted before semicolon at end ", including information and technical assistance on delivery of such services in different settings".

Subsec. (a)(32). Pub. L. 116–131, §114(b), added par. (32).

Subsec. (a)(33). Pub. L. 116–131, §115, added par. (33).

Subsec. (a)(34). Pub. L. 116–131, §116, added par. (34).

Subsec. (b)(9)(B). Pub. L. 116–131, §117(a)(2), inserted ", including delivery of such services in different settings" before semicolon at end.

Subsec. (b)(9)(A) to (C). Pub. L. 116–131, §118(a), added subpar. (C).

Subsec. (e)(1)(A)(i). Pub. L. 116–131, §701(3), realigned margin.

Subsec. (h). Pub. L. 116–131, §114(a)(2), added subsec. (h).

Subsec. (i). Pub. L. 116–131, §122(a), added subsec. (i).

2016—Subsec. (a)(5). Pub. L. 114–144, §9(3), inserted "and behavioral" after "mental".

Pub. L. 114–144, §3(b)(1)(A), inserted "health and economic" before "needs of older individuals".

Subsec. (a)(7). Pub. L. 114–144, §3(b)(1)(B), inserted "health and economic" before "welfare".

Subsec. (a)(14). Pub. L. 114–144, §3(b)(1)(C), inserted "(including the Health Resources and Services Administration)" after "other agencies".

Subsec. (a)(29) to (31). Pub. L. 114–144, §3(b)(1)(D)–(F), added pars. (29) to (31).

Subsec. (b)(5)(D). Pub. L. 114–144, §3(b)(2)(A), added subpar. (D).

Subsec. (b)(8)(B). Pub. L. 114–144, §3(b)(2)(B)(i), inserted "to identify and articulate goals of care and" after "individuals".

Subsec. (b)(8)(D). Pub. L. 114–144, §3(b)(2)(B)(ii), inserted "respond to or" before "plan" and substituted "long-term care needs;" for "future long-term care needs; and".

Subsec. (b)(8)(F). Pub. L. 114–144, §3(b)(2)(B)(iii), (iv), added subpar. (F).

Subsec. (g). Pub. L. 114–144, §3(b)(3), added subsec. (g).

2008—Subsec. (a)(17)(A), (20)(A)(iii). Pub. L. 110–246, §4002(b)(1)(B), (2)(BB), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

2006—Subsec. (a)(5). Pub. L. 109–365, §202(1)(A), inserted "assistive technology," after "housing,".

Subsec. (a)(12). Pub. L. 109–365, §202(1)(B), added par. (12) and struck out former par. (12) which read as follows: "carry on a continuing evaluation of the programs and activities related to the objectives of this chapter, with particular attention to the impact of medicare and medicaid, the Age Discrimination in Employment Act of 1967, and the programs of the National Housing Act relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;".

Subsec. (a)(20). Pub. L. 109–365, §202(1)(C), added par. (20) and struck out former par. (20) which read as follows: "encourage, and provide technical assistance to, States and area agencies on aging to carry out outreach to inform older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State plan program under such title), medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), and benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), of the requirements for eligibility to receive such benefits and such assistance;".

Subsec. (a)(26)(D). Pub. L. 109–365, §202(1)(D)(i), struck out "gaps in" after "collecting information on" and inserted "(including services that would permit such individuals to receive long-term care in home and community-based settings)" after "individuals".

Subsec. (a)(27)(B). Pub. L. 109–365, §202(1)(E)(i), inserted "and" at end.

Subsec. (a)(27)(D). Pub. L. 109–365, §202(1)(E)(ii), struck out subpar. (D) which read as follows: "submitting a report on the States' experiences in implementing these best practices and the effect these innovations are having on improving service delivery in rural areas to the relevant committees not later than 36 months after November 13, 2000."

Subsec. (a)(28). Pub. L. 109–365, §202(1)(D)(ii), (F), added par. (28).

Subsecs. (b), (c). Pub. L. 109–365, §202(2), added subsecs. (b) and (c) and struck out former subsecs. (b) and (c), which related to policy alternatives in long-term care and participation of volunteer groups in programs and activities.

Subsec. (e)(1)(A). Pub. L. 109–365, §202(3), substituted a period for semicolon at end.

2000—Subsec. (a)(9). Pub. L. 106–501, §201(1)(A), redesignated par. (10) as (9) and struck out former par. (9) which read as follows: "stimulate more effective use of existing resources and available services for the aged and aging, including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967;".

Subsec. (a)(10), (11). Pub. L. 106–501, §201(1)(A), redesignated pars. (11) and (12) as (10) and (11), respectively. Former par. (10) redesignated (9).

Subsec. (a)(12). Pub. L. 106–501, §201(1)(B), redesignated par. (15) as (12). Former par. (12) redesignated (11).

Subsec. (a)(13), (14). Pub. L. 106–501, §201(1)(B), redesignated pars. (16) and (17) as (13) and (14), respectively, and struck out former pars. (13) and (14), which read as follows:

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

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

Subsec. (a)(15). Pub. L. 106–501, §201(1)(B), (C), redesignated par. (18) as (15) and inserted "and older individuals residing in rural areas" after "low-income minority individuals". Former par. (15) redesignated (12).

Subsec. (a)(16). Pub. L. 106–501, §201(1)(B), redesignated par. (19) as (16). Former par. (16) redesignated (13).

Subsec. (a)(16)(C). Pub. L. 106–501, §801(b)(2)(A)(i), which directed that par. (19)(C) be amended by substituting "paragraphs (2) and (4)(A) of section 3026(a)" for "paragraphs (2) and (5)(A) of section 3026(a)", was executed by making the substitution in par. (16)(C), to reflect the probable intent of Congress and the redesignation of par. (19) as (16) by Pub. L. 106–501, §201(1)(B). See above.

Subsec. (a)(17). Pub. L. 106–501, §201(1)(B), redesignated par. (20) as (17). Former par. (17) redesignated (14).

Subsec. (a)(18). Pub. L. 106–501, §201(1)(B), (D), redesignated par. (21) as (18) and substituted "2000" for "1990" in subpar. (B). Former par. (18) redesignated (15).

Subsec. (a)(19). Pub. L. 106–501, §201(1)(E), added par. (19) and struck out former par. (19) which directed the Administration to issue regulations, and conduct strict monitoring of State compliance with the requirements in effect, under this chapter to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this chapter in all contractual and commercial relationships, and to include in such regulations certain conditions for being designated as an area agency on aging.

Pub. L. 106–501, §201(1)(B), redesignated par. (22) as (19). Former par. (19) redesignated (16).

Subsec. (a)(20). Pub. L. 106–501, §201(1)(B), redesignated par. (23) as (20). Former par. (20) redesignated (17).

Subsec. (a)(21). Pub. L. 106–501, §201(1)(F), added par. (21) and struck out former par. (21) which read as follows: "establish information and assistance services as priority services for older individuals;".

Pub. L. 106–501, §201(1)(B), redesignated par. (24) as (21). Former par. (21) redesignated (18).

Subsec. (a)(22). Pub. L. 106–501, §201(1)(B), redesignated par. (25) as (22). Former par. (22) redesignated (19).

Subsec. (a)(23). Pub. L. 106–501, §201(1)(B), redesignated par. (26) as (23). Former par. (23) redesignated (20).

Subsec. (a)(24). Pub. L. 106–501, §201(1)(G), added par. (24) and struck out former par. (24) which read as follows:

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

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

"(C) not later than January 1, 1995, submit a report containing the findings resulting from the studies described in subparagraphs (A) and (B) to the Speaker of the House of Representatives and the President pro tempore of the Senate;".

Pub. L. 106–501, §201(1)(B), redesignated par. (27) as (24). Former par. (24) redesignated (21).

Subsec. (a)(25). Pub. L. 106–501, §201(1)(B), redesignated par. (28) as (25). Former par. (25) redesignated (22).

Subsec. (a)(26). Pub. L. 106–501, §801(b)(2)(A)(ii), which directed that par. (26) be amended by substituting "section 3027(a)(13) of this title and section 3058j of this title" for "sections 3027(a)(18) and 3058j(b)(2) of this title", could not be executed because "sections 3027(a)(18) and 3058j(b)(2) of this title" did not appear in text.

Pub. L. 106–501, §201(1)(B), redesignated par. (29) as (26). Former par. (26) redesignated (23).

Subsec. (a)(27). Pub. L. 106–501, §201(1)(I), added par. (27).

Pub. L. 106–501, §201(1)(H), which directed amendment of subsec. (a) by striking out par. (27) and redesignating the remaining pars., could only be executed by striking out par. (27) because there were no remaining pars. in subsec. (a) after amendment by Pub. L. 106–501, §201(1)(B). Prior to amendment, par. (27) read as follows: "require that all Federal grants and contracts made under this subchapter and subchapter IV of this chapter be made in accordance with a competitive bidding process established by the Assistant Secretary by regulation."

Pub. L. 106–501, §201(1)(B), redesignated par. (30) as (27). Former par. (27) redesignated (24).

Subsec. (a)(28) to (30). Pub. L. 106–501, §201(1)(B), redesignated pars. (28) to (30) as (25) to (27), respectively.

Subsec. (c). Pub. L. 106–501, §801(b)(2)(B), struck out par. (1) designation before "In executing the duties"

and struck out par. (2) which read as follows:

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

"(i) area volunteer service coordinators, as described in section 3026(a)(12) of this title, by area agencies on aging; and

"(ii) State volunteer service coordinators, as described in section 3027(a)(31) of this title, by State agencies.

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

Subsec. (d)(4). Pub. L. 106–501, §201(2), substituted "2000" for "1990".

Subsec. (e)(1)(A)(i). Pub. L. 106–501, §801(b)(2)(C)(i), added cl. (i) and struck out former cl. (i) which read as follows: "provide information about education and training projects established under part A, and research and demonstration projects, and other activities, established under part B, of subchapter IV of this chapter to persons requesting such information;".

Subsec. (e)(1)(A)(iv). Pub. L. 106–501, §801(b)(2)(C)(ii), struck out ", and the information provided by the Resource Centers on Native American Elders under section 3035m of this title" before semicolon at end.

Subsec. (f). Pub. L. 106–501, §201(3), added subsec. (f).

1993—Pub. L. 103–171, §3(a)(3)(A), substituted "Assistant Secretary" for "Commissioner" in section catchline.

Subsec. (a)(13). Pub. L. 103–171, §3(a)(3)(D), substituted "Assistant Secretary" for "Commissioner".

Subsec. (a)(18). Pub. L. 103–171, §2(2), struck out ", and service providers," after "area agencies" and inserted the phrase after "on aging".

Subsec. (a)(21)(A). Pub. L. 103–171, §3(a)(3)(B), substituted "Director of the Office of Long-Term Care Ombudsman Programs" for "Associate Commissioner for Ombudsman Programs".

Subsec. (a)(22)(A), (D). Pub. L. 103–171, §3(a)(3)(D), substituted "Assistant Secretary" for "Commissioner".

Subsec. (a)(27)(C). Pub. L. 103–171, §2(3), substituted "1995" for "1994".

Subsecs. (a)(30), (b), (c). Pub. L. 103–171, §3(a)(3)(D), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

Subsec. (c)(1). Pub. L. 103–82 substituted "the Corporation for National and Community Service" for "the Director of the ACTION Agency".

Subsecs. (d), (e). Pub. L. 103–171, §3(a)(3)(D), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

Subsec. (e)(1)(A)(iv). Pub. L. 103–171, §3(a)(3)(C), substituted "Director of the Office for" for "Associate Commissioner on".

1992—Subsec. (a)(1). Pub. L. 102–375, §904(a)(4)(A)(i), substituted "older individuals" for "the elderly" in two places.

Subsec. (a)(3). Pub. L. 102–375, §202(a)(1), inserted "directly" before "assist".

Subsec. (a)(11). Pub. L. 102–375, §202(a)(2), substituted "coordinate" for "provide for the coordination of".

Subsec. (a)(13). Pub. L. 102–375, §904(a)(4)(A)(iii), substituted "objectives" for "purposes".

Subsec. (a)(15). Pub. L. 102–375, §904(a)(4)(A)(ii), (iii), substituted "objectives" for "purposes", "older individuals" for "the elderly", and "such individuals" for "older people".

Subsec. (a)(16), (17). Pub. L. 102–375, §904(a)(4)(A)(iii), substituted "objectives" for "purposes".

Subsec. (a)(18). Pub. L. 102–375, §202(a)(3)(B), substituted "greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals" for "the greatest economic or social needs".

Pub. L. 102–375, §202(a)(3)(A), inserted ", and service providers," after "agencies".

Pub. L. 102–375, §102(b)(10)(A), substituted "area agencies on aging" for "area agencies".

Subsec. (a)(19)(A). Pub. L. 102–375, §202(a)(4)(A), inserted "or activity" after "service" wherever appearing.

Subsec. (a)(20). Pub. L. 102–375, §708(c)(1), struck out "under section 3027(a)(31) of this title" after "application assistance".

Subsec. (a)(21) to (30). Pub. L. 102–375, §202(a)(4)(B), (b), added pars. (21) to (30).

Subsec. (b)(1). Pub. L. 102–375, §904(a)(4)(B)(i), struck out "with health systems agencies designated under section 300l–4 of this title," after "linkages".

Pub. L. 102–321, §163(c)(2)(A), substituted "the Substance Abuse and Mental Health Services Administration" for "the Alcohol, Drug Abuse, and Mental Health Administration".

Subsec. (b)(3). Pub. L. 102–375, §904(a)(4)(B)(ii), substituted "older individuals" for "the elderly".

Subsec. (b)(4). Pub. L. 102–375, §202(c), added par. (4).

Subsec. (c). Pub. L. 102–375, §202(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 102–375, §202(e), added subsec. (d).

Subsec. (e). Pub. L. 102–375, §202(f), added subsec. (e).

1987—Subsec. (a)(5). Pub. L. 100–175, §105(a), inserted "(including mental health)" after "health".

Subsec. (a)(19), (20). Pub. L. 100–175, §§103(a), 155(a), added pars. (19) and (20).

Subsec. (b)(1). Pub. L. 100–175, §106(a), inserted reference to the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities.

1984—Subsec. (a)(5). Pub. L. 98–459, §202(a)(1), substituted "establishment and implementation of" for "establishment of and carry out".

Subsec. (a)(9). Pub. L. 98–459, §202(a)(2), inserted ", including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967".

Subsec. (a)(18). Pub. L. 98–459, §202(a)(3)–(5), added par. (18).

Subsec. (b)(1). Pub. L. 98–459, §202(b), inserted "and with utilization and quality control peer review organizations under title XI of the Social Security Act".

Subsec. (c). Pub. L. 98–459, §202(c), substituted "the duties and functions of the Administration" for "his duties and functions".

1981—Pub. L. 97–115, §2(b)(1), substituted "Commissioner" for "Administration" in section catchline.

Subsec. (a)(1). Pub. L. 97–115, §2(b)(2), substituted "Department of Health and Human Services" for "Department of Health, Education, and Welfare".

Subsec. (a)(2). Pub. L. 97–115, §2(b)(3), substituted "collect and disseminate" for "serve as a clearinghouse for".

Subsec. (a)(5). Pub. L. 97–115, §§2(b)(4), 3(d), substituted "supportive services" for "social services" and "hospitalization, education and training services (including preretirement training, and continuing education), low-cost transportation and housing" for "hospitalization, preretirement training, continuing education, low-cost transportation and housing".

Subsec. (a)(8). Pub. L. 97–115, §2(b)(5), inserted provisions authorizing and directing Administration to take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to collection, preparation, and dissemination of information relevant to older individuals.

Subsec. (a)(12), (16). Pub. L. 97–115, §2(b)(6), (7), substituted "private organizations" for "nonprofit private organizations".

Subsec. (c). Pub. L. 97–115, §§2(c), 3(d), substituted "Director of the ACTION Agency" for "Director of Action" and "supportive services" for "social services".

1978—Subsec. (a)(1) to (4). Pub. L. 95–478, §102(a)(1), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 95–478, §§102(a)(1), 503(b)(4)(A), redesignated former par. (4) as (5) and substituted "older individuals" for "older persons". Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 95–478, §102(a)(1), redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 95–478, §§102(a)(1), 503(b)(4)(A), redesignated former par. (6) as (7) and substituted "older individuals" for "older persons". Former par. (7) redesignated (8).

Subsec. (a)(8) to (11). Pub. L. 95–478, §102(a)(1), redesignated former pars. (7) to (10) as (8) to (11). Former par. (11) redesignated (12).

Subsec. (a)(12). Pub. L. 95–478, §§102(a)(1), 503(b)(4), redesignated former par. (11) as (12) and substituted "older individuals" and "such individuals" for "older persons" and "such persons". Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 95–478, §§102(a)(1), 503(b)(4)(A), redesignated former par. (12) as (13) and substituted "older individuals" for "older persons". Former par. (13) redesignated (14).

Subsec. (a)(14). Pub. L. 95–478, §102(a)(1), redesignated former par. (13) as (14). Former par. (14) redesignated (15).

Subsec. (a)(15) to (17). Pub. L. 95–478, §§102(a)(1), 503(b)(2), redesignated former par. (14) as (15), substituted "Age Discrimination in Employment Act of 1967" for "Age Discrimination Act of 1967" and redesignated former pars. (15) and (16) as (16) and (17), respectively.

Subsecs. (b), (c). Pub. L. 95–478, §102(a)(2), added subsec. (b) and redesignated former subsec. (b) as (c).

1975—Pub. L. 94–135, §114(b), substituted "Administration" for "Office" in section catchline.

Subsec. (a)(8). Pub. L. 94–135, §114(c), struck out "and" after "aged and aging;".

1973—Subsec. (a). Pub. L. 93–29, §201(b)(1)–(3), in par. (4), substituted "research" for "research and demonstration programs" and made it the function of the Administration to assist in the establishment of any carry out programs designed to meet the needs of older persons for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services; added pars. (9) to (16); and designated existing provisions as subsec. (a), respectively.

Subsec. (b). Pub. L. 93–29, §201(b)(3), added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(BB) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by section 708(c)(1) of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 708(c)(1) of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as a note under section 3001 of this title.

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, see section 801(c) of Pub. L. 102–321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

INTERAGENCY COORDINATION

Pub. L. 116–131, title I, §123(a), Mar. 25, 2020, 134 Stat. 248, provided that: "The Assistant Secretary shall, in performing the functions of the Administration on Aging under section 202(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(5)) related to health (including mental and behavioral health) services, coordinate with the Assistant Secretary for Mental Health and Substance Use and the Director of the Centers for Disease Control and Prevention—

> "(1) in the planning, development, implementation, and evaluation of evidence-based policies, programs, practices, and other activities pertaining to the prevention of suicide among older individuals, including the implementation of evidence-based suicide prevention programs and strategies identified by the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention and other entities, as applicable; and
>
> "(2) in providing and incorporating technical assistance for the prevention of suicide among older individuals, including technical assistance related to the Suicide Prevention Technical Assistance Center established under section 520C of the Public Health Service Act (42 U.S.C. 290bb–34)."

[For definitions of "Assistant Secretary" and "older individual" as used in section 123(a) of Pub. L. 116–131, set out above, as being the same as those given in section 3002 of this title, see section 4 of Pub. L. 116–131, set out as a note under section 3001 of this title.]

DEADLINE FOR DEVELOPMENT OF DATA COLLECTION PROCEDURES

Pub. L. 102–375, title II, §202(h), Sept. 30, 1992, 106 Stat. 1210, provided that, not later than 1 year after Sept. 30, 1992, the data collection procedures required by section 3012(a)(29) of this title would be developed jointly by the Commissioner on Aging and the Assistant Secretary of Planning and Evaluation of the Department of Health and Human Services with advisory information from State and local agencies, recipients, and providers and considering the data collection systems carried out by States identified as exemplary by the GAO; and that, not later than 1 year after developing such data collection procedures, the Commissioner was to test, report to Congress on, and implement appropriately such procedures.

[1] *So in original. The period probably should be a semicolon.*

§3013. Federal agency consultation

(a) In general

(1) The Assistant Secretary, in carrying out the objectives and provisions of this chapter, shall coordinate, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering programs or services substantially related to the objectives of this chapter, with respect to such programs or services. In particular, the Assistant Secretary shall coordinate, advise, consult, and cooperate with the Secretary of Labor in carrying out subchapter IX and with the Corporation for National and Community Service in carrying out this chapter.

(2) The head of each department, agency, or instrumentality of the Federal Government proposing to establish programs and services substantially related to the objectives of this chapter shall consult with the Assistant Secretary prior to the establishment of such programs and services. To achieve appropriate coordination, the head of each department, agency, or instrumentality of the Federal Government administering any program substantially related to the objectives of this chapter, particularly administering any program referred to in subsection (b), shall consult and cooperate with the Assistant Secretary in carrying out such program. In particular, the Secretary of Labor shall consult and cooperate with the Assistant Secretary in carrying out title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.].

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

(A) older individuals (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) and eligible individuals (as defined in section 3056p of this title); and

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

(b) Federal programs related to chapter objectives

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

(1) title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.],

(2) title II of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5000 et seq.],

(3) titles XVI, XVIII, XIX, and XX of the Social Security Act [42 U.S.C. 1381 et seq., 1395 et seq., 1396 et seq., 1397 et seq.],

(4) sections 1715v and 1715w of title 12,

(5) the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.],

(6) section 1701q of title 12,

(7) title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.],

(8) title I of Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] and the Adult Education and Family Literacy Act [29 U.S.C. 3271 et seq.],

(9) sections 5309 and 5310 of title 49,

(10) the Public Health Service Act [42 U.S.C. 201 et seq.], including block grants under title XIX of such Act [42 U.S.C. 300w et seq.],

(11) the Low-Income Home Energy Assistance Act of 1981 [42 U.S.C. 8621 et seq.],

(12) part A of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6861 et seq.], relating to weatherization assistance for low income persons,

(13) the Community Services Block Grant Act [42 U.S.C. 9901 et seq.],

(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13,

(15) parts II and III of title 38,

(16) the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.],

(17) the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.],

(18) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750–3766b)),[1]

(19) sections 3003 and 3004 of title 29, and

(20) section 393D of the Public Health Service Act (42 U.S.C. 280b–1f), relating to safety of seniors.

(c) Interagency Coordinating Committee on Aging

(1) The Secretary, in collaboration with other Federal officials specified in paragraph (2), shall establish an Interagency Coordinating Committee on Healthy Aging and Age-Friendly Communities (referred to in this subsection as the "Committee") focusing on the coordination of agencies with respect to aging issues and the development of a national set of recommendations, in accordance with paragraph (6), to support the ability of older individuals to age in place and access homelessness prevention services, preventive health care, promote age-friendly communities, and address the ability of older individuals to access long-term care supports, including access to caregivers and home- and community-based health services.

(2) The officials referred to in paragraph (1) shall include the Secretary of Labor and the Secretary of Housing and Urban Development, and may include, at the direction of the President, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Homeland Security, the Commissioner of Social Security, and such other Federal officials as the President may direct. An official described in this paragraph may appoint a designee to carry out the official's duties under paragraph (1).

(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for 1 term, and the Secretary of Housing and Urban Development shall serve as the chairperson for the following term. After that following term, the Committee shall select a chairperson from among the members of the Committee, and any member may serve as the chairperson. No member may serve as the chairperson for more than 1 consecutive term.

(4) For purposes of this subsection, a term shall be a period of 2 calendar years. The first term, after March 25, 2020, shall start not later than 1 year after March 25, 2020.

(5) The Committee shall meet not less often than once each year.

(6) The recommendations described in paragraph (1) may include recommendations for—

(A) ways to improve coordination among Federal agencies with responsibility for programs and services that impact older individuals;

(B) best practices and evidence-based program and service models to assist older individuals in meeting their housing, health care, and other supportive service needs, including—

(i) consumer-directed care models for home and community-based care and supportive services that link housing, health care, and other supportive services and that facilitate aging in place, enabling older individuals to remain in their homes and communities as the individuals

age;

(ii) innovations in technology applications (including assistive technology devices and assistive technology services) that give older individuals access to information on available services or that help in providing services to older individuals; and

(iii) best practices identified in coordination with the Centers for Disease Control and Prevention, the National Institute on Aging, the Centers for Medicare & Medicaid Services, the Office of Lead Hazard Control and Healthy Homes of the Department of Housing and Urban Development, and other Federal agencies, as appropriate, to reduce and prevent falls among older individuals, that incorporate evidence-based falls prevention programs and home modifications, which recommendations shall supplement and not unnecessarily duplicate activities authorized under section 393D of the Public Health Service Act (42 U.S.C. 280b–1f), relating to safety of seniors;

(C) ways to collect and disseminate information about the programs and services available to older individuals to ensure that such information is accessible;

(D) ways to ensure the continued collection of data relating to the housing, health care, and other supportive service needs of older individuals and to support efforts to identify and address unmet data needs;

(E) actively seeking input from and consulting with nonprofit organizations, academic or research institutions, community-based organizations, philanthropic organizations, or other entities supporting age-friendly communities about the activities described in subparagraphs (A) through (F);

(F) identifying any barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of federally funded programs and services; and

(G) ways to improve coordination to provide housing, health care, and other supportive services to older individuals.

(7) Not later than 90 days following the end of each term, the Committee shall prepare and submit to the Committee on Financial Services of the House of Representatives, the Committee on Education and Labor of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

(A) describes the activities and accomplishments of the Committee in—

(i) enhancing the overall coordination of federally funded programs and services that impact older individuals; and

(ii) meeting the requirements of paragraph (6);

(B) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the chairperson of the Committee determines to be appropriate), to the access and use by older individuals of programs and services administered by such agency; and

(C) makes such recommendations as the chairman determines to be appropriate for actions to meet the needs described in paragraph (6) and for coordinating programs and services designed to meet those needs.

(8) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(9) In this subsection, the term "age-friendly community" means a community that—

(A) is taking measurable steps to—

(i) include adequate and accessible housing, public spaces and buildings, safe and secure paths, variable route transportation services, and programs and services designed to support health and well-being;

(ii) respect and include older individuals in social opportunities, civic participation, volunteerism, and employment; and

(iii) facilitate access to supportive services for older individuals;

(B) is not an assisted living facility or long-term care facility; and

(C) has a plan in place to meet local needs for housing, transportation, civic participation, social connectedness, and accessible public spaces.

(Pub. L. 89–73, title II, §203, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 32; amended Pub. L. 95–478, title I, §102(b), Oct. 18, 1978, 92 Stat. 1513; Pub. L. 97–115, §2(d), Dec. 29, 1981, 95 Stat. 1595; Pub. L. 98–459, title II, §203, Oct. 9, 1984, 98 Stat. 1768; Pub. L. 100–175, title I, §§104(a), 105(b), 106(b), Nov. 29, 1987, 101 Stat. 929, 930; Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088; Pub. L. 102–375, title II, §203, title IX, §904(a)(5), Sept. 30, 1992, 106 Stat. 1210, 1306; Pub. L. 103–82, title IV, §405(g)(2), Sept. 21, 1993, 107 Stat. 921; Pub. L. 103–171, §§2(4), 3(a)(13), Dec. 2, 1993, 107 Stat. 1988, 1990; Pub. L. 105–220, title II, §251(b)(3), Aug. 7, 1998, 112 Stat. 1080; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(33)(A), (f)(25)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–425, 2681–433; Pub. L. 106–402, title IV, §401(b)(9)(A), Oct. 30, 2000, 114 Stat. 1739; Pub. L. 106–501, title II, §202(1), Nov. 13, 2000, 114 Stat. 2230; Pub. L. 109–365, title II, §203, Oct. 17, 2006, 120 Stat. 2532; Pub. L. 113–128, title V, §512(w)(1), July 22, 2014, 128 Stat. 1713; Pub. L. 116–131, title I, §124(a), (b), title VII, §701(4), Mar. 25, 2020, 134 Stat. 249, 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsecs. (a)(2) and (b)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (b)(2), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title II of the Domestic Volunteer Service Act of 1973 is classified generally to subchapter II (§5000 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI, XVIII, XIX, and XX of the Social Security Act are classified generally to subchapters XVI (§1381 et seq.), XVIII (§1395 et seq.), XIX (§1396 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b)(5), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(7), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(8), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title I of the Higher Education Act of 1965 is classified generally to subchapter I (§1001 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (b)(8), was title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, which was classified principally to subchapter I (§9201 et seq.) of chapter 73 of Title 20, Education, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat.

1703, 1705, effective July 1, 2015. Pub. L. 113–128 also included a title II, entitled the "Adult Education and Family Literacy Act", which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. Pursuant to section 3361(a) of Title 29, references to a provision of Pub. L. 105–220 are deemed to refer to the corresponding provision of Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of title II of Pub. L. 105–220 to the Code, see Tables. For complete classification of title II of Pub. L. 113–128 to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Public Health Service Act, referred to in subsec. (b)(10), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. Title XIX of the Public Health Service Act is classified to subchapter XVII (§300w et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (b)(11), is title XXVI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 893, which is classified generally to subchapter II (§8621 et seq.) of chapter 94 of this title. For complete classification of this Act to the Code, see note set out under section 8621 of this title and Tables.

The Energy Conservation in Existing Buildings Act of 1976, referred to in subsec. (b)(12), is title IV of Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1150. Part A of the Energy Conservation in Existing Buildings Act of 1976 is classified generally to part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(13), is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(16), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (b)(17), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to chapter 144 (§15001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

References to the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, referred to in subsec. (b)(18), deemed to be a reference to the grant program referred to in section 10151(a) of Title 34, Crime Control and Law Enforcement. See section 10151(b)(1) of Title 34.

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (b)(18), is Pub. L. 90–351, June 19, 1968, 82 Stat. 197. Part E of title I of the Act was classified generally to subchapter V (§3750 et seq.) of chapter 46 of this title, prior to editorial reclassification and renumbering as subchapter V (§10151 et seq.) of chapter 101 of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1968 Act note set out under section 10101 of Title 34 and Tables.

CODIFICATION

In subsec. (b)(9), "sections 5309 and 5310 of title 49" substituted for "sections 3, 9, and 16 of the Federal Transit Act" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. Previously, section 9 of the Federal Transit Act, classified to section 1607a of former Title 49, Transportation, was repealed by Pub. L. 95–599, title III, §305(a), Nov. 6, 1978, 92 Stat. 2473, and a new section 9 of the Act, classified to section 1607a of former Title 49, was enacted by Pub. L. 97–424, title III, §303, formerly §303(a), Jan. 6, 1983, 96 Stat. 2141. The new section 9 of the Act was repealed and reenacted as sections 5307 and 5336 of Title 49, Transportation, by Pub. L. 103–272, §§1(b), 7(b), July 5, 1994, 108 Stat. 795, 840, 1379.

AMENDMENTS

2020—Subsec. (b)(20). Pub. L. 116–131, §124(a), added par. (20).

Subsec. (c)(1). Pub. L. 116–131, §124(b)(1), substituted "other Federal officials" for "the Federal officials" and "Committee on Healthy Aging and Age-Friendly Communities" for "Committee on Aging" and inserted before period at end "and the development of a national set of recommendations, in accordance with paragraph (6), to support the ability of older individuals to age in place and access homelessness prevention services, preventive health care, promote age-friendly communities, and address the ability of older individuals to access long-term care supports, including access to caregivers and home- and community-based health services".

Subsec. (c)(4). Pub. L. 116–131, §124(b)(2), inserted at end "The first term, after March 25, 2020, shall

start not later than 1 year after March 25, 2020."

Subsec. (c)(6). Pub. L. 116–131, §124(b)(3)(A), substituted "The recommendations described in paragraph (1) may include recommendations for" for "The Committee shall" in introductory provisions.

Subsec. (c)(6)(A). Pub. L. 116–131, §124(b)(3)(B), substituted "ways to" for "share information with and establish an ongoing system to" and "that impact older individuals" for "for older individuals and recommend improvements to such system with an emphasis on—

"(i) improving access to programs and services for older individuals;

"(ii) maximizing the impact of federally funded programs and services for older individuals by increasing the efficiency, effectiveness, and delivery of such programs and services;

"(iii) planning and preparing for the impact of demographic changes on programs and services for older individuals; and

"(iv) reducing or eliminating areas of overlap and duplication by Federal agencies in the provision and accessibility of such programs and services".

Subsec. (c)(6)(B). Pub. L. 116–131, §124(b)(3)(C)(i), struck out "identify, promote, and implement (as appropriate)," before "best practices" in introductory provisions.

Subsec. (c)(6)(B)(iii). Pub. L. 116–131, §124(b)(3)(C)(ii)–(iv), added cl. (iii).

Subsec. (c)(6)(C). Pub. L. 116–131, §124(b)(3)(D), inserted "ways to" before "collect", struck out "older individuals and" before "the programs", and substituted "older individuals to ensure that such information is accessible" for "the individuals to ensure that the individuals can access comprehensive information".

Subsec. (c)(6)(D). Pub. L. 116–131, §124(b)(3)(E), substituted "ways to ensure" for "work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies to ensure".

Subsec. (c)(6)(E). Pub. L. 116–131, §124(b)(3)(F), substituted "seeking input from and consulting with nonprofit organizations, academic or research institutions, community-based organizations, philanthropic organizations, or other entities supporting age-friendly communities" for "seek input from and consult with nongovernmental experts and organizations, including public health interest and research groups and foundations".

Subsec. (c)(6)(F). Pub. L. 116–131, §124(b)(3)(G), substituted "identifying" for "identify".

Subsec. (c)(6)(G). Pub. L. 116–131, §124(b)(3)(H), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "work with States to better provide housing, health care, and other supportive services to older individuals by—

"(i) holding meetings with State agencies;

"(ii) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

"(iii) working with States to designate liaisons, from the State agencies, to the Committee."

Subsec. (c)(7). Pub. L. 116–131, §701(4), substituted "Committee on Education and Labor" for "Committee on Education and the Workforce" in introductory provisions.

Subsec. (c)(7)(A)(i). Pub. L. 116–131, §124(b)(4), substituted "services that impact older individuals" for "services for older individuals".

Subsec. (c)(9). Pub. L. 116–131, §124(b)(5), added par. (9).

2014—Subsec. (a)(2). Pub. L. 113–128, §512(w)(1)(A), substituted "In particular, the Secretary of Labor shall consult and cooperate with the Assistant Secretary in carrying out title I of the Workforce Innovation and Opportunity Act" for "In particular, the Secretary of Labor shall consult and cooperate with the Assistant Secretary in carrying out title I of the Workforce Investment Act of 1998".

Subsec. (b)(1). Pub. L. 113–128, §512(w)(1)(B), substituted "title I of the Workforce Innovation and Opportunity Act" for "title I of the Workforce Investment Act of 1998".

2006—Subsec. (a)(3)(A). Pub. L. 109–365, §203(1), substituted "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "(with particular attention to low-income minority older individuals and older individuals residing in rural areas)" and "section 3056p" for "section 3056e".

Subsec. (b)(19). Pub. L. 109–365, §203(2), added par. (19).

Subsec. (c). Pub. L. 109–365, §203(3), added subsec. (c).

2000—Subsec. (a)(3)(A). Pub. L. 106–501 inserted "and older individuals residing in rural areas" after "low-income minority older individuals".

Subsec. (b)(17). Pub. L. 106–402 substituted "Developmental Disabilities Assistance and Bill of Rights Act of 2000" for "Developmental Disabilities and Bill of Rights Act".

1998—Subsec. (a)(2). Pub. L. 105–277, §101(f) [title VIII, §405(f)(25)(A)(i)], struck out "the Job Training Partnership Act and" after "in carrying out".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(33)(A)(i)], substituted last sentence for former last sentence which read as follows: "In particular, the Secretary of Labor shall consult and cooperate with the Assistant Secretary in carrying out the Job Training Partnership Act (29 U.S.C. 1501 et seq.)."

Subsec. (b)(1). Pub. L. 105–277, §101(f) [title VIII, §405(f)(25)(A)(ii)], added par. (1) and struck out former par. (1) which read as follows: "the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(33)(A)(ii)], added par. (1) and struck out former par. (1) which read as follows: "the Job Training Partnership Act,".

Subsec. (b)(8). Pub. L. 105–220 substituted "Adult Education and Family Literacy Act" for "Adult Education Act".

1993—Subsec. (a). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

Subsec. (a)(1). Pub. L. 103–82 substituted "the Corporation for National and Community Service" for "the ACTION Agency".

Subsec. (a)(3). Pub. L. 103–171, §2(4), struck out "Federal" before "department" in introductory provisions.

1992—Subsec. (a). Pub. L. 102–375, §203(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Commissioner, in carrying out the purposes and provisions of this chapter, shall advise, consult, and cooperate with the head of each Federal agency or department proposing or administering programs or services substantially related to the purposes of this chapter, with respect to such programs or services. The head of each Federal agency or department proposing to establish programs and services substantially related to the purposes of this chapter shall consult with the Commissioner prior to the establishment of such programs and services. The head of each Federal agency administering any program substantially related to the purposes of this chapter, particularly administering any program set forth in subsection (b) of this section, shall, to achieve appropriate coordination, consult and cooperate with the Commissioner in carrying out such program."

Subsec. (b). Pub. L. 102–375, §904(a)(5), substituted "objectives of this chapter" for "purposes of this chapter".

Subsec. (b)(18). Pub. L. 102–375, §203(b), added par. (18).

1991—Subsec. (b)(9). Pub. L. 102–240 substituted references to sections of the Federal Transit Act for sections of the Urban Mass Transportation Act of 1964, which for purposes of codification were translated as sections of title 49, Appendix, thus requiring no change in text.

1987—Subsec. (b)(10). Pub. L. 100–175, §105(b), inserted reference to block grants under title XIX of the Public Health Service Act.

Subsec. (b)(15). Pub. L. 100–175, §104(a), added par. (15).

Subsec. (b)(16), (17). Pub. L. 100–175, §106(b), added pars. (16) and (17).

1984—Subsec. (b)(1). Pub. L. 98–459, §203(a), substituted "Job Training Partnership Act" for "Comprehensive Employment and Training Act".

Subsec. (b)(3). Pub. L. 98–459, §203(b), inserted reference to title XVI of the Social Security Act.

Subsec. (b)(8). Pub. L. 98–459, §203(c), struck out "the community schools program under the Elementary and Secondary Education Act of 1965," before "title I" and the comma after "Higher Education Act of 1965".

Subsec. (b)(9). Pub. L. 98–459, §203(d), struck out reference to section 1604 of title 49, Appendix.

Subsec. (b)(10) to (14). Pub. L. 98–459, §203(e), added pars. (10) to (14).

1981—Subsec. (a). Pub. L. 97–115, §2(d)(1), substituted "purposes" for "purpose".

Subsec. (b). Pub. L. 97–115, §2(d)(2), substituted "purposes of this chapter" for "purpose of this chapter" in provisions preceding par. (1), substituted "Comprehensive Employment and Training Act" for "Comprehensive Employment and Training Act of 1973" in par. (1), struck out par. (8) which referred to section 2809(a)(8) of this title, redesignated par. (9) as (8) and inserted references to title I of the Higher Education Act of 1965 and to the Adult Education Act, and redesignated par. (10) as (9).

1978—Subsec. (a). Pub. L. 95–478 added subsec. (a) and struck out similar prior provisions stating that "Federal agencies proposing to establish programs substantially related to the purposes of this chapter shall consult with the Administration on Aging prior to the establishment of such services, and Federal agencies administering such programs shall cooperate with the Administration on Aging in carrying out such services".

Subsec. (b). Pub. L. 95–478 added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(33)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(25)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

[1] See References in Text note below. So in original. The second closing parenthesis before the comma probably should not appear.

§3013a. Consultation with State agencies, area agencies on aging, and Native American grant recipients

The Assistant Secretary shall consult and coordinate with State agencies, area agencies on aging, and recipients of grants under subchapter X in the development of Federal goals, regulations, program instructions, and policies under this chapter.

(Pub. L. 89–73, title II, §203A, as added Pub. L. 102–375, title II, §204, Sept. 30, 1992, 106 Stat. 1211; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

§3014. Repealed. Pub. L. 97–115, §2(e)(1), Dec. 29, 1981, 95 Stat. 1596

Section, Pub. L. 89–73, title II, §204, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 32; amended Pub. L. 94–135, title I, §112(a), Nov. 28, 1975, 89 Stat. 719; Pub. L. 95–478, title I, §102(c), (d), title V, §503(b)(4)(A), Oct. 18, 1978, 92 Stat. 1514, 1559, provided for establishment of a National

Information and Resource Clearing House for the Aging.

§3015. Gifts and donations

(a) Gifts and donations

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

(b) Use of gifts and donations

Gifts and donations accepted pursuant to subsection (a) may be used either directly, or for grants to or contracts with public or nonprofit private entities, for the following activities:

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

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

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

(c) Ethics guidelines

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

(1) reflect unfavorably upon the ability of the Administration, the Department of Health and Human Services, or any employee of the Administration or Department, to carry out responsibilities or official duties under this chapter in a fair and objective manner; or

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

(Pub. L. 89–73, title II, §204, as added Pub. L. 106–501, title II, §202(2), Nov. 13, 2000, 114 Stat. 2230.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3015, Pub. L. 89–73, title II, §204, formerly §205, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 33; amended Pub. L. 94–135, title I, §101, Nov. 28, 1975, 89 Stat. 713; Pub. L. 95–478, title I, §102(e), title V, §503(b)(3), (4)(A), Oct. 18, 1978, 92 Stat. 1514, 1559; renumbered §204 and amended Pub. L. 97–115, §§2(e)(2), (f), 11(b)(1), Dec. 29, 1981, 95 Stat. 1596, 1606; Pub. L. 98–459, title II, §204, Oct. 9, 1984, 98 Stat. 1769; Pub. L. 100–175, title I, §§107(b), 108, 182(d), Nov. 29, 1987, 101 Stat. 931, 932, 964; Pub. L. 100–628, title VII, §705(2), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title II, §205, title IX, §904(a)(6), Sept. 30, 1992, 106 Stat. 1211, 1306; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, established a Federal Council on the Aging and provided for its membership, duties, etc., and authorized appropriations for fiscal years 1992 through 1995, prior to repeal by Pub. L. 106–501, title II, §202(2), Nov. 13, 2000, 114 Stat. 2230.

A prior section 204 of Pub. L. 89–73 was classified to section 3014 of this title prior to repeal by Pub. L. 97–115.

§3016. Authority of Assistant Secretary

(a) Consultative services and technical assistance; short-term training and technical instruction; research and demonstrations; preparation and dissemination of informational materials; staff and technical assistance to Federal Council on the Aging; designation of full-time nutrition professional as administrator of nutrition services

(1) In carrying out the objectives of this chapter, the Assistant Secretary is authorized to—

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

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

(C) conduct research and demonstrations; and

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

(2)(A) The Assistant Secretary shall designate an officer or employee who shall serve on a full-time basis and who shall be responsible for the administration of the nutrition services described in subparts I and II of part C of subchapter III and shall have duties that include—

(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and regular physical activity for older individuals;

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

(iii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 5341 of title 7, the Food Guidance System of the Department of Agriculture, and advances in nutrition science;

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

(v) developing guidelines on cost containment;

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

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

(viii) disseminating guidance that describes strategies for improving the nutritional quality of meals provided under subchapter III, including strategies for increasing the consumption of whole grains, lowfat dairy products, fruits, and vegetables;

(ix) developing and disseminating guidelines for conducting nutrient analyses of meals provided under subparts I and II of part C of subchapter III, including guidelines for averaging key nutrients over an appropriate period of time; and

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

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

(C) The Assistant Secretary may provide technical assistance, including through the regional offices of the Administration, to State agencies, area agencies on aging, local government agencies, or leaders in age-friendly communities (as defined, for purposes of this subparagraph, in section 3013(c)(9) of this title) regarding—

(i) dissemination of, or consideration of ways to implement, best practices and recommendations from the Interagency Coordinating Committee on Healthy Aging and Age-Friendly Communities established under section 3013(c) of this title; and

(ii) methods for managing and coordinating existing programs to meet the needs of growing age-friendly communities.

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

(i) have expertise in nutrition, energy balance, and meal planning; and
(ii) be a registered dietitian or registered dietitian nutritionist.

(b) Utilization of services and facilities of Federal and other public or nonprofit agencies; advance or reimbursement payments for such use

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

(Pub. L. 89–73, title II, §205, formerly §206, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 34; amended Pub. L. 95–478, title I, §102(f), Oct. 18, 1978, 92 Stat. 1515; renumbered §205 and amended Pub. L. 97–115, §2(e)(2), (g), Dec. 29, 1981, 95 Stat. 1596; Pub. L. 98–459, title II, §205, Oct. 9, 1984, 98 Stat. 1770; Pub. L. 100–175, title I, §§109, 110, Nov. 29, 1987, 101 Stat. 932; Pub. L. 102–375, title II, §206, title IX, §904(a)(7), Sept. 30, 1992, 106 Stat. 1212, 1306; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title II, §202(3), title VIII, §801(b)(3), Nov. 13, 2000, 114 Stat. 2231, 2292; Pub. L. 109–365, title II, §204, Oct. 17, 2006, 120 Stat. 2535; Pub. L. 114–144, §3(c), Apr. 19, 2016, 130 Stat. 337; Pub. L. 116–131, title I, §§124(c), 125, Mar. 25, 2020, 134 Stat. 250, 251.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 205 of Pub. L. 89–73 was renumbered section 204 and is classified to section 3015 of this title.

AMENDMENTS

2020—Subsec. (a)(2)(C). Pub. L. 116–131, §124(c)(2), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (a)(2)(D). Pub. L. 116–131, §124(c)(1), redesignated subpar. (C) as (D).

Subsec. (a)(2)(D)(ii). Pub. L. 116–131, §125, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows:

"(I) be a registered dietitian;

"(II) be a credentialed nutrition professional; or

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

2016—Subsec. (c). Pub. L. 114–144 struck out subsec. (c). Text read as follows: "For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary."

2006—Subsec. (a)(1)(C) to (E). Pub. L. 109–365, §204(1)(A), in subpar. (C) inserted "and" at end, in subpar. (D) substituted period for "; and" at end, and struck out subpar. (E) which read as follows: "provide staff and other technical assistance to the Federal Council on the Aging."

Subsec. (a)(2)(A)(i). Pub. L. 109–365, §204(1)(B)(i)(I), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "designing, implementing, and evaluating nutrition programs;".

Subsec. (a)(2)(A)(iii). Pub. L. 109–365, §204(1)(B)(i)(II), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "disseminating information to nutrition service providers about nutrition advancements and developments;".

Subsec. (a)(2)(A)(viii) to (x). Pub. L. 109–365, §204(1)(B)(i)(III), (IV), added cls. (viii) to (x) and struck out former cl. (viii) which read as follows: "providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (vii)."

Subsec. (a)(2)(C)(i). Pub. L. 109–365, §204(1)(B)(ii), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "have expertise in nutrition and dietary services and planning; and".

2000—Subsec. (a)(2)(A). Pub. L. 106–501, §801(b)(3), substituted "subparts I and II" for "subparts I, II, and III" in introductory provisions.

Subsecs. (c) to (e). Pub. L. 106–501, §202(3), redesignated subsec. (e) as (c) and struck out former subsecs. (c) and (d) which read as follows:

"(c) Not later than 120 days after October 9, 1987, the Secretary shall issue and publish in the Federal

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

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

1993—Subsecs. (a), (b), (d). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a). Pub. L. 102–375 designated existing provisions as par. (1), substituted "objectives" for "purposes" and "to—" for "to:" in introductory provisions, redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, and added par. (2).

1987—Subsec. (c). Pub. L. 100–175, §109, substituted "October 9, 1987" for "October 9, 1984".

Subsecs. (d), (e). Pub. L. 100–175, §110, added subsec. (d) and redesignated former subsec. (d) as (e).

1984—Subsec. (b). Pub. L. 98–459, §205(a), substituted "the functions of the Administration" for "his functions".

Subsecs. (c), (d). Pub. L. 98–459, §205(b), added subsec. (c) and redesignated former subsec. (c) as (d).

1981—Subsecs. (b) to (d). Pub. L. 97–115, §2(g), struck out subsec. (b) providing that a report be prepared and submitted to Congress by the Commissioner not later than Sept. 30, 1980, and redesignated subsecs. (c) and (d) as (b) and (c), respectively.

1978—Subsecs. (b) to (d). Pub. L. 95–478 added subsec. (b) and redesignated existing subsecs. (b) and (c) as (c) and (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

§3017. Evaluation of programs

(a) Authority of Secretary; scope of evaluation; persons conducting evaluation

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

(b) Relationship of programs to health care expenditures

Not later than July 1, 2020, the Secretary shall provide, directly or through grant or contract, for an evaluation of programs under this chapter, which shall include, to the extent practicable, an analysis

of the relationship of such programs, including demonstration projects under subchapter IV of this chapter, to health care expenditures under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). The Secretary shall oversee analyses of data obtained in connection with program evaluation to evaluate, where feasible, the relationship of programs under this chapter to health care expenditures, including under the Medicare and Medicaid programs.

(c) General standards

The Secretary may not make grants or contracts under subchapter IV of this chapter until the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such subchapter. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 3018 of this title.

(d) Opinions of program and project participants; comparison of effectiveness of related programs; consultation with organizations concerned with older individuals

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

(e) Annual summaries and analyses of evaluation; demonstration projects; transmittal to Congress; dissemination to Federal, State, and local agencies and private organizations; accessibility to public

The Secretary shall annually publish summaries and analyses of the results of evaluative research and evaluation of program and project impact and effectiveness, including, as appropriate, health and nutrition education demonstration projects conducted under section 3027(f) [1] of this title, the full contents of which shall be transmitted to Congress, be disseminated to Federal, State, and local agencies and private organizations with an interest in aging, and be accessible to the public.

(f) Federal property

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

(g) Availability to Secretary of information from executive agencies

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

(h) Funds

From the total amount appropriated for each fiscal year to carry out subchapter III, the Secretary may use such sums as may be necessary, but not to exceed ½ of 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or through grants or contracts. No part of such sums may be reprogrammed, transferred, or used for any other purpose. Funds expended under this subsection shall be justified and accounted for by the Secretary.

(Pub. L. 89–73, title II, §206, formerly §207, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 35; amended Pub. L. 95–478, title I, §102(g), Oct. 18, 1978, 92 Stat. 1515; renumbered §206 and amended Pub. L. 97–115, §2(e)(2), (h), Dec. 29, 1981, 95 Stat. 1596; Pub. L. 98–459, title II, §206, Oct. 9, 1984, 98 Stat. 1770; Pub. L. 100–175, title I, §106(c), Nov. 29, 1987, 101 Stat. 930; Pub. L. 102–375, title II, §207, Sept. 30, 1992, 106 Stat. 1213; Pub. L. 103–171, §§2(5), 3(a)(13), Dec. 2, 1993, 107 Stat. 1988, 1990; Pub. L. 106–501, title II, §203, Nov. 13, 2000, 114 Stat. 2234; Pub. L. 109–365, title II, §205, Oct. 17, 2006, 120 Stat. 2535; Pub. L. 116–131, title I, §127(b), Mar. 25, 2020, 134 Stat. 253.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 3027(f) of this title, referred to in subsec. (e), which related to demonstration projects for health and nutrition education, was repealed by Pub. L. 102–375, title III, §307(q), Sept. 30, 1992, 106 Stat. 1223, and subsec. (g) of section 3027 was redesignated (f).

PRIOR PROVISIONS

A prior section 206 of Pub. L. 89–73 was renumbered section 205 and is classified to section 3016 of this title.

AMENDMENTS

2020—Subsecs. (b) to (h). Pub. L. 116–131 added subsec. (b) and redesignated former subsecs. (b) to (g) as (c) to (h), respectively.

2006—Subsec. (g). Pub. L. 109–365 substituted "From the total amount appropriated for each fiscal year to carry out subchapter III, the Secretary may use such sums as may be necessary, but not to exceed ½ of 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or through grants or contracts." for "The Secretary may use such sums as may be necessary, but not to exceed $3,000,000 (of which not to exceed $1,500,000 shall be available from funds appropriated to carry out subchapter III of this chapter and not to exceed $1,500,000 shall be available from funds appropriated to carry out subchapter IV of this chapter), to conduct directly evaluations under this section."

2000—Subsec. (a). Pub. L. 106–501, §203(1), inserted "and older individuals residing in rural areas" after "low-income minority individuals" in two places.

Subsec. (c). Pub. L. 106–501, §203(2), inserted ", older individuals residing in rural areas" after "minority individuals".

Subsecs. (g), (h). Pub. L. 106–501, §203(3), (4), redesignated subsec. (h) as (g) and struck out former subsec. (g) which related to evaluation of nutritional services provided under this chapter, establishment of an advisory council to develop recommendations for guidelines on efficiency and quality in furnishing nutrition services, and reporting to the President and Congress on recommendations and final guidelines to improve nutrition services provided under this chapter.

1993—Subsec. (g)(1). Pub. L. 103–171, §§2(5)(A), 3(a)(13), substituted "1995" for "1994" and "Assistant Secretary" for "Commissioner".

Subsec. (g)(2). Pub. L. 103–171, §§2(5)(B), 3(a)(13), substituted "Assistant Secretary" for "Commissioner" wherever appearing and "1994" for "1993" in subpar. (B).

Subsec. (g)(3). Pub. L. 103–171, §§2(5)(C), 3(a)(13), substituted "1995" for "1994" in introductory provisions and "Assistant Secretary" for "Commissioner" in subpar. (B).

1992—Subsec. (a). Pub. L. 102–375, §207(1), inserted "their effectiveness in targeting for services under this chapter unserved older individuals with greatest economic need (including low-income minority individuals) and unserved older individuals with greatest social need (including low-income minority individuals)," after "related programs,".

Subsecs. (g), (h). Pub. L. 102–375, §207(2), added subsecs. (g) and (h) and struck out former subsec. (g) which read as follows: "The Secretary is authorized to use such sums as may be required, but not to exceed one-tenth of 1 percent of the funds appropriated under this chapter for each fiscal year, or $300,000 whichever is lower, to conduct program and project evaluations (directly, or by grants or contracts) as required by this subchapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly."

1987—Subsec. (c). Pub. L. 100–175 inserted "and older individuals with disabilities" before period at end.

1984—Subsec. (b). Pub. L. 98–459, §206(a), substituted "the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such subchapter" for "he has developed and published general standards to be used by him in evaluating the programs and projects assisted under such section or subchapter".

Subsec. (c). Pub. L. 98–459, §206(b), inserted provision requiring the Secretary to consult with organizations concerned with older individuals, including those representing minority individuals, in carrying

out evaluations under this section.

Subsec. (d). Pub. L. 98–459, §206(c), inserted reference to health and nutrition education demonstration projects conducted under section 3027(f) of this title and inserted provision requiring dissemination of summaries and analyses required by this subsection to Federal, State, and local agencies and private organizations with an interest in aging.

Subsec. (g). Pub. L. 98–459, §206, substituted "one-tenth of 1 percent" for "1 per centum", "under this chapter for each fiscal year" for "under this chapter", and "$300,000 whichever is lower" for "$1,000,000 whichever is greater".

1981—Subsec. (b). Pub. L. 97–115, §2(h), struck out "under section 3028 of this title" after "The Secretary may not make grants or contracts".

1978—Subsec. (c). Pub. L. 95–478, §102(g)(1), required the Secretary to conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives.

Subsec. (d). Pub. L. 95–478, §102(g)(2), required publication of analyses of evaluations and substituted "full contents of which shall be transmitted to Congress and be accessible to the public" for "full contents of which shall be available to Congress and the public".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 206(a) of Pub. L. 98–459 effective 60 days after Oct. 9, 1984, see section 803(b)(1) of Pub. L. 98–459, set out as a note under section 3001 of this title.

Amendment by section 206(b), (c) of Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

Amendment by section 206(d) of Pub. L. 98–459 effective on first day of first fiscal year beginning after Oct. 9, 1984, see section 803(b)(2) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

[1] *See References in Text note below.*

§3018. Reports to Congress

(a) Annual report

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

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

(2) statistical data collected under section 3012(a)(16) of this title;

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

(4) a description of the implementation of the plan required by section 3012(a)(14) of this title.

(b) Report on ombudsman program

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

(A) summarizing and analyzing the data collected under subchapters III and XI in accordance with section 3058g(c) of this title for the then most recently concluded fiscal year;

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

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

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

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

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

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

(C) the Committee on Health, Education, Labor, and Pensions of the Senate.

(3) The Assistant Secretary shall provide the report required by paragraph (1), and make the State reports required under subchapters III and XI in accordance with section 3058g(h)(1) of this title available, to—

(A) the Administrator of the Centers for Medicare & Medicaid Services;

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

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

(D) the Secretary of Veterans Affairs; and

(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under subchapter III or XI in accordance with section 3058g(a)(4)(A) of this title.

(c) Outreach activities; report on evaluations to be included in annual report

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

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

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

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

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

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

(d) Evaluation to Congress

The Assistant Secretary shall provide the evaluation required under section 3017(b) of this title to—

(1) the Committee on Health, Education, Labor, and Pensions of the Senate;

(2) the Committee on Appropriations of the Senate;

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

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

(5) the Committee on Appropriations of the House of Representatives.

(Pub. L. 89–73, title II, §207, formerly §208, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 35; renumbered §207, Pub. L. 97–115, §2(e)(2), Dec. 29, 1981, 95 Stat. 1596; amended Pub. L. 98–459, title II, §207, Oct. 9, 1984, 98 Stat. 1770; Pub. L. 100–175, title I, §§103(b), (c), 155(f),

Nov. 29, 1987, 101 Stat. 928, 929, 954; Pub. L. 102–54, §13(q)(9)(A), June 13, 1991, 105 Stat. 281; Pub. L. 102–375, title II, §208, title VII, §708(a)(2)(A), (c)(2), title IX, §904(a)(8), Sept. 30, 1992, 106 Stat. 1214, 1292, 1306; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 103–437, §15(l), Nov. 2, 1994, 108 Stat. 4593; Pub. L. 106–501, title II, §204, title VIII, §801(b)(4), Nov. 13, 2000, 114 Stat. 2234, 2292; Pub. L. 109–365, title II, §206, Oct. 17, 2006, 120 Stat. 2535; Pub. L. 114–144, §3(d), Apr. 19, 2016, 130 Stat. 337; Pub. L. 116–131, title I, §127(c), title VII, §701(4), (5), Mar. 25, 2020, 134 Stat. 253, 271.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 207 of Pub. L. 89–73 was renumbered section 206 and is classified to section 3017 of this title.

AMENDMENTS

2020—Subsec. (b)(2)(B). Pub. L. 116–131, §701(4), substituted "Committee on Education and Labor" for "Committee on Education and the Workforce".

Subsec. (b)(3)(A). Pub. L. 116–131, §701(5), substituted "Administrator of the Centers for Medicare & Medicaid Services" for "Administrator of the Health Care Finance Administration".

Subsec. (d). Pub. L. 116–131, §127(c), added subsec. (d).

2016—Subsec. (a)(2). Pub. L. 114–144, §3(d)(1), substituted "3012(a)(16)" for "3012(a)(19)".

Subsec. (a)(4). Pub. L. 114–144, §3(d)(2), substituted "3012(a)(14)" for "3012(a)(17)".

2006—Subsec. (b)(2)(B). Pub. L. 109–365, §206(1), substituted "the Workforce" for "Labor".

Subsec. (b)(2)(C). Pub. L. 109–365, §206(2), substituted "Health, Education, Labor, and Pensions" for "Labor and Human Resources".

2000—Subsec. (a)(3). Pub. L. 106–501, §801(b)(4), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "an analysis of the information received under section 3026(b)(2)(D) of this title by the Assistant Secretary;".

Subsec. (a)(4). Pub. L. 106–501, §801(b)(4)(B), redesignated par. (5) as (4).

Pub. L. 106–501, §204(1), inserted "older individuals residing in rural areas," after "low-income minority individuals,".

Subsec. (a)(5). Pub. L. 106–501, §801(b)(4)(B), redesignated par. (5) as (4).

Subsec. (c)(5). Pub. L. 106–501, §204(2), inserted "and older individuals residing in rural areas" after "low-income minority individuals" in two places.

1994—Subsec. (b)(2). Pub. L. 103–437 redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: "the Select Committee on Aging of the House of Representatives;".

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a)(4). Pub. L. 102–375, §904(a)(8), substituted "greatest economic need and older individuals with greatest social need" for "the greatest economic or social needs".

Subsec. (a)(5). Pub. L. 102–375, §208(a), added par. (5).

Subsec. (b)(1). Pub. L. 102–375, §208(b), substituted "March 1" for "January 15" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 102–375, §708(a)(2)(A)(i), substituted "subchapters III and XI in accordance with section 3058g(c) of this title" for "section 3027(a)(12)(C) of this title".

Subsec. (b)(3). Pub. L. 102–375, §708(a)(2)(A)(ii)(I), substituted "under subchapters III and XI in accordance with section 3058g(h)(1) of this title" for "by section 3027(a)(12)(H)(i) of this title".

Subsec. (b)(3)(E). Pub. L. 102–375, §708(a)(2)(A)(ii)(II), added subpar. (E) and struck out former subpar. (E) which read as follows: "the public agencies and private organizations designated under section 3027(a)(12)(A) of this title."

Subsec. (c). Pub. L. 102–375, §708(c)(2)(A), substituted "on the outreach activities supported under this chapter" for "on the evaluations required to be submitted under section 3027(a)(31)(D) of this title".

Subsec. (c)(1). Pub. L. 102–375, §708(c)(2)(B), substituted "the activities" for "outreach activities supported under section 3026(a)(6)(P) of this title".

Subsec. (c)(5). Pub. L. 102–375, §208(c), added par. (5).

1991—Subsec. (b)(3)(D). Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Administrator of the Veterans' Administration".

1987—Subsec. (a). Pub. L. 100–175, §103(b), amended last sentence generally. Prior to amendment, last sentence read as follows: "Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year."

Subsec. (b). Pub. L. 100–175, §103(c), added subsec. (b) and struck out former subsec. (b) which read as follows: "Not later than 2 years after October 9, 1984, the Commissioner shall prepare and submit a report to the Congress on the extent to which the need for services for the prevention of the abuse of individuals is unmet, based on information gathered pursuant to section 3026(a)(6)(J) of this title."

Subsec. (c). Pub. L. 100–175, §155(f), added subsec. (c).

1984—Pub. L. 98–459 designated existing provisions as subsec. (a), substituted "submit to the President and to the Congress" for "submit to the President for transmittal to the Congress", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 708(a)(2)(A) and (c)(2) of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 708(a)(2)(A) and (c)(2) of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

§3019. Joint funding of projects

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

(Pub. L. 89–73, title II, §208, formerly §209, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 35; renumbered §208, Pub. L. 97–115, §2(e)(2), Dec. 29, 1981, 95 Stat. 1596.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 208 of Pub. L. 89–73 was renumbered section 207 and is classified to section 3018 of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title VIII, §805, formerly title VII, §705, as added Pub. L. 91–69, §13, Sept. 17, 1969, 83 Stat. 114; renumbered title VIII, §805, Pub. L. 92–258, §1, Mar. 22, 1972, 86 Stat. 88, which was classified to section 3055 of this title, prior

to repeal by Pub. L. 93–29, §202.

§3020. Advance funding

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

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

(Pub. L. 89–73, title II, §209, formerly §210, as added Pub. L. 93–29, title II, §201(c), May 3, 1973, 87 Stat. 36; renumbered §209 and amended Pub. L. 97–115, §2(e)(2), (i), Dec. 29, 1981, 95 Stat. 1596.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 209 of Pub. L. 89–73 was renumbered section 208 and is classified to section 3019 of this title.

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–115, §2(i), substituted "subsection (a) shall apply" for "the amendment made by subsection (a) shall apply".

§3020a. Application of other laws; costs of projects under this chapter not treated as income or benefits under other laws

(a) The provisions and requirements of chapter 71 of title 31 shall not apply to the administration of the provisions of this chapter or to the administration of any program or activity under this chapter.

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

(Pub. L. 89–73, title II, §210, formerly §211, as added Pub. L. 94–135, title I, §102, Nov. 28, 1975, 89 Stat. 713; amended Pub. L. 95–478, title I, §102(h), Oct. 18, 1978, 92 Stat. 1515; renumbered §210 and amended Pub. L. 97–115, §2(e)(2), (j), Dec. 29, 1981, 95 Stat. 1596.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "chapter 71 of title 31" substituted for "the Act of December 5, 1974 (Public Law 93–510; 88 Stat. 1604) [42 U.S.C. 4251 et seq.]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 210 of Pub. L. 89–73 was renumbered section 209 and is classified to section 3020 of this title.

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–115, §(2)(j), struck out "and section 1469a of title 48" after "chapter 52A of this chapter".

1978—Subsec. (a). Pub. L. 95–478, §102(h)(1), (2), designated existing provisions as subsec. (a) and

provided for nonapplication of provisions relating to Congressional declaration of policy respecting "Insular Areas".

Subsec. (b). Pub. L. 95–478, §102(h)(1), added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–478 effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as a note under section 3001 of this title.

§3020b. Reduction of paperwork

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

(Pub. L. 89–73, title II, §211, formerly §212, as added Pub. L. 95–478, title I, §102(i), Oct. 18, 1978, 92 Stat. 1515; renumbered §211, Pub. L. 97–115, §2(e)(2), Dec. 29, 1981, 95 Stat. 1596; amended Pub. L. 98–459, title II, §208, Oct. 9, 1984, 98 Stat. 1771; Pub. L. 102–375, title I, §102(b)(1)(A), (9)(A), title IX, §904(a)(9), Sept. 30, 1992, 106 Stat. 1200, 1201, 1306; Pub. L. 103–171, §§2(6), 3(a)(13), Dec. 2, 1993, 107 Stat. 1988, 1990.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 211 of Pub. L. 89–73 was renumbered section 210 and is classified to section 3020a of this title.

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing and "State agencies" for "State agencies,".

1992—Pub. L. 102–375, §904(a)(9), substituted "objectives" for "purposes" in last sentence.

Pub. L. 102–375, §102(b)(9)(A), struck out "designated under section 3025(a)(1) of this title" after "in consultation with State agencies".

Pub. L. 102–375, §102(b)(1)(A), substituted "Administration" for "Administration on Aging".

1984—Pub. L. 98–459 inserted provision requiring the Commissioner, in gathering information, to make use of uniform service definitions to the extent that such definitions are available.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3020c. Contracting and grant authority; private pay relationships; appropriate use of funds

(a) In general

Subject to subsection (b), this chapter shall not be construed to prevent a recipient of a grant or a contract under this chapter (other than subchapter IX) from entering into an agreement with a profitmaking organization for the recipient to provide services to individuals or entities not otherwise receiving services under this chapter, provided that—

(1) if funds provided under this chapter to such recipient are initially used by the recipient to pay part or all of a cost incurred by the recipient in developing and carrying out such agreement, such agreement guarantees that the cost is reimbursed to the recipient;

(2) if such agreement provides for the provision of 1 or more services, of the type provided under this chapter by or on behalf of such recipient, to an individual or entity seeking to receive such services—

(A) the individuals and entities may only purchase such services at their fair market rate;

(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under paragraph (1)), are reimbursed to such recipient; and

(C) the recipient reports the rates for providing such services under such agreement in accordance with subsection (c) and the rates are consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or area agency on aging (as applicable); and

(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient's costs is used to provide, or support the provision of, services under this chapter.

(b) Ensuring appropriate use of funds

An agreement described in subsection (a) may not—

(1) be made without the prior approval of the State agency (or, in the case of a grantee under subchapter X, without the prior recommendation of the Director of the Office for American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary), after timely submission of all relevant documents related to the agreement including information on all costs incurred;

(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual or entity in an amount that exceeds the fair market value of the services subject to such agreement;

(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual who is at risk for institutional placement; or

(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older individuals, as determined by the Assistant Secretary.

(c) Monitoring and reporting

To ensure that any agreement described in subsection (a) complies with the requirements of this section and other applicable provisions of this chapter, the Assistant Secretary shall develop and implement uniform monitoring procedures and reporting requirements consistent with the provisions of subparagraphs (A) through (E) of section 3026(a)(13) of this title in consultation with the State agencies and area agencies on aging. The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements, and the costs incurred and services provided under the agreements. This report shall contain information on the number of the agreements per State, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, and the net proceeds from, and documentation of funds spent and reimbursed, under the agreements.

(d) Timely reimbursement

All reimbursements made under this section shall be made in a timely manner, according to

standards specified by the Assistant Secretary.

(e) Cost

In this section, the term "cost" means an expense, including an administrative expense, incurred by a recipient in developing or carrying out an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expense.

(Pub. L. 89–73, title II, §212, formerly §213, as added Pub. L. 95–478, title I, §102(i), Oct. 18, 1978, 92 Stat. 1516; amended Pub. L. 97–35, title VI, §606(c), Aug. 13, 1981, 95 Stat. 486; renumbered §212, Pub. L. 97–115, §2(e)(2), Dec. 29, 1981, 95 Stat. 1596; Pub. L. 100–175, title I, §107(c), Nov. 29, 1987, 101 Stat. 931; Pub. L. 103–171, §3(a)(4), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 109–365, title II, §207, Oct. 17, 2006, 120 Stat. 2536.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 212 of Pub. L. 89–73 was renumbered section 211 and is classified to section 3020b of this title.

AMENDMENTS

2006—Pub. L. 109–365 amended section generally. Prior to amendment, text read as follows: "None of the provisions of this chapter shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency (or in the case of a grantee under subchapter X of this chapter, subject to the recommendation of the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Assistant Secretary), with a profitmaking organization to carry out the provisions of this chapter and of the appropriate State plan."

1993—Pub. L. 103–171 substituted "Director of the Office for" for "Associate Commissioner on" and "Assistant Secretary" for "Commissioner".

1987—Pub. L. 100–175 inserted "(or in the case of a grantee under subchapter X of this chapter, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner)" after "State agency".

1981—Pub. L. 97–35 struck out provisions respecting demonstration of superiority by the organization.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3020d. Surplus property eligibility

Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this chapter, under title IV or title XX of the Social Security Act [42 U.S.C. 601 et seq., 1397 et seq.], or under titles VIII and X of the Economic Opportunity Act of 1964 [42 U.S.C. 2991 et seq., 2996 et seq.] and the Community Services Block Grant Act [42 U.S.C. 9901 et seq.], shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

(Pub. L. 89–73, title II, §213, formerly §214, as added Pub. L. 95–478, title I, §102(i), Oct. 18, 1978,

92 Stat. 1516; renumbered §213 and amended Pub. L. 97–115, §2(e)(2), (k), Dec. 29, 1981, 95 Stat. 1596.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as Titles IV and XX of the Social Security Act are classified generally to subchapters IV (§601 et seq.) and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in text, is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, which was classified generally to chapter 34 (§2701 et seq.) of this title prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Economic Opportunity Act of 1964 are classified generally to subchapters VIII (§2991 et seq.) and X (§2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Tables.

The Community Services Block Grant Act, referred to in text, is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

PRIOR PROVISIONS

A prior section 213 of Pub. L. 89–73 was renumbered section 212 and is classified to section 3020c of this title.

AMENDMENTS

1981—Pub. L. 97–115, §2(k), substituted "titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act" for "the Economic Opportunity Act of 1964".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3020e. Nutrition education

The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

(1) are designed for older individuals; and

(2) include—

(A) nutrition education;

(B) physical activity; and

(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through nutrition education and nutrition assessment and counseling, in accordance with section 3030g–21(2)(J) of this title.

(Pub. L. 89–73, title II, §214, as added Pub. L. 102–375, title II, §209, Sept. 30, 1992, 106 Stat. 1215; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title VIII, §801(b)(5), Nov. 13, 2000, 114 Stat. 2292; Pub. L. 109–365, title II, §208, Oct. 17, 2006, 120 Stat. 2537.)

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–365 amended section generally. Prior to amendment, text read as follows: "The Assistant Secretary and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 3030g–21(2)(J) of this title."

2000—Pub. L. 106–501 substituted "3030g–21(2)(J)" for "3027(a)(13)(J)".

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

§3020e–1. Pension counseling and information programs

(a) Definitions

In this section:

(1) Pension and other retirement benefits

The term "pension and other retirement benefits" means private, civil service, and other public pensions and retirement benefits, including benefits provided under—

(A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(B) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(C) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, the Federal Employees Retirement System set forth in chapter 84 of title 5, or other Federal retirement systems; or

(D) employee pension benefit plans as defined in section 1002(2) of title 29.

(2) Pension counseling and information program

The term "pension counseling and information program" means a program described in subsection (b).

(b) Program authorized

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

(c) Eligible entities

The Assistant Secretary shall award grants under this section to—

(1) State agencies or area agencies on aging; and

(2) nonprofit organizations with a proven record of providing—

(A) services related to retirement of older individuals;

(B) services to Native Americans; or

(C) specific pension counseling.

(d) Citizen advisory panel

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

(e) Application

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

(1) a plan to establish a pension counseling and information program that—

(A) establishes or continues a State or area pension counseling and information program;

(B) serves a specific geographic area;

(C) provides counseling (including direct counseling and assistance to individuals who need information regarding pension and other retirement benefits) and information that may assist individuals in obtaining, or establishing rights to, and filing claims or complaints regarding, pension and other retirement benefits;

(D) provides information on sources of pension and other retirement benefits;

(E) establishes a system to make referrals for legal services and other advocacy programs;

(F) establishes a system of referral to Federal, State, and local departments or agencies related to pension and other retirement benefits;

(G) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;

(H) provides training programs for staff members, including volunteer staff members, of pension and other retirement benefits programs;

(I) makes recommendations to the Administration, the Department of Labor and other Federal, State, and local agencies concerning issues for older individuals related to pension and other retirement benefits; and

(J) establishes or continues an outreach program to provide information, counseling, referral and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities, older individuals residing in rural areas, low-income retirees, and older individuals with limited English proficiency; and

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

(f) Criteria

The Assistant Secretary shall consider the following criteria in awarding grants under this section:

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

(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency and other populations that are identified as in need of special outreach.

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

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

(g) Training and technical assistance program

(1) In general

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

(2) Eligible entities

Entities that are eligible to receive a grant under this subsection include nonprofit private organizations with a record of providing national information, referral, and advocacy in matters related to pension and other retirement benefits.

(3) Application

To be eligible to receive a grant under this subsection, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

(h) Pension assistance hotline and intragency coordination

(1) Hotline

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

(2) Content

Such hotline described in paragraph (1) shall provide information for individuals (including individuals with limited English proficiency) seeking outreach, information, counseling, referral, and assistance regarding pension and other retirement benefits, and rights related to such benefits.

(3) Agreements

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

(i) Report to Congress

Not later than 30 months after November 13, 2000, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that—

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

(2) summarizes the scope and content of training and assistance provided under a program carried out under this section and the degree to which the training and assistance can be replicated;

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

(4) makes recommendations regarding the manner in which services provided in programs funded under this section can be incorporated into the ongoing programs of State agencies, area agencies on aging, multipurpose senior centers and other similar entities.

(j) Administrative expenses

Of the funds appropriated under section 3020f of this title to carry out this section for a fiscal year, not more than $100,000 may be used by the Administration for administrative expenses.

(k) National Resource Center for Women and Retirement

(1) The Assistant Secretary shall, directly or by grant or contract, operate the National Resource Center for Women and Retirement (in this subsection referred to as the "Center").

(2) The Center shall—

(A) provide tools, such as basic financial management, retirement planning, and other tools that promote financial literacy and help to identify and prevent exploitation (including fraud), and integrate these with information on health and long-term care;

(B) annually disseminate a summary of outreach activities provided, including work to provide user-friendly consumer information and public education materials;

(C) develop targeted outreach strategies;

(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations; and

(E) develop partnerships and collaborations to address program objectives.

(Pub. L. 89–73, title II, §215, as added Pub. L. 106–501, title II, §202(5), Nov. 13, 2000, 114 Stat. 2231; amended Pub. L. 109–365, title II, §209, Oct. 17, 2006, 120 Stat. 2537; Pub. L. 116–131, title I, §121, title VII, §701(4), Mar. 25, 2020, 134 Stat. 247, 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of this title. For complete

classification of this Act to the Code, see section 1305 of this title and Tables.

The Railroad Retirement Act of 1974, referred to in subsec. (a)(1)(B), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

PRIOR PROVISIONS

A prior section 215 of Pub. L. 89–73 was renumbered section 216 and is classified to section 3020f of this title.

AMENDMENTS

2020—Subsec. (i). Pub. L. 116–131, §701(4), substituted "Committee on Education and Labor" for "Committee on Education and the Workforce" in introductory provisions.

Subsec. (k). Pub. L. 116–131, §121, added subsec. (k).

2006—Subsec. (e)(1)(J). Pub. L. 109–365, §209(1), substituted ", low-income retirees, and older individuals with limited English proficiency" for "and low income retirees".

Subsec. (f)(2). Pub. L. 109–365, §209(2), added par. (2) and struck out former par. (2) which read as follows: "The ability of the entity to perform effective outreach to affected populations, particularly populations that are identified in need of special outreach."

Subsec. (h)(2). Pub. L. 109–365, §209(3), inserted "(including individuals with limited English proficiency)" after "for individuals".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

§3020f. Authorization of appropriations

(a) In general

For purposes of carrying out this chapter, there are authorized to be appropriated for administration, salaries, and expenses of the Administration $43,937,410 for fiscal year 2020, $46,573,655 for fiscal year 2021, $49,368,074 for fiscal year 2022, $52,330,158 for fiscal year 2023, and $55,469,968 for fiscal year 2024.

(b) Additional authorizations

There are authorized to be appropriated—

(1) to carry out section 3012(a)(21) of this title (relating to the National Eldercare Locator Service), $2,180,660 for fiscal year 2020, $2,311,500 for fiscal year 2021, $2,450,190 for fiscal year 2022, $2,597,201 for fiscal year 2023, and $2,753,033 for fiscal year 2024;

(2) to carry out section 3020e–1 of this title, $1,988,060 for fiscal year 2020, $2,107,344 for fiscal year 2021, $2,233,784 for fiscal year 2022, $2,367,811 for fiscal year 2023, and $2,509,880 for fiscal year 2024;

(3) to carry out section 3012 of this title (relating to Elder Rights Support Activities under this subchapter), $1,371,740 for fiscal year 2020, $1,454,044 for fiscal year 2021, $1,541,287 for fiscal year 2022, $1,633,764 for fiscal year 2023, and $1,731,790 for fiscal year 2024; and

(4) to carry out section 3012(b) of this title (relating to the Aging and Disability Resource Centers), $8,687,330 for fiscal year 2020, $9,208,570 for fiscal year 2021, $9,761,084 for fiscal year 2022, $10,346,749 for fiscal year 2023, and $10,967,554 for fiscal year 2024.

(Pub. L. 89–73, title II, §216, formerly §215, as added Pub. L. 102–375, title II, §210, Sept. 30, 1992, 106 Stat. 1215; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; renumbered §216 and amended Pub. L. 106–501, title II, §§202(4), 205, Nov. 13, 2000, 114 Stat. 2231, 2234; Pub. L.

109–365, title II, §210, Oct. 17, 2006, 120 Stat. 2538; Pub. L. 114–144, §3(e), Apr. 19, 2016, 130 Stat. 337; Pub. L. 116–131, title I, §101, Mar. 25, 2020, 134 Stat. 242.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–131 amended section generally. Prior to amendment, section authorized appropriations for fiscal years 2017, 2018, and 2019.

2016—Subsec. (a). Pub. L. 114–144, §3(e)(1), substituted "$40,063,000 for each of the fiscal years 2017, 2018, and 2019." for "such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

Subsec. (b). Pub. L. 114–144, §3(e)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out section 3012(a)(24) of this title (relating to the National Eldercare Locator Service) such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

Subsec. (c). Pub. L. 114–144, §3(e)(3), struck out subsec. (c). Text read as follows: "There are authorized to be appropriated to carry out section 3020e–1 of this title, such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

2006—Subsec. (a). Pub. L. 109–365, §210(1), substituted "2007, 2008, 2009, 2010, and 2011." for "2001, 2002, 2003, 2004, and 2005".

Subsec. (b). Pub. L. 109–365, §210(2), substituted "years 2007, 2008, 2009, 2010, and 2011" for "year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years".

Subsec. (c). Pub. L. 109–365, §210(2), substituted "years 2007, 2008, 2009, 2010, and 2011" for "year 2001 and for each of the 4 succeeding fiscal years".

2000—Subsec. (a). Pub. L. 106–501, §205(1), in heading, substituted "In general" for "Administration", and in text, inserted "administration, salaries, and expenses of" after "appropriated for" and substituted "2001, 2002, 2003, 2004, and 2005" for "1992, 1993, 1994, and 1995."

Subsecs. (b), (c). Pub. L. 106–501, §205(2), added subsecs. (b) and (c) and struck out heading and text of former subsec. (b). Text read as follows: "There are authorized to be appropriated for salaries and expenses of the Administration on Aging—

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

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

1993—Subsec. (b)(2). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

§3020g. National Technical Assistance Center on Grandfamilies and Kinship Families

(a) In general

In addition to amounts otherwise available, there is appropriated to the Secretary of Health and Human Services for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $10,000,000, to remain available through September 30, 2025, for the Secretary, acting through the Administrator of the Administration for Community Living, to establish, directly or through grants or contracts, a National Technical Assistance Center on Grandfamilies and Kinship Families (in this section referred to as the "Center") to provide training, technical assistance, and resources for government programs, nonprofit and other community-based organizations, and Indian Tribes, Tribal organizations, and urban Indian organizations, that serve grandfamilies and kinship families to support the health and well-being of members of grandfamilies and kinship families, including caregivers, children, and their parents. The Center shall focus primarily on serving grandfamilies and kinship families in which the primary caregiver is an adult age 55 or older, or the child has one or more disabilities.

(b) Activities of the Center

The Center shall—

(1) engage experts to stimulate the development of new and identify existing evidence-based, evidence-informed, and exemplary practices or programs related to health promotion (including mental health and substance use disorder treatment), education, nutrition, housing, financial needs, legal issues, disability self-determination, caregiver support, and other issues to help serve caregivers, children, and their parents in grandfamilies and kinship families;

(2) encourage and support the implementation of the evidence-based, evidence-informed, and exemplary practices or programs identified under paragraph (1) to support grandfamilies and kinship families and to promote coordination of services for grandfamilies and kinship families across systems that support them;

(3) facilitate learning across States, territories, Indian Tribes, Tribal organizations, and urban Indian organizations for providing technical assistance, resources, and training related to issues described in paragraph (1) to individuals and entities across systems that directly work with grandfamilies and kinship families;

(4) help government programs, nonprofit and other community-based organizations, and Indian Tribes, Tribal organizations, and urban Indian organizations, serving grandfamilies and kinship families, to plan and coordinate responses to assist grandfamilies and kinship families during national, State, Tribal, territorial, and local emergencies and disasters; and

(5) assist government programs, and nonprofit and other community-based organizations, in promoting equity and implementing culturally and linguistically appropriate approaches as the programs and organizations serve grandfamilies and kinship families.

(Pub. L. 117–2, title II, §2922, Mar. 11, 2021, 135 Stat. 52.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the American Rescue Plan Act of 2021, and not as part of the Older Americans Act of 1965 which comprises this chapter.

SUBCHAPTER III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

PART A—GENERAL PROVISIONS

§3021. Purpose and program

(a) Congressional declaration of purpose

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

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

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

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

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

(E) measure impacts related to social determinants of health of older individuals.

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

(A) State agencies and area agencies on aging;

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

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

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

(E) organizations representing or employing older individuals or their families; and

(F) organizations that have experience in providing training, placement, and stipends for volunteers or participants who are older individuals (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.

(b) Administration of program

(1) In order to effectively carry out the purpose of this subchapter, the Assistant Secretary shall administer programs under this subchapter through the Administration.

(2) In carrying out the provisions of this subchapter, the Assistant Secretary may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services, the Department of Veterans Affairs, the Substance Abuse and Mental Health Services Administration,,[1] and such other agencies and departments of the Federal Government as may be appropriate.

(c) Ombudsman program

The Assistant Secretary shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 3027(a)(9) of this title in accordance with section 3058g of this title, and to individuals within such programs designated under section 3058g of this title to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.

(d) Use of funds

(1) Any funds received under an allotment as described in section 3024(a) of this title, or funds contributed toward the non-Federal share under section 3024(d) of this title, shall be used only for activities and services to benefit older individuals and other individuals as specifically provided for in this subchapter.

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

(Pub. L. 89–73, title III, §301, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1516; amended Pub. L. 97–115, §3(a), (d), Dec. 29, 1981, 95 Stat. 1596, 1597; Pub. L. 98–459, title III, §301, Oct. 9, 1984, 98 Stat. 1771; Pub. L. 100–175, title I, §§104(b), 105(c), 121, 129(a), Nov. 29, 1987, 101 Stat. 929, 930, 933, 934; Pub. L. 100–628, title VII, §705(3), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–54, §13(q)(9)(B), June 13, 1991, 105 Stat. 281; Pub. L. 102–321, title I, §163(c)(2)(B), July 10, 1992, 106 Stat. 377; Pub. L. 102–375, title I, §102(b)(1)(A), title III, §301, title VII, §708(a)(2)(B), Sept. 30, 1992, 106 Stat. 1200, 1219, 1292; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title III, §301, title VIII, §801(c)(1), Nov. 13, 2000, 114 Stat. 2238, 2292; Pub. L. 109–365, title III, §301, Oct. 17, 2006, 120 Stat. 2538; Pub. L. 116–131, title II, §201, Mar. 25, 2020, 134 Stat. 254.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3021, Pub. L. 89–73, title III, §301, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36, related to the purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 95–478.

Another prior section 3021, Pub. L. 89–73, title III, §301, July 14, 1965, 79 Stat. 220; Pub. L. 90–42, §2(a), July 1, 1967, 81 Stat. 106; Pub. L. 91–69, §2(a), Sept. 17, 1969, 83 Stat. 108, related to a description of activities and authorized appropriations for fiscal years ending June 30, 1966, through 1972, prior to repeal by Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

2020—Subsec. (a)(1)(E). Pub. L. 116–131 added subpar. (E).

2006—Subsec. (a)(2)(F). Pub. L. 109–365 added subpar. (F).

2000—Subsec. (c). Pub. L. 106–501, §801(c)(1), substituted "3027(a)(9)" for "3027(a)(12)".

Subsec. (d). Pub. L. 106–501, §301, added subsec. (d).

1993—Subsecs. (b), (c). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a). Pub. L. 102–375, §301, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "It is the purpose of this subchapter to encourage and assist State and area agencies to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and area agencies, with Indian tribes, tribal organizations, and Native Hawaiian organizations, and with the providers, including voluntary organizations, of supportive services, including nutrition services and multipurpose senior centers, for the planning, and for the provision of, supportive services, nutrition services, and multipurpose senior centers, in order to—

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

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

"(3) provide a continuum of care for the vulnerable elderly."

Subsec. (b)(1). Pub. L. 102–375, §102(b)(1)(A), substituted "Administration" for "Administration on Aging".

Subsec. (b)(2). Pub. L. 102–321 substituted "the Substance Abuse and Mental Health Services Administration" for "the Alcohol, Drug Abuse, and Mental Health Administration".

Subsec. (c). Pub. L. 102–375, §708(a)(2)(B), substituted "in accordance with section 3058g of this title, and to individuals within such programs designated under section 3058g of this title" for ", and to individuals designated under such section".

1991—Subsec. (b)(2). Pub. L. 102–54 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1988—Subsec. (a). Pub. L. 100–628 substituted "Native Hawaiian organizations," for "Native Hawaiian organizations,,".

1987—Subsec. (a). Pub. L. 100–175, §121, inserted ", with Indian tribes, tribal organizations, and Native Hawaiian organizations," after second reference to "agencies".

Subsec. (b)(2). Pub. L. 100–175, §105(c), inserted "the Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

Pub. L. 100–175, §104(b), inserted ", the Veterans' Administration," after "Office of Community Services".

Subsec. (c). Pub. L. 100–175, §129(a), added subsec. (c).

1984—Subsec. (a). Pub. L. 98–459 substituted "area agencies" for "local agencies" in two places, inserted "and implementation", inserted ", including voluntary organizations,", and struck out "for the provision of" after "planning".

1981—Subsec. (a). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services" in two places.

Subsec. (b)(2). Pub. L. 97–115, §3(a), substituted "cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services, and such other agencies and departments" for "cooperation of the Department of Labor, the Community Services Administration, the Department of Housing and Urban Development, the Department of Transportation, and such other agencies and departments".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by section 708(a)(2)(B) of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 708(a)(2)(B) of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as a note under section 3001 of this title.

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, see section 801(c) of Pub. L. 102–321, set out as a note under section 836 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

COORDINATION AND CONSOLIDATION OF SERVICES UNDER CHAPTER

Pub. L. 95–478, title I, §103(a), Oct. 18, 1978, 92 Stat. 1516, provided that:

"(1) The Congress finds that—

"(A) approximately 3 percent of the eligible population is presently served under community services programs authorized under the Older Americans Act of 1965 [this chapter], 17 percent of whom are minority group members;

"(B) approximately 1 percent of the eligible population is presently served by the nutrition program authorized under the Older Americans Act of 1965 [this chapter], 21 percent of whom are minority group members;

"(C) there is program fragmentation at the national, State, and local levels which inhibits effective use of existing resources; and

"(D) coordination and consolidation of services provided under the Older Americans Act of 1965 [this chapter] allowing greater local determination to assess the need for services will facilitate achieving the goals of the Older Americans Act of 1965.

"(2) It is the purpose of the amendments made by subsection (b) [amending sections 3021 to 3029 of this title and enacting sections 3030 to 3030g of this title] to combine within a consolidated title, subject to the modifications imposed by the provisions and requirements of the amendments made by subsection (b), the programs authorized by title III, title V, and title VII of the Older Americans Act of 1965 [former subchapters III, V, and VII of this chapter, respectively, as in effect prior to their revision by Pub. L. 95–478] in the fiscal year 1978, and funds appropriated to carry out such consolidated title shall be used solely for the purposes and for the assistance of the same types of programs authorized under the provisions of such titles."

[1] *So in original.*

§3022. Definitions

For the purpose of this subchapter—

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

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

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

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

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

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

(3) The term "family caregiver" means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual of any age with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction.

(4) The term "unit of general purpose local government" means—

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

(B) an Indian tribal organization.

(Pub. L. 89–73, title III, §302, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1517; amended Pub. L. 97–115, §3(b), (d), Dec. 29, 1981, 95 Stat. 1596, 1597; Pub. L. 98–459, title III, §302, Oct. 9, 1984, 98 Stat. 1771; Pub. L. 100–175, title I, §§136(a)(2), 144(a), 182(b)(2), (e)(1), Nov. 29, 1987, 101 Stat. 943, 948, 964; Pub. L. 102–375, title I, §102(b)(3), title III, §302, Sept. 30, 1992, 106 Stat. 1201, 1220; Pub. L. 103–171, §2(7), Dec. 2, 1993, 107 Stat. 1988; Pub. L. 109–365, title III, §302, Oct. 17, 2006, 120 Stat. 2538; Pub. L. 116–131, title II, §202(1), Mar. 25, 2020, 134 Stat. 254.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3022, Pub. L. 89–73, title III, §302, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36, Pub. L. 94–135, title I, §103, Nov. 28, 1975, 89 Stat. 713, related to definitions, prior to the general amendment of this subchapter by Pub. L. 95–478.

Another prior section 3022, Pub. L. 89–73, title III, §302, July 14, 1965, 79 Stat. 221; Pub. L. 90–42, §§2(b), 5(g), July 1, 1967, 81 Stat. 107, 108; Pub. L. 91–69, §§3(a), 4(d), 6, 10(b), Sept. 17, 1969, 83 Stat. 108, 110, 114, related to allotments to States, providing in subsec. (a) amount of allotments, subsec. (b) reallotments, and subsec. (c) availability for grant percentage payments, and duration of project support, prior to repeal by Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

2020—Par. (3). Pub. L. 116–131 inserted "of any age" after "an individual".

2006—Pars. (2) to (4). Pub. L. 109–365 added par. (4), redesignated pars. (2), (3), and (4) as pars. (4), (2), and (3), respectively, and moved par. (4) to end of section.

1993—Par. (10). Pub. L. 103–171 struck out par. (10) which defined "multipurpose senior center".

1992—Par. (1)(D). Pub. L. 102–375, §302, added subpar. (D).

Pars. (2), (3). Pub. L. 102–375, §102(b)(3)(A), (B), redesignated pars. (7) and (8) as (2) and (3), respectively, and struck out former pars. (2) and (3) which defined "information and referral source" and "long-term care facility", respectively.

Pars. (4) to (6). Pub. L. 102–375, §102(b)(3)(A), struck out pars. (4) to (6) which defined "legal assistance", "planning and service area", and "State agency", respectively.

Pars. (7), (8). Pub. L. 102–375, §102(b)(3)(B), redesignated pars. (7) and (8) as (2) and (3), respectively.

Par. (9). Pub. L. 102–375, §102(b)(3)(A), struck out par. (9) which defined "older individual".

Par. (11). Pub. L. 102–375, §102(b)(3)(A), struck out par. (11) which defined "focal point".

Pars. (14) to (21). Pub. L. 102–375, §102(b)(3)(A), struck out pars. (14) to (21) which defined "abuse", "elder abuse", "caretaker", "exploitation", "neglect", "physical harm", "greatest economic need", and "greatest social need", respectively.

1987—Par. (6). Pub. L. 100–175, §182(b)(2), redesignated par. (7) as (6) and struck out former par. (6)

which read as follows: "The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

Pars. (7) to (9). Pub. L. 100–175, §182(b)(2)(B), redesignated pars. (8) to (10) as (7) to (9), respectively. Former par. (7) redesignated (6).

Par. (10). Pub. L. 100–175, §§136(a)(2), 182(b)(2)(B), redesignated par. (11) as (10) and inserted "(including mental health)" after "health". Former par. (10) redesignated (9).

Par. (11). Pub. L. 100–175, §182(b)(2)(B), redesignated par. (12) as (11). Former par. (11) redesignated (10).

Pars. (12), (13). Pub. L. 100–175, §182(b)(2)(B), which directed the redesignation of pars. (13) and (14) as (12) and (13), respectively, could not be executed because no pars. (13) and (14) had been enacted. A former par. (12) was redesignated (11).

Pars. (14) to (19). Pub. L. 100–175, §§144(a), 182(b)(2)(B), added pars. (15) to (20) and redesignated them as (14) to (19), respectively.

Par. (20). Pub. L. 100–175, §182(b)(2)(B), (e)(1), added par. (20) and redesignated former par. (20) as (19).

Pub. L. 100–175, §144(a), added par. (20).

Par. (21). Pub. L. 100–175, §182(e)(1), added par. (21).

1984—Par. (2)(B). Pub. L. 98–459, §302(1), substituted "employs, where feasible," for "employs", and inserted "to assess the needs and capacities of older individuals,".

Par. (4). Pub. L. 98–459, §302(2), substituted "legal assistance" for "legal services".

Par. (6). Pub. L. 98–459, §302(3), substituted ", and the Commonwealth of the Northern Mariana Islands" for "and the Northern Mariana Islands".

Pars. (10) to (12). Pub. L. 98–459, §302(4), added pars. (10) to (12).

1981—Par. (1). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services" in provisions preceding subpar. (A) and in subpars. (A) and (B).

Par. (3). Pub. L. 97–115, §3(b)(1), inserted provision relating to any category of institutions regulated by a State pursuant to provisions of section 1382e(e) of this title (for purposes of section 3027(a)(12) of this title).

Par. (9). Pub. L. 97–115, §3(b)(2), added par. (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3023. Authorization of appropriations; uses of funds

(a)(1) There are authorized to be appropriated to carry out part B (relating to supportive services) $412,029,180 for fiscal year 2020, $436,750,931 for fiscal year 2021, $462,955,987 for fiscal year 2022, $490,733,346 for fiscal year 2023, and $520,177,347 for fiscal year 2024.

(2) Funds appropriated under paragraph (1) shall be available to carry out section 3058g of this title.

(b)(1) There are authorized to be appropriated to carry out subpart I of part C (relating to congregate nutrition services) $530,015,940 for fiscal year 2020, $561,816,896 for fiscal year 2021, $595,525,910 for fiscal year 2022, $631,257,465 for fiscal year 2023, and $669,132,913 for fiscal year 2024.

(2) There are authorized to be appropriated to carry out subpart II of part C (relating to home delivered nutrition services) $268,935,940 for fiscal year 2020, $285,072,096 for fiscal year 2021, $302,176,422 for fiscal year 2022, $320,307,008 for fiscal year 2023, and $339,525,428 for fiscal year 2024.

(c) Grants made under part B, and subparts I and II of part C, of this subchapter may be used for paying part of the cost of—

(1) the administration of area plans by area agencies on aging designated under section 3025(a)(2)(A) of this title, including the preparation of area plans on aging consistent with section 3026 of this title and the evaluation of activities carried out under such plans; and

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

(d) There are authorized to be appropriated to carry out part D (relating to disease prevention and health promotion services) $26,587,360 for fiscal year 2020, $28,182,602 for fiscal year 2021, $29,873,558 for fiscal year 2022, $31,665,971 for fiscal year 2023, and $33,565,929 for fiscal year 2024.

(e) There are authorized to be appropriated to carry out part E (relating to family caregiver support) $193,869,020 for fiscal year 2020, $205,501,161 for fiscal year 2021, $217,831,231 for fiscal year 2022, $230,901,105 for fiscal year 2023, and $244,755,171 for fiscal year 2024.

(Pub. L. 89–73, title III, §303, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1518; amended Pub. L. 97–115, §3(c), (d), Dec. 29, 1981, 95 Stat. 1597; Pub. L. 98–459, title III, §303, Oct. 9, 1984, 98 Stat. 1771; Pub. L. 100–175, title I, §§122(a), (b), 129(c)(1), 140(a), 141(a), 143(a), 144(b), 145, 155(b), Nov. 29, 1987, 101 Stat. 933, 935, 944, 946, 947, 949, 950, 952; Pub. L. 102–375, title III, §§303, 316(b), title VII, §708(c)(3), Sept. 30, 1992, 106 Stat. 1220, 1241, 1293; Pub. L. 106–501, title III, §302, Nov. 13, 2000, 114 Stat. 2238; Pub. L. 109–365, title III, §303, Oct. 17, 2006, 120 Stat. 2538; Pub. L. 114–144, §4(a), Apr. 19, 2016, 130 Stat. 337; Pub. L. 116–131, title II, §203(a), Mar. 25, 2020, 134 Stat. 254.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3023, Pub. L. 89–73, title III, §303, as added Pub. L. 93–29, title III, §301 May 3, 1973, 87 Stat. 37; Pub. L. 94–135, title I, §§104(a), (c), (d), 112(b), 114(d), Nov. 28, 1975, 89 Stat. 714, 715, 719, 725, related to area planning and social service programs, prior to the general amendment of this subchapter by Pub. L. 95–478.

Another prior section 3023, Pub. L. 89–73, title III, §303, July 14, 1965, 79 Stat. 222; Pub. L. 91–69, §§3(b), 4(a), Sept. 17, 1969, 83 Stat. 108, related to state plans, providing in subsec. (a) for approval by Secretary, contents, notice and hearing prior to disapproval; subsec. (b) noncompliance and cancellation of payments; and subsec. (c) appeals, petitions, record, jurisdiction of courts of appeals, conclusiveness of findings, review by Supreme Court, and stay of administrative action, prior to repeal by Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

2020—Pub. L. 116–131 amended subsecs. (a) to (e) generally. Prior to amendment, subsecs. (a), (b), (d), and (e) authorized appropriations for fiscal years 2017 to 2019, and subsec. (c) related to use of grants made under part B, and subparts I and II of part C, of this subchapter.

2016—Subsec. (a)(1). Pub. L. 114–144, §4(a)(1), substituted "$356,717,276 for fiscal year 2017, $364,456,847 for fiscal year 2018, and $372,196,069 for fiscal year 2019." for "such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

Subsec. (b)(1). Pub. L. 114–144, §4(a)(2)(A), substituted "$459,937,586 for fiscal year 2017, $469,916,692 for fiscal year 2018, and $479,895,348 for fiscal year 2019." for "such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

Subsec. (b)(2). Pub. L. 114–144, §4(a)(2)(B), substituted "$232,195,942 for fiscal year 2017, $237,233,817 for fiscal year 2018, and $242,271,465 for fiscal year 2019." for "such sums as may be necessary for fiscal

years 2007, 2008, 2009, 2010, and 2011."

Subsec. (d). Pub. L. 114–144, §4(a)(3), substituted "$20,361,334 for fiscal year 2017, $20,803,107 for fiscal year 2018, and $21,244,860 for fiscal year 2019." for "such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

Subsec. (e). Pub. L. 114–144, §4(a)(4), struck out par. (2) designation before "There are authorized", substituted "$154,336,482 for fiscal year 2017, $157,564,066 for fiscal year 2018, and $160,791,658 for fiscal year 2019." for "$166,500,000 for fiscal year 2008, $173,000,000 for fiscal year 2009, $180,000,000 for fiscal year 2010, and $187,000,000 for fiscal year 2011.", and struck out pars. (1) and (3) which read as follows:

"(1) There are authorized to be appropriated to carry out part E of this subchapter (relating to family caregiver support) $160,000,000 for fiscal year 2007.

"(3) Of the funds appropriated under paragraphs (1) and (2), not more than 1 percent of such funds may be reserved to carry out activities described in section 3032(a)(11) of this title."

2006—Subsecs. (a)(1), (b)(1), (2), (d). Pub. L. 109–365, §303(1), substituted "years 2007, 2008, 2009, 2010, and 2011" for "year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years".

Subsec. (e)(1). Pub. L. 109–365, §303(2)(A), substituted "$160,000,000 for fiscal year 2007" for "$125,000,000 for fiscal year 2001 if the aggregate amount appropriated under subsection (a)(1) of this section (relating to part B of this subchapter, supportive services), paragraphs (1) (relating to subpart I of part C of this subchapter, congregate nutrition services) and (2) (relating to subpart II of part C of this subchapter, home delivered nutrition services) of subsection (b) of this section, and (d) (relating to part D of this subchapter, disease prevention and health promotion services) of this section for fiscal year 2001 is not less than the aggregate amount appropriated under subsection (a)(1) of this section, paragraphs (1) and (2) of subsection (b) of this section, and subsection (d) of this section for fiscal year 2000".

Subsec. (e)(2). Pub. L. 109–365, §303(2)(B), substituted "$166,500,000 for fiscal year 2008, $173,000,000 for fiscal year 2009, $180,000,000 for fiscal year 2010, and $187,000,000 for fiscal year 2011" for "such sums as may be necessary for each of the 4 succeeding fiscal years".

Subsec. (e)(3). Pub. L. 109–365, §303(2)(C), substituted "may" for "shall", "section 3032(a)(11)" for "section 3030s–12", and "(2), not more than 1 percent" for "(2)—

"(A) 4 percent of such funds shall be reserved to carry out activities described in section 3030s–11 of this title; and

"(B) 1 percent".

2000—Subsec. (a)(1). Pub. L. 106–501, §302(1), added par. (1) and struck out former par. (1) which read as follows: "There are authorized to be appropriated $461,376,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part B of this subchapter (relating to supportive services and senior centers)."

Subsec. (b). Pub. L. 106–501, §302(2), added subsec. (b) and struck out former subsec. (b) which read as follows:

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

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

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

Subsecs. (d) to (g). Pub. L. 106–501, §302(3), added subsecs. (d) and (e) and struck out former subsecs. (d) to (g) which authorized appropriations for fiscal years 1992 to 1995 to carry out parts D to G of this subchapter.

1992—Subsec. (a)(1). Pub. L. 102–375, §708(c)(3), struck out "for purposes other than outreach activities and application assistance under section 3027(a)(31) of this title" after "senior centers)".

Pub. L. 102–375, §303(a)(1), substituted "$461,376,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995" for "$379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, and $439,406,000 for the fiscal year 1991".

Subsec. (a)(2). Pub. L. 102–375, §303(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Subject to subsection (h) of this section, there are authorized to be appropriated $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out section 3027(a)(12) of this title."

Subsec. (a)(3). Pub. L. 102–375, §303(a)(3), struck out par. (3) which read as follows: "Subject to

subsection (h) of this section, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991 to carry out section 3026(a)(6)(P) of this title. Amounts appropriated under this subsection shall remain available until expended."

Subsec. (b)(1). Pub. L. 102–375, §303(b)(1), substituted "$505,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995" for "$414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989, $457,262,000 for the fiscal year 1990, and $480,125,000 for the fiscal year 1991".

Subsec. (b)(2). Pub. L. 102–375, §303(b)(2), substituted "$120,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995" for "$79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, and $91,892,000 for the fiscal year 1991".

Subsec. (b)(3). Pub. L. 102–375, §303(b)(3), added par. (3).

Subsec. (c). Pub. L. 102–375, §316(b)(1), substituted "part B, and subparts I and II of part C, of this subchapter" for "parts B and C of this subchapter".

Subsec. (c)(2). Pub. L. 102–375, §316(b)(2), inserted "under subparts I and II of part C" after "nutrition services".

Subsec. (d). Pub. L. 102–375, §303(c), substituted "$45,388,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995," for "$25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, and $28,941,000 for fiscal year 1991".

Subsec. (e). Pub. L. 102–375, §303(d), substituted "There are authorized to be appropriated such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995," for "Subject to subsection (h) of this section, there are authorized to be appropriated $25,000,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991".

Subsec. (f). Pub. L. 102–375, §303(e), substituted "There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995," for "Subject to subsection (h) of this section, there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991".

Subsec. (g). Pub. L. 102–375, §303(f), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "Subject to subsection (h) of this section, there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991, to carry out part G of this subchapter (relating to abuse, neglect, and exploitation of older individuals)."

Subsec. (h). Pub. L. 102–375, §303(g), struck out subsec. (h) which read as follows: "No funds may be appropriated under subsection (a)(2), (a)(3), (e), (f), or (g) of this section for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this subchapter (other than sections 3026(a)(6)(P), 3027(a)(12), and 3030a of this title, and parts E, F, and G of this subchapter), subchapter IV of this chapter (other than sections 3035f and 3035g of this title), subchapter IX of this chapter, and subchapter X of this chapter exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such subchapters."

1987—Subsec. (a). Pub. L. 100–175, §§129(c)(1), 155(b), designated existing provisions as par. (1), inserted "for purposes other than outreach activities and application assistance under section 3027(a)(31) of this title", and added pars. (2) and (3).

Pub. L. 100–175, §122(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There are authorized to be appropriated $350,300,000 for fiscal year 1984, $325,700,000 for fiscal year 1985, $343,600,000 for fiscal year 1986, and $361,500,000 for fiscal year 1987, for the purpose of making grants under part B of this subchapter (relating to supportive services and senior centers)."

Subsec. (b). Pub. L. 100–175, §122(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(1) There are authorized to be appropriated $365,300,000 for fiscal year 1984, $360,800,000 for fiscal year 1985, $376,500,000 for fiscal year 1986, and $395,000,000 for fiscal year 1987, for the purpose of making grants under subpart I of part C of this subchapter (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $68,700,000 for fiscal year 1984, $69,100,000 for fiscal year 1985, $72,000,000 for fiscal year 1986, and $75,600,000 for fiscal year 1987, for the purpose of making grants under subpart II of part C of this subchapter (relating to home delivered nutrition services)."

Subsec. (d). Pub. L. 100–175, §140(a), added subsec. (d).

Subsec. (e). Pub. L. 100–175, §141(a), added subsec. (e).

Subsec. (f). Pub. L. 100–175, §143(a), added subsec. (f).

Subsec. (g). Pub. L. 100–175, §144(b), added subsec. (g).

Subsec. (h). Pub. L. 100–175, §145, added subsec. (h).

1984—Subsec. (a). Pub. L. 98–459, §303(a), struck out provisions authorizing appropriations of $300,000,000 for fiscal year 1979, $360,000,000 for fiscal year 1980, $480,000,000 for fiscal year 1981, $306,000,000 for fiscal year 1982, and $327,400,000 for fiscal year 1983, and inserted provisions authorizing appropriations of $325,700,000 for fiscal year 1985, $343,600,000 for fiscal year 1986, and $361,500,000 for fiscal year 1987.

Subsec. (b)(1). Pub. L. 98–459, §303(b)(1), struck out provisions authorizing appropriations of $350,000,000 for fiscal year 1979, $375,000,000 for fiscal year 1980, $400,000,000 for fiscal year 1981, $319,100,000 for fiscal year 1982, and $341,400,000 for fiscal year 1983, and inserted provisions authorizing appropriations of $360,800,000 for fiscal year 1985, $376,500,000 for fiscal year 1986, and $395,000,000 for fiscal year 1987.

Subsec. (b)(2). Pub. L. 98–459, §303(b)(2), struck out provisions authorizing appropriations of $80,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, $120,000,000 for fiscal year 1981, $60,000,000 for fiscal year 1982, and $64,200,000 for fiscal year 1983, and inserted provisions authorizing appropriations of $69,100,000 for fiscal year 1985, $72,000,000 for fiscal year 1986, and $75,600,000 for fiscal year 1987.

Subsec. (c)(2). Pub. L. 98–459, §303(c), substituted "legal assistance" for "legal services".

1981—Subsec. (a). Pub. L. 97–115, §3(c)(1), inserted provisions authorizing appropriations of $306,000,000 for fiscal year 1982, $327,400,000 for fiscal year 1983, and $350,300,000 for fiscal year 1984, and substituted "(relating to supportive services and senior centers)" for "(relating to social services)".

Subsec. (b)(1). Pub. L. 97–115, §3(c)(2), inserted provisions authorizing appropriations of $319,100,000 for fiscal year 1982, $341,400,000 for fiscal year 1983, and $365,300,000 for fiscal year 1984.

Subsec. (b)(2). Pub. L. 97–115, §3(c)(3), inserted provisions authorizing appropriations of $60,000,000 for fiscal year 1982, $64,200,000 for fiscal year 1983, and $68,700,000 for fiscal year 1984.

Subsec. (c)(2). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by sections 303(a)(2), (3) and 708(c)(3) of Pub. L. 103–171 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by sections 303(a)(2), (3), (f), 316(b), and 708(c)(3) of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(2), (6) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3024. Allotment to States

(a) In general

(1) From the sums appropriated under subsections (a) through (d) of section 3023 of this title for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of older individuals in such State bears to the population of older individuals in all States.

(2) In determining the amounts allotted to States from the sums appropriated under section 3023 of this title for a fiscal year, the Assistant Secretary shall first determine the amount allotted to each

State under paragraph (1) and then proportionately adjust such amounts, if necessary, to meet the requirements of paragraph (3).

(3)(A) No State shall be allotted less than ½ of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(B) Guam and the United States Virgin Islands shall each be allotted not less than ¼ of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than 1/16 of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of the exception contained in subparagraph (A) only, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(D)(i) In this subparagraph and paragraph (5)—

(I) the term "allot" means allot under this subsection from a sum appropriated under section 3023(a) or 3023(b)(1) of this title, as the case may be; and

(II) the term "covered fiscal year" means any of fiscal years 2020 through 2029.

(ii) If the sum appropriated under section 3023(a) or 3023(b)(1) of this title for a particular covered fiscal year is less than or equal to the sum appropriated under section 3023(a) or 3023(b)(1) of this title, respectively, for fiscal year 2019, amounts shall be allotted to States from the sum appropriated for the particular year in accordance with paragraphs (1) and (2), and subparagraphs (A) through (C) as applicable, but no State shall be allotted an amount that is less than—

(I) for fiscal year 2020, 99.75 percent of the State's allotment from the corresponding sum appropriated for fiscal year 2019;

(II) for fiscal year 2021, 99.50 percent of that allotment;

(III) for fiscal year 2022, 99.25 percent of that allotment;

(IV) for fiscal year 2023, 99.00 percent of that allotment;

(V) for fiscal year 2024, 98.75 percent of that allotment;

(VI) for fiscal year 2025, 98.50 percent of that allotment;

(VII) for fiscal year 2026, 98.25 percent of that allotment;

(VIII) for fiscal year 2027, 98.00 percent of that allotment;

(IX) for fiscal year 2028, 97.75 percent of that allotment; and

(X) for fiscal year 2029, 97.50 percent of that allotment.

(iii) If the sum appropriated under section 3023(a) or 3023(b)(1) of this title for a particular covered fiscal year is greater than the sum appropriated under section 3023(a) or 3023(b)(1) of this title, respectively, for fiscal year 2019, the allotments to States from the sum appropriated for the particular year shall be calculated as follows:

(I) From the portion equal to the corresponding sum appropriated for fiscal year 2019, amounts shall be allotted in accordance with paragraphs (1) and (2), and subparagraphs (A) through (C) as applicable, but no State shall be allotted an amount that is less than the percentage specified in clause (ii), for that particular year, of the State's allotment from the corresponding sum appropriated for fiscal year 2019.

(II) From the remainder, amounts shall be allotted in accordance with paragraph (1), subparagraphs (A) through (C) as applicable, and paragraph (2) to the extent needed to meet the requirements of those subparagraphs.

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

(5) State allotments for a fiscal year under this section shall be proportionally reduced to the extent that appropriations may be insufficient to provide the full allotments as required by paragraph (3).

(b) Unused funds

Whenever the Assistant Secretary determines that any amount allotted to a State under part B or C,

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

(c) Withholding of funds; disbursement

If the Assistant Secretary finds that any State has failed to qualify under the State plan requirements of section 3027 of this title or the Assistant Secretary does not approve the funding formula required under section 3025(a)(2)(C) of this title, the Assistant Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Assistant Secretary shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 3027 of this title, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

(d) Costs of administration, ombudsman program, demonstration projects, supportive services, senior centers and nutrition services; payment and determination of non-Federal share

(1) From any State's allotment, after the application of section 3028(b) of this title, under this section for any fiscal year—

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

(B) such amount as the State agency determines to be adequate for conducting an effective ombudsman program under section 3027(a)(9) of this title shall be available for conducting such program;

(C) not less than $150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B, shall be available for conducting outreach demonstration projects under section 3058e of this title; and

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

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

(Pub. L. 89–73, title III, §304, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1519; amended Pub. L. 97–115, §4, Dec. 29, 1981, 95 Stat. 1597; Pub. L. 98–459, title III, §304, Oct. 9, 1984, 98 Stat. 1772; Pub. L. 100–175, title I, §§123, 155(c), (d), 182(f), Nov. 29, 1987, 101 Stat. 933, 952, 965; Pub. L. 102–375, title III, §304, title IX, §904(a)(10), Sept. 30, 1992, 106 Stat. 1221, 1306; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title III, §303, title VIII, §801(c)(2), Nov. 13, 2000, 114 Stat. 2239, 2292; Pub. L. 109–365, title III, §304, Oct. 17, 2006, 120 Stat. 2539; Pub. L. 114–144, §4(b), Apr. 19, 2016, 130 Stat. 338; Pub. L. 116–131, title II, §204, title VII, §701(6), (7), Mar. 25, 2020, 134 Stat. 255, 271.)

REPEAL OF SUBSECTION (A)(3)(D)

Pub. L. 116–131, title II, §204(b), Mar. 25, 2020, 134 Stat. 256, provided that, effective October 1, 2029, subsection (a)(3)(D) of this section is repealed. See 2020 Amendment note below.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3024, Pub. L. 89–73, title III, §304, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 38; Pub. L. 94–135, title I, §§105, 106(c), Nov. 28, 1975, 89 Stat. 715, 716, related to designation of state and area agencies, area plan provisions, and transportation services and funds, prior to the general amendment of this subchapter by Pub. L. 95–478. See sections 3025 and 3026 of this title.

Another prior section 3024, Pub. L. 89–73, title III, §304, July 14, 1965, 79 Stat. 223; Pub. L. 90–42, §3, July 1, 1967, 81 Stat. 107; Pub. L. 91–69, §4(b), Sept. 17, 1969, 83 Stat. 108, related to planning, coordination, and evaluation and administration of State plans, providing in: subsec. (a) authorization of appropriations, amount of payment, and availability of unexpended funds; subsec. (b) amount of allotment, determination of additional amount, adjustments, minimum amount, and availability of unexpended amount; subsec. (c) reallotment to other States; and subsec. (d) minimum State expenditure of funds, prior to repeal by Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, §303, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 37; Pub. L. 94–135, title I, §§104(a), (c), (d), 112(b), 114(d), Nov. 28, 1975, 89 Stat. 714, 715, 719, 725, which was classified to section 3023 of this title prior to repeal by Pub. L. 95–478.

A prior section 3024a, Pub. L. 89–73, title III, §305, as added Pub. L. 91–69, §5, Sept. 17, 1969, 83 Stat. 110, related to areawide model projects, grants to or contracts with State agencies, amount, purposes of projects, and authorization of appropriations, prior to repeal by Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

2020—Subsec. (a)(3)(C). Pub. L. 116–131, §701(6), made technical correction in original Act to quotation marks around "State".

Subsec. (a)(3)(D). Pub. L. 116–131, §204(b), struck out subpar. (D) which related to amounts alloted to States based on appropriations from fiscal years 2020 to 2029 relative to those from fiscal year 2019.

Pub. L. 116–131, §204(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows:

"(i) For each of fiscal years 2017 through 2019, no State shall be allotted an amount that is less than 99 percent of the amount allotted to such State for the previous fiscal year.

"(ii) For fiscal year 2020 and each subsequent fiscal year, no State shall be allotted an amount that is less than 100 percent of the amount allotted to such State for fiscal year 2019."

Subsec. (a)(5). Pub. L. 116–131, §204(c), substituted "as required by paragraph (3)" for "of the prior year".

Subsec. (d)(1)(B). Pub. L. 116–131, §701(7), struck out "(excluding any amount attributable to funds appropriated under section 3023(a)(3) of this title)" after "such amount".

2016—Subsec. (a)(3)(D). Pub. L. 114–144, §4(b)(1), added subpar. (D) and struck out former subpar. (D) which related to allotments and increases for fiscal years 2007 to 2010 based on fiscal year 2006.

Subsec. (b). Pub. L. 114–144, §4(b)(2), struck out "subpart I of" before "part E".

2006—Subsec. (a)(3)(D). Pub. L. 109–365 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "No State shall be allotted less than the total amount allotted to the State for fiscal year 2000 and no State shall receive a percentage increase above the fiscal year 2000 allotment that is less than 20 percent of the percentage increase above the fiscal year 2000 allotments for all of the States."

2000—Subsec. (a). Pub. L. 106–501, §303(a), added subsec. (a) and struck out former subsec. (a) which read as follows:

"(a)(1) Subject to paragraphs (2) and (3), from the sums appropriated under section 3023 of this title for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of older individuals in such State bears to the population of older individuals in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of paragraph (3) and the exception contained in subparagraph (A) only, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this

subsection and section 3028 of this title for fiscal year 1987.

"(3) No State shall be allotted, from the amount appropriated under section 3023(g) of this title, less than $50,000 for any fiscal year.

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

Subsec. (b). Pub. L. 106–501, §303(b), substituted "part B or C, or subpart I of part E," for "part B or C" in first sentence.

Subsec. (d)(1)(B). Pub. L. 106–501, §801(c)(2)(A), substituted "3027(a)(9)" for "3027(a)(12)".

Subsec. (e). Pub. L. 106–501, §801(c)(2)(B), struck out subsec. (e) which read as follows: "Grants made from allotments received under this subchapter may be used for paying for the costs of providing for an area volunteer services coordinator (as described in section 3026(a)(12) of this title) or a State volunteer services coordinator (as described in section 3027(a)(31) of this title)."

1993—Subsecs. (a)(4), (b), (c), (d)(2). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a)(1). Pub. L. 102–375, §904(a)(10), substituted "of older individuals" for "aged 60 or older" in two places, "United States Virgin Islands" for "Virgin Islands" in two places, and "contained in subparagraph (A)" for "contained in clause (A)".

Subsec. (a)(2). Pub. L. 102–375, §304(a)(1), substituted "1987" for "1984".

Subsec. (a)(3). Pub. L. 102–375, §304(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "No State shall be allotted, from the amount appropriated pursuant to section 3023(a)(3) of this title, less than $50,000 for any fiscal year."

Subsec. (a)(4). Pub. L. 102–375, §304(a)(3), substituted "data available from the Bureau of the Census, and other reliable demographic data satisfactory" for "satisfactory data available".

Subsec. (c). Pub. L. 102–375, §304(b), inserted "or the Commissioner does not approve the funding formula required under section 3025(a)(2)(C) of this title" after "requirements of section 3027 of this title".

Subsec. (d)(1)(C). Pub. L. 102–375, §304(c), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "after September 30, 1986, such amount (excluding any amount attributable to funds appropriated under section 3023(a)(3) of this title) as the State agency determines to be adequate, but not more than 1 percent, for conducting effective demonstration projects in health and nutrition education under section 3027(f) of this title shall be available for conducting such projects; and".

Subsec. (e). Pub. L. 102–375, §304(d), added subsec. (e).

1987—Subsec. (a)(1). Pub. L. 100–175, §155(c)(1), substituted "paragraphs (2) and (3)" for "paragraph (2)" and "purposes of paragraph (3) and" for "purpose of".

Subsec. (a)(3), (4). Pub. L. 100–175, §155(c)(2), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(1). Pub. L. 100–175, §182(f), inserted a comma after "section 3028(b) of this title".

Subsec. (d)(1)(A). Pub. L. 100–175, §123, substituted "10 percent" for "8.5 percent".

Subsec. (d)(1)(B), (C). Pub. L. 100–175, §155(d), inserted "(excluding any amount attributable to funds appropriated under section 3023(a)(3) of this title)" after "amount".

1984—Subsec. (a)(1). Pub. L. 98–459, §304(a)(1)–(5), substituted "Subject to paragraph (2), from" for "From", substituted "under section 3023 of this title" for "under parts B and C", substituted "Commonwealth of the Northern Mariana Islands" for "Northern Mariana Islands" in two places, substituted "and (C)" for "(C)", and struck out "; and (D) no State shall be allotted an amount less than the State received for fiscal year 1978".

Subsec. (a)(2), (3). Pub. L. 98–459, §304(a)(6)–(8), added par. (2), redesignated former par. (2) as (3), and substituted "available to the Commissioner" for "available to him".

Subsec. (b). Pub. L. 98–459, §304(b), substituted "the Commissioner shall make" for "he shall make" and "to the extent the Commissioner determines" for "to the extent he determines".

Subsec. (c). Pub. L. 98–459, §304(c), substituted "subsection (d)(1)(D)" for "subsection (d)(1)(B)" and "or in-kind resources" for "for in-kind resources".

Subsec. (d)(1). Pub. L. 98–459, §304(d), inserted ", after the application of section 3028(b) of this title" in provisions before par. (1), added subpar. (C), and redesignated former subpar. (C) as (D).

1981—Subsec. (a)(1). Pub. L. 97–115, §4(a), substituted "under parts B and C for each fiscal year" for "under parts B and C for fiscal years 1979, 1980, and 1981".

Subsec. (d)(1)(B). Pub. L. 97–115, §4(c)(3), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (d)(1)(C). Pub. L. 97–115, §4(b), (c)(2), redesignated subpar. (B) as (C) and substituted "85 percent of the cost of supportive services, senior centers, and nutrition services under this subchapter" for "90 percent in fiscal years 1979 and 1980, and 85 percent in fiscal year 1981, of the cost of social services and nutrition

services authorized under parts B and C".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–131, title II, §204(b), Mar. 25, 2020, 134 Stat. 256, provided that: "Section 304(a)(3)(D) (42 U.S.C. 3024(a)(3)(D)) is repealed, effective October 1, 2029."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 304 (excluding pars. (1) and (2) of subsec. (a)) of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 304 of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(2) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3025. Designation of State agencies

(a) Duties of designated agency

In order for a State to be eligible to participate in programs of grants to States from allotments under this subchapter—

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

(A) develop a State plan to be submitted to the Assistant Secretary for approval under section 3027 of this title;

(B) administer the State plan within such State;

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

(D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and

(E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Assistant Secretary, after considering the geographical distribution of older individuals in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, the distribution of older individuals who have greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to

low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas, the distribution of older individuals who are Indians residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors;

(2) the State agency shall—

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

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

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

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

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

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

(E) provide assurances that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and include proposed methods of carrying out the preference in the State plan;

(F) provide assurances that the State agency will require use of outreach efforts described in section 3027(a)(16) of this title; and

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

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

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

(3) the State agency shall, consistent with this section, promote the development and implementation of a State system of long-term care that is a comprehensive, coordinated system that enables older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of the older individuals and their family caregivers, by—

(A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;

(B) participating in any State government activities concerning long-term care, including

reviewing and commenting on any State rules, regulations, and policies related to long-term care;

(C) conducting analyses and making recommendations with respect to strategies for modifying the State system of long-term care to better—

(i) respond to the needs and preferences of older individuals and family caregivers;

(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

(iii) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(D) implementing (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

(E) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—

(i) the need to plan in advance for long-term care; and

(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources.

(b) Planning and service areas

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

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

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

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

area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Assistant Secretary deems appropriate.

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

(B) Whenever a State agency designates a new area agency on aging after October 9, 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if (i) such unit can meet the requirements of subsection (c), and (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) procedural grounds.

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

(c) Eligible State area agencies; development of area; preferred area agency on aging designees

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

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

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

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

(4) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, which is under the supervision or direction for this

purpose of the designated State agency and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such planning and service area; or

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

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

(d) Publication for review and comment; contents

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

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

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

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

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

(Pub. L. 89–73, title III, §305, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1520; amended Pub. L. 97–115, §§3(d), 5, Dec. 29, 1981, 95 Stat. 1597; Pub. L. 98–459, title III, §305, Oct. 9, 1984, 98 Stat. 1773; Pub. L. 100–175, title I, §§124, 132(a), 134(a)(1), 182(e)(2), (g), (h), Nov. 29, 1987, 101 Stat. 933, 939, 940, 965; Pub. L. 100–628, title VII, §705(4), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(b)(9)(B), (10)(B)–(D), title III, §305, title IX, §904(a)(11), Sept. 30, 1992, 106 Stat. 1201, 1202, 1222, 1306; Pub. L. 103–171, §§2(8), 3(a)(13), Dec. 2, 1993, 107 Stat. 1988, 1990; Pub. L. 106–501, title III, §304, title VIII, §801(c)(3), Nov. 13, 2000, 114 Stat. 2239, 2292; Pub. L. 109–365, title III, §305, Oct. 17, 2006, 120 Stat. 2539; Pub. L. 114–144, §4(c), Apr. 19, 2016, 130 Stat. 338.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3025, Pub. L. 89–73, title III, §305, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 41; Pub. L. 94–135, title I, §§106(a), (b), 114(e), Nov. 28, 1975, 89 Stat. 715, 725, related to State plans, prior to the general amendment of this subchapter by Pub. L. 95–478. See section 3027 of this title.

Another prior section 3025, Pub. L. 89–73, title III, §306, formerly §305, July 14, 1965, 79 Stat. 224; renumbered §306, Pub. L. 91–69, §5, Sept. 17, 1969, 83 Stat. 110, related to payments of grants for State and community programs on aging, adjustments, advances or reimbursement, and installments, prior to repeal by Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 36.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, §304, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 38; Pub. L. 94–135, title I, §§105, 106(c), Nov. 28, 1975, 89 Stat. 715, 716, which was classified to section 3024 of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2016—Subsec. (b)(5)(C)(i)(III). Pub. L. 114–144 substituted "planning and service areas" for "planning and services areas".

2006—Subsec. (a)(1)(E). Pub. L. 109–365, §305(1)(A), substituted "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" in two places.

Subsec. (a)(2)(E). Pub. L. 109–365, §305(2)(A), substituted "(with particular attention to low-income older

individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for ", with particular attention to low-income minority individuals and older individuals residing in rural areas".

Subsec. (a)(3). Pub. L. 109–365, §305(1)(B), (2)(B), (3), added par. (3).

2000—Subsec. (a)(1)(E). Pub. L. 106–501, §304(1), inserted "and older individuals residing in rural areas" after "low-income minority individuals" in two places.

Subsec. (a)(2)(E). Pub. L. 106–501, §304(2)(A), struck out comma and inserted "and older individuals residing in rural areas," after "low-income minority individuals".

Subsec. (a)(2)(F). Pub. L. 106–501, §801(c)(3), substituted "3027(a)(16)" for "3027(a)(24)".

Subsec. (a)(2)(G)(i). Pub. L. 106–501, §304(2)(B), inserted "and older individuals residing in rural areas" after "low-income minority older individuals".

Subsec. (a)(2)(G)(ii). Pub. L. 106–501, §304(2)(C), which directed the insertion of "and older individuals residing in rural areas" after "low-income minority individuals", was executed by making the insertion after "low-income minority older individuals", to reflect the probable intent of Congress.

1993—Subsec. (a). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

Subsec. (b)(1). Pub. L. 103–171, §2(8), substituted "area under subsection (a)(1)" for "area under clause (1) of subsection (a)" and "designated under subsection (a)(1)" for "designated under clause (1) of subsection (a)".

Subsec. (b)(2). Pub. L. 103–171, §2(8), substituted "requirement of subsection (a)(1)" for "requirement of clause (1) of subsection (a)".

Subsec. (b)(3) to (5). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a)(1)(C). Pub. L. 102–375, §305(a)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "be primarily responsible for the coordination of all State activities related to the purposes of this chapter;".

Subsec. (a)(1)(D). Pub. L. 102–375, §904(a)(11)(A)(i)(I), substituted "older individuals" for "the elderly" wherever appearing.

Subsec. (a)(1)(E). Pub. L. 102–375, §904(a)(11)(A)(i)(II), (III), inserted "individuals who are" before "Indians" and substituted "older individuals" for "individuals aged 60 and older".

Subsec. (a)(2). Pub. L. 102–375, §904(a)(11)(A)(ii)(I), which directed the substitution of "subparagraph" for "clause", could not be executed because of the intervening amendment by Pub. L. 102–375, §102(b)(9)(B). See below.

Pub. L. 102–375, §102(b)(9)(B), struck out "designated under clause (1)" after "agency" in introductory provisions.

Subsec. (a)(2)(C). Pub. L. 102–375, §305(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "develop a formula, in accordance with guidelines issued by the Commissioner, for the distribution within the State of funds received under this subchapter, taking into account, to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged 60 and older in the State, and publish such formula for review and comment in accordance with subsection (d) of this section;".

Subsec. (a)(2)(D). Pub. L. 102–375, §904(a)(11)(A)(ii)(II), substituted "subparagraph" for "subclause".

Pub. L. 102–375, §305(a)(2)(B), substituted "for approval" for "for review and comment".

Subsec. (a)(2)(E). Pub. L. 102–375, §904(a)(11)(A)(ii)(III), substituted "greatest economic need and older individuals with greatest social need" for "the greatest economic or social needs".

Pub. L. 102–375, §305(a)(2)(C), struck out "and" at end.

Subsec. (a)(2)(F). Pub. L. 102–375, §305(a)(2)(D), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: "assure the use of outreach efforts that will identify individuals eligible for assistance under this chapter, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance."

Subsec. (a)(2)(G). Pub. L. 102–375, §305(a)(2)(E), added subpar. (G).

Subsec. (b)(1). Pub. L. 102–375, §904(a)(11)(B)(i), substituted "requirement of subsection (a)(1)" for "requirement of clause (1) of subsection (a)".

Subsec. (b)(2). Pub. L. 102–375, §904(a)(11)(B)(ii), substituted "designated under subsection (a)(1)" for "designated under such clause".

Subsec. (b)(4). Pub. L. 102–375, §904(a)(11)(B)(i), substituted "subsection (a)(1)" for "clause (1) of subsection (a)".

Subsec. (b)(5)(A). Pub. L. 102–375, §102(b)(10)(B), substituted "area agency on aging" for "area agency"

in two places.

Subsec. (b)(5)(C). Pub. L. 102–375, §305(b), added subpar. (C).

Subsec. (c). Pub. L. 102–375, §102(b)(10)(D), substituted "area agency on aging" for "area agency" in concluding provisions of first sentence.

Subsec. (c)(2). Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (d). Pub. L. 102–375, §904(a)(11)(C), substituted "paragraph" for "clause" in introductory provisions.

1988—Subsec. (a)(1)(E). Pub. L. 100–628, §705(4)(A), substituted "such areas," for "such areas,," before "distribution of resources".

Subsec. (d). Pub. L. 100–628, §705(4)(B), redesignated subpars. (A), (B), (C), and (D) as pars. (1), (2), (3), and (4), respectively.

1987—Subsec. (a)(1)(E). Pub. L. 100–175, §§132(a)(1), 134(a)(1), 182(g), substituted "the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas," for "the distribution of older individuals who have low incomes residing in such areas", inserted "the distribution of older Indians residing in such areas," after second reference to "such areas,", and substituted "legal assistance" for "legal services".

Subsec. (a)(2)(C). Pub. L. 100–175, §182(h), inserted "in accordance with subsection (d) of this section" before semicolon at end.

Subsec. (a)(2)(F). Pub. L. 100–175, §132(a)(2), added subpar. (F).

Subsec. (c)(2). Pub. L. 100–175, §124(1), inserted "to function only" after "designated".

Subsec. (c)(3). Pub. L. 100–175, §124(2), inserted "only" after "to act".

Subsec. (c)(4). Pub. L. 100–175, §124(3), inserted ", or any separate organizational unit within such agency," after first reference to "area" and substituted "and will engage only" for "engage".

Subsec. (d). Pub. L. 100–175, §182(e)(2), struck out par. (1) designation before "The publication for review" and struck out par. (2) which read as follows: "For purposes of clause (2)(E) of subsection (a) of this section and paragraph (1) of this subsection, the term 'greatest economic need' means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census, and the term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens his or her capacity to live independently."

1984—Subsec. (a)(1)(E). Pub. L. 98–459, §305(a)(1), substituted "subsection (b)(5)(A)" for "subsection (b)(5)".

Subsec. (a)(2)(E). Pub. L. 98–459, §305(a)(2), inserted ", with particular attention to low-income minority individuals,".

Subsec. (b)(3). Pub. L. 98–459, §305(b)(1), substituted "the Commissioner shall adjust" for "he shall adjust".

Subsec. (b)(5). Pub. L. 98–459, §305(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d). Pub. L. 98–459, §305(c), added subsec. (d).

1981—Subsec. (a)(1)(E). Pub. L. 97–115, §§3(d), 5(a), substituted "divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5), designate the entire State as a single planning and service area)" for "divide the State into distinct areas" and "supportive services" for "social services" in two places.

Subsec. (a)(2)(A). Pub. L. 97–115, §5(b), substituted "except as provided in subsection (b)(5), designate for each such area" for "determine for which planning and service area an area plan will be developed, in accordance with section 3026 of this title, and for each such area designate,".

Subsec. (a)(2)(B). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

Subsec. (b)(5). Pub. L. 97–115, §5(c), added par. (5).

Subsec. (c)(4). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

Subsec. (c)(5). Pub. L. 97–115, §5(d), added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 305 of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 305 of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(2) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3026. Area plans

(a) Preparation and development by area agency on aging; requirements

Each area agency on aging designated under section 3025(a)(2)(A) of this title shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 3027(a)(1) of this title. Each such plan shall—

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

(2) provide assurances that an adequate proportion, as required under section 3027(a)(2) of this title, of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, health services (including mental and behavioral health services), outreach, information and assistance (which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible), and case management services);

(B) in-home services, including supportive services for families of older individuals with

Alzheimer's disease and related disorders with neurological and organic brain dysfunction); [1] and

(C) legal assistance;

and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(C)) as such focal point; and

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

(4)(A)(i)(I) provide assurances that the area agency on aging will—

(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

(bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

(II) include proposed methods to achieve the objectives described in items (aa) and (bb) of subclause (I);

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

(I) specify how the provider intends to satisfy the service needs of low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in the area served by the provider;

(II) to the maximum extent feasible, provide services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas in accordance with their need for such services; and

(III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas within the planning and service area; and

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

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

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

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

(B) provide assurances that the area agency on aging will use outreach efforts that will—

(i) identify individuals eligible for assistance under this chapter, with special emphasis on—

(I) older individuals residing in rural areas;

(II) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);

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

(IV) older individuals with severe disabilities;

(V) older individuals with limited English proficiency;

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

(VII) older individuals at risk for institutional placement, specifically including survivors of the Holocaust; and

(ii) inform the older individuals referred to in subclauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and

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

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

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

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

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

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

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

(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) [2] for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

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

(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;

and that meet the requirements under section 9910 of this title;

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

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

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

(ii) entities conducting other Federal programs for older individuals at the local level, with

particular emphasis on entities conducting programs described in section 3013(b) of this title, within the area;

(F) in coordination with the State agency and with the State agency responsible for mental and behavioral health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental and behavioral health services (including mental health screenings) provided with funds expended by the area agency on aging with mental and behavioral health services provided by community health centers and by other public agencies and nonprofit private organizations;

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

(H) in coordination with the State agency and with the State agency responsible for elder abuse prevention services, increase public awareness of elder abuse, neglect, and exploitation, and remove barriers to education, prevention, investigation, and treatment of elder abuse, neglect, and exploitation, as appropriate; and

(I) to the extent feasible, coordinate with the State agency to disseminate information about the State assistive technology entity and access to assistive technology options for serving older individuals;

(7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

(i) respond to the needs and preferences of older individuals and family caregivers;

(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

(i) the need to plan in advance for long-term care; and

(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;

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

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

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

(C) be provided by a public agency or a nonprofit private agency that—

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

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

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

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

(9) provide assurances that—

(A) the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 3027(a)(9) of this title, will expend not less than the total amount of funds appropriated under this chapter and expended by the agency in fiscal year 2019 in carrying out such a program under this subchapter; and

(B) funds made available to the area agency on aging pursuant to section 3058g of this title shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in section 3058g of this title;

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

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

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

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

(C) an assurance that the area agency on aging will make services under the area plan available, to the same extent as such services are available to older individuals within the planning and service area, to older Native Americans; and [3]

(12) provide that the area agency on aging will establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 3013(b) of this title within the planning and service area.[4]

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

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

(B) disclose to the Assistant Secretary and the State agency—

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

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

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

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

(E) on the request of the Assistant Secretary or the State, for the purpose of monitoring

compliance with this chapter (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

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

(15) provide assurances that funds received under this subchapter will be used—

(A) to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and

(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 3020c of this title;

(16) provide, to the extent feasible, for the furnishing of services under this chapter, consistent with self-directed care;

(17) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery;

(18) provide assurances that the area agency on aging will collect data to determine—

(A) the services that are needed by older individuals whose needs were the focus of all centers funded under subchapter IV in fiscal year 2019; and

(B) the effectiveness of the programs, policies, and services provided by such area agency on aging in assisting such individuals; and

(19) provide assurances that the area agency on aging will use outreach efforts that will identify individuals eligible for assistance under this chapter, with special emphasis on those individuals whose needs were the focus of all centers funded under subchapter IV in fiscal year 2019.

(b) Assessment of preparation of area agencies

(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

(2) Such assessment may include—

(A) the projected change in the number of older individuals in the planning and service area;

(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

(A) health and human services;

(B) land use;

(C) housing;

(D) transportation;

(E) public safety;

(F) workforce and economic development;

(G) recreation;
(H) education;
(I) civic engagement;
(J) emergency preparedness;
(K) protection from elder abuse, neglect, and exploitation;
(L) assistive technology devices and services; and
(M) any other service as determined by such agency.

(c) Waiver of requirements

Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

(d) Transportation services; funds

(1) Subject to regulations prescribed by the Assistant Secretary, an area agency on aging designated under section 3025(a)(2)(A) of this title or, in areas of a State where no such agency has been designated, the State agency, may enter into agreements with agencies administering programs under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and titles XIX and XX of the Social Security Act [42 U.S.C. 1396 et seq., 1397 et seq.] for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this subchapter.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this subchapter may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and titles XIX and XX of the Social Security Act [42 U.S.C. 1396 et seq., 1397 et seq.].

(e) Confidentiality of information relating to legal assistance

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

(f) Withholding of area funds

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

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

(B) At a minimum, such procedures shall include procedures for—
(i) providing notice of an action to withhold funds;
(ii) providing documentation of the need for such action; and
(iii) at the request of the area agency on aging, conducting a public hearing concerning the action.

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

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

(g) No restriction on provision of services

Nothing in this chapter shall restrict an area agency on aging from providing services not provided or authorized by this chapter, including through—

(1) contracts with health care payers;

(2) consumer private pay programs; or

(3) other arrangements with entities or individuals that increase the availability of home- and community-based services and supports.

(Pub. L. 89–73, title III, §306, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1522; amended Pub. L. 97–115, §§3(d), 6, Dec. 29, 1981, 95 Stat. 1597, 1598; Pub. L. 98–459, title III, §306, Oct. 9, 1984, 98 Stat. 1774; Pub. L. 100–175, title I, §§104(c), 125–127, 130(a), 131(a), 132(b), 133, 134(a)(2), (b), 135, 136(b), 137(a), 140(b), 141(b), 143(b), 144(c), 155(e)(1), 182(e)(3), (i), (j), Nov. 29, 1987, 101 Stat. 930, 934, 938–944, 946, 947, 949, 952, 965; Pub. L. 100–628, title VII, §705(5), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(b)(4), (10)(C), (E), title III, §306, title IX, §904(a)(12), Sept. 30, 1992, 106 Stat. 1201, 1202, 1223, 1307; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 105–285, title II, §202(a), Oct. 27, 1998, 112 Stat. 2755; Pub. L. 106–501, title III, §305, Nov. 13, 2000, 114 Stat. 2240; Pub. L. 109–365, title III, §306, Oct. 17, 2006, 120 Stat. 2540; Pub. L. 114–144, §§4(d), 9(4), Apr. 19, 2016, 130 Stat. 338, 352; Pub. L. 116–131, title I, §§104(2), 118(b), title II, §§205, 206(1), 207(a), title VII, §701(8), Mar. 25, 2020, 134 Stat. 243, 246, 256, 257, 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(6)(C)(ii)(I), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, which was classified generally to chapter 34 (§2701 et seq.) of this title prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§2991 et seq.) and X (§2996 et seq.) of chapter 34 of this title. Section 210 of the Act was classified to section 2790 of this title prior to repeal by Pub. L. 97–35. For complete classification of this Act to the Code, see Tables.

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XX of the Act are classified generally to subchapters XIX (§1396 et seq.) and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 3026, Pub. L. 89–73, title III, §306, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 43; amended Pub. L. 94–135, title I, §107, Nov. 28, 1975, 89 Stat. 716, related to the planning, coordination, evaluation, and administration of State plans, prior to the general amendment of this subchapter by Pub. L. 95–478. See section 3028 of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, §304, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 38; amended Pub. L. 94–135, title I, §§105, 106(c), Nov. 28, 1975, 89 Stat. 715, 716, which was classified to section 3024 of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2020—Subsec. (a)(1). Pub. L. 116–131, §701(8)(A), inserted "the number of older individuals at risk for institutional placement residing in such area," before "and the number of older individuals who are Indians".

Subsec. (a)(2)(B). Pub. L. 116–131, §701(8)(B), substituted "with Alzheimer's disease" for "who are victims of Alzheimer's disease".

Subsec. (a)(4)(B)(i)(VII). Pub. L. 116–131, §205(1), inserted ", specifically including survivors of the Holocaust" after "placement".

Subsec. (a)(4)(B)(ii). Pub. L. 116–131, §205(2), substituted "(VII)" for "(VI)".

Subsec. (a)(6)(I). Pub. L. 116–131, §104(2)(A), added subpar. (I).

Subsec. (a)(9). Pub. L. 116–131, §206(1), amended par. (9) generally. Prior to amendment, par. (9) read as

follows: "provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 3027(a)(9) of this title, will expend not less than the total amount of funds appropriated under this chapter and expended by the agency in fiscal year 2000 in carrying out such a program under this subchapter;".

Subsec. (a)(18), (19). Pub. L. 116–131, §207(a), added pars. (18) and (19).

Subsec. (b)(3)(K). Pub. L. 116–131, §104(2)(B)(i), realigned margins and substituted semicolon for "; and" at end.

Subsec. (b)(3)(L), (M). Pub. L. 116–131, §104(2)(B)(ii), (iii), added subpar. (L) and redesignated former subpar. (L) as (M).

Subsec. (g). Pub. L. 116–131, §118(b), added subsec. (g).

2016—Subsec. (a)(1). Pub. L. 114–144, §4(d)(1)(A), substituted "establishment, maintenance, modernization, or construction of multipurpose senior centers (including a plan to use the skills and services of older individuals in paid and unpaid work, including multigenerational and older individual to older individual work)," for "establishment, maintenance, or construction of multipurpose senior centers,".

Subsec. (a)(2)(A). Pub. L. 114–144, §9(4)(A), inserted "and behavioral" after "mental".

Subsec. (a)(6)(F). Pub. L. 114–144, §9(4)(B), substituted "mental and behavioral health services" for "mental health services" wherever appearing.

Subsec. (a)(6)(H). Pub. L. 114–144, §4(d)(1)(B), added subpar. (H).

Subsec. (b)(3)(K), (L). Pub. L. 114–144, §4(d)(2), added subpar. (K) and redesignated former subpar. (K) as (L).

2006—Subsec. (a)(1). Pub. L. 109–365, §306(1)(A)(iii), which directed the insertion of "the number of older individuals at risk for institutional placement residing in such area," after "individuals) residing in such area,", was executed by making the insertion after "individuals residing in rural areas) residing in such area," to reflect the probable intent of Congress and amendments by Pub. L. 106–501, §305(a)(1) and Pub. L. 109–365, §306(1)(A)(ii). See notes below.

Pub. L. 109–365, §306(1)(A)(ii), which directed the substitution of "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "(with particular attention to low-income minority individuals)", was executed by making the substitution for "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" the second place that phrase appeared, to reflect the probable intent of Congress and amendment by Pub. L. 106–501, §305(a)(1). See 2000 Amendment note below.

Pub. L. 109–365, §306(1)(A)(i), substituted "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "(with particular attention to low-income minority individuals and older individuals residing in rural areas)", the first place that phrase appeared.

Subsec. (a)(2)(A). Pub. L. 109–365, §306(1)(B), inserted "health services (including mental health services)," after "transportation," and "(which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible)" after "information and assistance".

Subsec. (a)(4)(A)(i). Pub. L. 109–365, §306(1)(C)(i)(I), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "provide assurances that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need and older individuals with greatest social need, include specific objectives for providing services to low-income minority individuals and older individuals residing in rural areas, and include proposed methods of carrying out the preference in the area plan;".

Subsec. (a)(4)(A)(ii). Pub. L. 109–365, §306(1)(C)(i)(II), inserted ", older individuals with limited English proficiency," after "low-income minority individuals" in subcls. (I) to (III).

Subsec. (a)(4)(B). Pub. L. 109–365, §306(1)(C)(ii)(I), realigned margins.

Subsec. (a)(4)(B)(i)(V). Pub. L. 109–365, §306(1)(C)(ii)(II)(aa), substituted "with limited English proficiency;" for "with limited English-speaking ability; and".

Subsec. (a)(4)(B)(i)(VI). Pub. L. 109–365, §306(1)(C)(ii)(II)(bb), substituted "and related" for "or related".

Subsec. (a)(4)(B)(i)(VII). Pub. L. 109–365, §306(1)(C)(ii)(II)(cc), added subcl. (VII).

Subsec. (a)(5). Pub. L. 109–365, §306(1)(D), inserted "and individuals at risk for institutional placement" after "severe disabilities".

Subsec. (a)(6)(C)(iii). Pub. L. 109–365, §306(1)(E)(i), added cl. (iii).

Subsec. (a)(6)(D). Pub. L. 109–365, §306(1)(E)(ii), inserted "family caregivers of such individuals," after "chapter," and "service providers, representatives of the business community," after "older individuals,".

Subsec. (a)(6)(F). Pub. L. 109–365, §306(1)(E)(iii), amended subpar. (F) generally. Prior to amendment,

subpar. (F) read as follows: "coordinate any mental health services provided with funds expended by the area agency on aging for part B of this subchapter with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations; and".

Subsec. (a)(7). Pub. L. 109–365, §306(1)(F), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "provide that the area agency on aging will facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including—

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

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

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

Subsec. (a)(14) to (17). Pub. L. 109–365, §306(1)(G)–(I), added pars. (15) to (17), redesignated former par. (16) as (14), and struck out former pars. (14) and two pars. (15) which read as follows:

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

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

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

Subsecs. (b) to (f). Pub. L. 109–365, §306(2), (3), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

2000—Subsec. (a)(1). Pub. L. 106–501, §305(a)(1), inserted "and older individuals residing in rural areas" after "low-income minority individuals" in two places.

Subsec. (a)(2). Pub. L. 106–501, §305(a)(2)(A), (C), in introductory provisions substituted "section 3027(a)(2)" for "section 3027(a)(22)" and, in concluding provisions, substituted "and assurances that the area agency on aging will report annually to the State agency" for "and specify annually in such plan, as submitted or as amended,".

Subsec. (a)(2)(B). Pub. L. 106–501, §305(a)(2)(B), substituted "services, including" for "services (homemaker and home health aide, visiting and telephone reassurance, chore maintenance, and".

Subsec. (a)(3)(A). Pub. L. 106–501, §305(a)(3), substituted "paragraph (6)(C)" for "paragraph (6)(E)(ii)".

Subsec. (a)(4). Pub. L. 106–501, §305(a)(4), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "provide for the establishment and maintenance of information and assistance services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services, with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders);".

Subsec. (a)(4)(A)(i). Pub. L. 106–501, §305(a)(5), inserted "and older individuals residing in rural areas" after "low-income minority individuals".

Subsec. (a)(4)(A)(ii)(I) to (III). Pub. L. 106–501, §305(a)(6), inserted "and older individuals residing in rural areas" after "low-income minority individuals".

Subsec. (a)(4)(B)(i)(II), (III). Pub. L. 106–501, §305(a)(7), inserted "and older individuals residing in rural areas" after "low-income minority individuals".

Subsec. (a)(4)(C). Pub. L. 106–501, §305(a)(8), inserted "and older individuals residing in rural areas" after "low-income minority older individuals".

Subsec. (a)(5). Pub. L. 106–501, §305(a)(9), added par. (5). Former par. (5) redesignated (4).

Subsec. (a)(6)(A). Pub. L. 106–501, §305(a)(10)(A), (B), redesignated subpar. (C) as (A) and struck out former subpar. (A) which read as follows: "conduct periodic evaluations of, and public hearings on, activities carried out under the area plan and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B);".

Subsec. (a)(6)(B). Pub. L. 106–501, §305(a)(10)(A), (B), redesignated subpar. (D) as (B) and struck out former subpar. (B) which read as follows: "furnish appropriate technical assistance, and timely information in a timely manner, to providers of supportive services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;".

Subsec. (a)(6)(C). Pub. L. 106–501, §305(a)(10)(B), (C), redesignated subpar. (E) as (C) and substituted ", assistance to older individuals caring for relatives who are children" for "or adults" in cl. (i). Former subpar.

(C) redesignated (A).

Subsec. (a)(6)(D). Pub. L. 106–501, §305(a)(10)(B), (D), redesignated subpar. (F) as (D) and inserted "and older individuals residing in rural areas" after "minority individuals". Former subpar. (D) redesignated (B).

Subsec. (a)(6)(E). Pub. L. 106–501, §305(a)(10)(B), redesignated subpar. (H) as (E). Former subpar. (E) redesignated (C).

Subsec. (a)(6)(F). Pub. L. 106–501, §305(a)(10)(B), (E), redesignated subpar. (M) as (F) and inserted "and" after semicolon at end. Former subpar. (F) redesignated (D).

Subsec. (a)(6)(G). Pub. L. 106–501, §305(a)(10)(A), (B), redesignated subpar. (N) as (G) and struck out former subpar. (G) which read as follows: "develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under paragraph (2);".

Subsec. (a)(6)(H). Pub. L. 106–501, §305(a)(10)(B), redesignated subpar. (H) as (E).

Subsec. (a)(6)(I) to (L). Pub. L. 106–501, §305(a)(10)(A), struck out subpars. (I) to (L) which read as follows:

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

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

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

"(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B of this subchapter, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims;".

Subsec. (a)(6)(M), (N). Pub. L. 106–501, §305(a)(10)(B), redesignated subpars. (M) and (N) as (F) and (G), respectively.

Subsec. (a)(6)(O) to (S). Pub. L. 106–501, §305(a)(10)(A), struck out subpars. (O) to (S) which provided that each area plan provide that the area agency on aging would: in subpar. (O), compile information on institutions of higher education in planning and service area, in subpar. (P), establish grievance procedure for older individuals dissatisfied with or denied services under this subchapter, in subpar. (Q), enter into voluntary arrangements with nonprofit entities that provide housing to older individuals, in subpar. (R), list telephone number of agency in each telephone directory published by provider of local telephone service, for residents in any geographical area that lay in whole or in part in service and planning area served by agency, and, in subpar. (S), identify needs of older individuals and describe methods area agency on aging would use to coordinate planning and delivery of transportation services to assist older individuals, including those with special needs.

Subsec. (a)(7) to (12). Pub. L. 106–501, §305(a)(11), added pars. (7) to (12) and struck out former pars. (7) to (12) which required each area plan: in pars. (7) to (10): to provide assurances that any amount received under parts D to G of this subchapter would be expended in accordance with such parts, in par. (11) to provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 3027(a)(12) of this title, would expend not less than the amount of funds expended in fiscal year 1991, and, in par. (12), to provide an area volunteer services coordinator in the discretion of the area agency on aging.

Subsec. (a)(13). Pub. L. 106–501, §305(a)(11), (12), redesignated par. (14) as (13) and struck out former par. (13) which read as follows:

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

"(B) provide an assurance that the activities conform with—

"(i) the responsibilities of the area agency on aging, as set forth in this subsection; and

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

Subsec. (a)(14). Pub. L. 106–501, §305(a)(13), added par. (14). Former par. (14) redesignated (13).

Subsec. (a)(15). Pub. L. 106–501, §305(a)(13), added par. (15) relating to assurances that preference in receiving services under this subchapter would not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship not being carried out to implement this subchapter.

Subsec. (a)(17) to (20). Pub. L. 106–501, §305(a)(14), struck out pars. (17) to (20) which required each area plan to provide: in par. (17), assurances that projects in the planning and service area would reasonably accommodate particular dietary needs of participants, in par. (18), assurances that the area agency on aging

would coordinate its services under this subchapter with services provided under subchapter X of this chapter, in par. (19), assurance that the area agency on aging would pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, and, in par. (20), that case management services provided under this subchapter through the area agency on aging would be coordinated with and not duplicate other Federal and State programs and would be provided by a public agency or a nonprofit private agency either not providing services other than case management services or located in a rural area and having obtained a waiver of that requirement.

Subsec. (b). Pub. L. 106–501, §305(b), struck out par. (1) designation before "Each State", inserted "and had conducted a timely public hearing upon request" before period at end, and struck out par. (2) which related to public notice and hearing requirements applicable to an area agency on aging before it could request a waiver of the requirement described in subsec. (a)(2) and requirements of a State agency with regard to granting the waiver to an area agency on aging.

1998—Subsec. (a)(6)(E)(ii). Pub. L. 105–285 substituted "section 9910 of this title" for "section 9904(c)(3) of this title" in concluding provisions.

1993—Subsecs. (a)(6)(R)(iii), (14)(B), (E), (b)(2)(D), (c)(1). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

1992—Subsec. (a)(1). Pub. L. 102–375, §904(a)(12)(A)(i), inserted "individuals who are" before "Indians".

Subsec. (a)(2)(A). Pub. L. 102–375, §306(a), substituted ", information and assistance, and case management services" for ", and information and assistance".

Pub. L. 102–375, §102(b)(4), substituted "information and assistance" for "information and referral".

Subsec. (a)(2)(B). Pub. L. 102–375, §904(a)(12)(A)(ii), substituted "older individuals who are" for "elderly".

Subsec. (a)(3). Pub. L. 102–375, §306(b), designated existing provisions as subpar. (A), inserted "(including multipurpose senior centers operated by organizations referred to in paragraph (6)(E)(ii))" after "centers", and added subpar. (B).

Subsec. (a)(4). Pub. L. 102–375, §306(c)(1), inserted before semicolon at end ", with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders)".

Pub. L. 102–375, §102(b)(4), substituted "information and assistance" for "information and referral".

Subsec. (a)(5)(A)(i). Pub. L. 102–375, §904(a)(12)(A)(iii), substituted "greatest economic need and older individuals with greatest social need" for "the greatest economic or social needs".

Pub. L. 102–375, §306(c)(2)(A)(i), substituted "the area agency on aging will set specific objectives for" for "preference will be given to" and "include specific objectives for providing services" for "with particular attention".

Subsec. (a)(5)(A)(ii). Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (a)(5)(A)(ii)(I). Pub. L. 102–375, §306(c)(2)(A)(ii)(I), struck out "and" at end.

Subsec. (a)(5)(ii)(II). Pub. L. 102–375, §306(c)(2)(A)(ii)(II), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: "attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and".

Subsec. (a)(5)(A)(ii)(III). Pub. L. 102–375, §306(c)(2)(A)(ii)(III), added subcl. (III).

Subsec. (a)(5)(A)(iii)(III). Pub. L. 102–375, §306(c)(2)(A)(iii), added subcl. (III).

Subsec. (a)(5)(B). Pub. L. 102–375, §306(c)(2)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "assure the use of outreach efforts that will identify individuals eligible for assistance under this chapter, with special emphasis on rural elderly, older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals), and older individuals with severe disabilities, and inform such individuals of the availability of such assistance;".

Subsec. (a)(5)(C). Pub. L. 102–375, §306(c)(2)(C), added subpar. (C).

Subsec. (a)(6)(B). Pub. L. 102–375, §306(d)(1), inserted ", and timely information in a timely manner," after "assistance".

Subsec. (a)(6)(D). Pub. L. 102–375, §904(a)(12)(A)(iv)(I), substituted "older individuals" for "the elderly" in two places.

Pub. L. 102–375, §306(d)(2), inserted "(in cooperation with agencies, organizations, and individuals participating in activities under the plan)" after "community by".

Subsec. (a)(6)(E). Pub. L. 102–375, §306(d)(3), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(6)(F). Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (a)(6)(G). Pub. L. 102–375, §904(a)(12)(A)(iv)(II), substituted "paragraph" for "clause".

Subsec. (a)(6)(H). Pub. L. 102–375, §306(d)(4), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: "establish effective and efficient procedures for coordination between the programs assisted under this subchapter and programs described in section 3013(b) of this title;".

Subsec. (a)(6)(I). Pub. L. 102–375, §306(d)(5), substituted "include the development of case management services as a component of the long-term care services" for "emphasize the development of client-centered case management systems as a component of such services".

Subsec. (a)(6)(N). Pub. L. 102–375, §904(a)(12)(A)(iv)(IV), which directed substitution of "such individuals in such area and shall inform such individuals" for "elder Indians in such area and shall inform such older Indians", was executed by making the substitution for "older Indians in such area and shall inform such older Indians" to reflect the probable intent of Congress.

Pub. L. 102–375, §§102(b)(10)(E), 904(a)(12)(A)(iv)(III), substituted "population of older individuals who are Indians" for "population of older Indians" and "area agency on aging" for "area agency" in two places.

Subsec. (a)(6)(O)(ii). Pub. L. 102–375, §306(d)(6), struck out "and" at end.

Subsec. (a)(6)(P) to (S). Pub. L. 102–375, §306(d)(7), (8), added subpars. (P) to (S) and struck out former subpar. (P) which read as follows: "with funds and information received under section 3027(a)(31) of this title from the State agency—

"(i) carry out activities to identify older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act), medical assistance under title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977;

"(ii) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits; and

"(iii) assist older individuals to apply for such assistance and such benefits;".

Subsec. (a)(11). Pub. L. 102–375, §306(e), added par. (11).

Subsec. (a)(12) to (20). Pub. L. 102–375, §306(f), added pars. (12) to (20).

Subsec. (b)(1). Pub. L. 102–375, §904(a)(12)(B)(i), inserted "on aging" before "plans" and substituted "paragraph" for "clause" in two places.

Subsec. (b)(2)(C). Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (b)(2)(D). Pub. L. 102–375, §904(a)(12)(B)(ii), substituted "paragraph" for "clause".

Subsec. (e). Pub. L. 102–375, §306(g), added subsec. (e).

1988—Subsec. (a)(1). Pub. L. 100–628 substituted "such area," for "such area,," before "and the number of older Indians".

1987—Subsec. (a). Pub. L. 100–175, §182(e)(3), struck out last sentence which read as follows: "For purposes of clause (5)(A), the term 'greatest economic need' means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census and the term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently."

Subsec. (a)(1). Pub. L. 100–175, §134(a)(2), inserted ", and the number of older Indians residing in such area," before last reference to "and" in parenthetical.

Pub. L. 100–175, §132(b)(1), inserted ", the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area," after "residing in such area".

Subsec. (a)(2). Pub. L. 100–175, §130(a)(1), inserted ", as required under section 3027(a)(22) of this title," after "adequate proportion".

Subsec. (a)(2)(B). Pub. L. 100–175, §182(j), substituted "related disorders with neurological and organic brain dysfunction" for "other neurological and organic brain disorders of the Alzheimer's type".

Subsec. (a)(5)(A). Pub. L. 100–175, §131(a), designated existing provisions as cl. (i) and added cls. (ii) and (iii).

Subsec. (a)(5)(B). Pub. L. 100–175, §136(b), inserted "and older individuals with severe disabilities," after second reference to "individuals),".

Pub. L. 100–175, §132(b)(2), inserted "older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals)," after "rural elderly".

Subsec. (a)(6)(A). Pub. L. 100–175, §§125, 132(b)(3), inserted ", and public hearings on," after

"evaluations of" and "and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B)" before semicolon at end.

Subsec. (a)(6)(E). Pub. L. 100–175, §126, inserted "or adults, and respite for families," after "for children" and ", adults, and families" after "to children".

Subsec. (a)(6)(F). Pub. L. 100–175, §104(c), inserted "providers of veterans' health care (if appropriate)," after "elected officials,".

Subsec. (a)(6)(G). Pub. L. 100–175, §182(i), struck out "and" after "clause (2);".

Subsec. (a)(6)(L). Pub. L. 100–175, §127, added subpar. (L).

Subsec. (a)(6)(M). Pub. L. 100–175, §133, added subpar. (M).

Subsec. (a)(6)(N). Pub. L. 100–175, §134(b), added subpar. (N).

Subsec. (a)(6)(O). Pub. L. 100–175, §135, added subpar. (O).

Subsec. (a)(6)(P). Pub. L. 100–175, §155(e)(1), added subpar. (P).

Subsec. (a)(7). Pub. L. 100–175, §140(b), added par. (7).

Subsec. (a)(8). Pub. L. 100–175, §141(b), added par. (8).

Subsec. (a)(9). Pub. L. 100–175, §143(b), added par. (9).

Subsec. (a)(10). Pub. L. 100–175, §144(c), added par. (10).

Subsec. (b)(2)(C), (D). Pub. L. 100–175, §130(a)(2), added subpars. (C) and (D).

Subsec. (d). Pub. L. 100–175, §137(a), added subsec. (d).

1984—Subsec. (a). Pub. L. 98–459, §306(a)(5)(E), inserted provisions defining "greatest economic need" and "greatest social need" following par. (6).

Subsec. (a)(1). Pub. L. 98–459, §306(a)(1), inserted "and the efforts of voluntary organizations in the community".

Subsec. (a)(2). Pub. L. 98–459, §306(a)(2)(A), inserted "each of the following categories of services" in provisions preceding subpar. (A).

Pub. L. 98–459, §306(a)(2)(D), substituted "and specify annually in such plan, as submitted or as amended, in detail the amount of funds expended for each such category during the fiscal year most recently concluded" for "and that some funds will be expended for each such category of services" in provisions following subpar. (C).

Subsec. (a)(2)(B). Pub. L. 98–459, §306(a)(2)(B), substituted "chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and other neurological and organic brain disorders of the Alzheimer's type" for "and chore maintenance".

Subsec. (a)(2)(C). Pub. L. 98–459, §306(a)(2)(C), substituted "legal assistance" for "legal services".

Subsec. (a)(3). Pub. L. 98–459, §306(a)(3), substituted ", giving special consideration" for "to encourage the maximum collocation and coordination of services for older individuals, and give special consideration".

Subsec. (a)(5)(A). Pub. L. 98–459, §306(a)(4), inserted ", with particular attention to low-income minority individuals,".

Subsec. (a)(6)(F). Pub. L. 98–459, §306(a)(5)(A), (B), (D), redesignated subpar. (G) as (F), substituted "consisting of older individuals (including minority individuals)" for "consisting of older individuals", and struck out former subpar. (F) which had required the area agency on aging to enter, where possible, into arrangements with local educational agencies, institutions of higher education, and nonprofit private organizations, to use services provided for older individuals under the community schools program under the Elementary and Secondary Education Act of 1965.

Subsec. (a)(6)(G), (H). Pub. L. 98–459, §306(a)(5)(D), redesignated subpars. (H) and (I) as (G) and (H), respectively. Former subpar. (G) redesignated (F).

Subsec. (a)(6)(I). Pub. L. 98–459, §306(a)(5)(C)–(E), added subpar. (I). Former subpar. (I) redesignated (H).

Subsec. (a)(6)(J), (K). Pub. L. 98–459, §306(a)(5)(E), added subpars. (J) and (K).

Subsec. (b). Pub. L. 98–459, §306(b), designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (a). Pub. L. 97–115, §§3(d), 6(a), (b), substituted "for a two-, three-, or four-year period determined by the State agency," for "for a 3-year period" in provisions preceding par. (1), substituted "supportive services" for "social services" in par. (1) in three places, substituted "an adequate portion" for "at least 50 percent" in provisions of par. (2) preceding subpar. (A), and substituted "supportive services" for "social services" in par. (6)(B).

Subsec. (b). Pub. L. 97–115, §6(c), struck out par. (1) providing that each State, in approving area agency plans under this section, could, for fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of multipurpose senior centers which such agency could not meet because of the consolidation authorized by the Comprehensive Older Americans Act Amendments of 1978, except that the State agency could grant such a waiver only if the area agency demonstrated to the State

agency that it was taking steps to meet the requirements of this subchapter, but that in any event the State agency could not grant a waiver for any requirement of this chapter in effect on Sept. 30, 1978, struck out par. (2) designation, made mandatory the formerly discretionary waiver by each State, in approving area agency plans under this section, of the requirement described in clause (2) of subsection (a) of this section for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area, and struck out provisions that if the State agency granted a waiver with respect to any category, then the area agency had to expend under clause (2) of subsection (a) of this section a percentage of the amount allotted for part B to the planning and service area, for the categories with respect to which such waiver did not apply, that had been agreed upon by the State agency and the area agency.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 306 of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 306 of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(2) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of this title.

IMPLEMENTATION INFORMATION

Pub. L. 100–175, title I, §155(g), Nov. 29, 1987, 101 Stat. 954, directed Commissioner on Aging, not later than Sept. 1, 1988, to analyze and compile information on successful and unsuccessful activities carried out to conduct outreach of the type described in 42 U.S.C. 3026(a)(6)(P) and distribute such information to State agencies on aging for dissemination to interested area agencies on aging to assist such area agencies in designing outreach activities.

EVALUATION OF GUIDELINES

Pub. L. 100–175, title I, §155(h), Nov. 29, 1987, 101 Stat. 954, directed Commissioner on Aging to issue guidelines to be followed by State agencies on aging and area agencies on aging in conducting evaluations of outreach activities carried out under former subsec. (a)(6)(P) of this section that would ensure that such evaluations are based on uniform criteria that provide a basis for the valid comparison of such outreach activities conducted by the various area agencies.

[1] So in original. A closing parenthesis probably should not appear.

[2] See References in Text note below.

[3] So in original. The word "and" probably should not appear.

[4] *So in original. The period probably should be a semicolon.*

§3027. State plans

(a) Criteria for eligibility; contents

Except as provided in the succeeding sentence and section 3029(a) of this title, each State, in order to be eligible for grants from its allotment under this subchapter for any fiscal year, shall submit to the Assistant Secretary a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Assistant Secretary may by regulation prescribe. If the Assistant Secretary determines, in the discretion of the Assistant Secretary, that a State failed in 2 successive years to comply with the requirements under this subchapter, then the State shall submit to the Assistant Secretary a State plan for a 1-year period that meets such criteria, for subsequent years until the Assistant Secretary determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:

(1) The plan shall—

(A) require each area agency on aging designated under section 3025(a)(2)(A) of this title to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 3026 of this title; and

(B) be based on such area plans.

(2) The plan shall provide that the State agency will—

(A) evaluate, using uniform procedures described in section 3012(a)(26) of this title, the need for supportive services (including legal assistance pursuant to subsection (a)(11), information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;

(B) develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need;

(C) specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B that will be expended (in the absence of a waiver under section 3026(c) or 3030c–3 of this title) by such area agency on aging to provide each of the categories of services specified in section 3026(a)(2) of this title.

(3) The plan shall—

(A) include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 3025(d) of this title (concerning intrastate distribution of funds); and

(B) with respect to services for older individuals residing in rural areas—

(i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000;

(ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and

(iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.

(4) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this subchapter and subchapter XI, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities (with particular attention to low-income

minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas).

(5) The plan shall provide that the State agency will—

(A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agency on aging submitting a plan under this subchapter, to any provider of (or applicant to provide) services;

(B) issue guidelines applicable to grievance procedures required by section 3026(a)(10) of this title; and

(C) afford an opportunity for a public hearing, upon request, by any area agency on aging, by any provider of (or applicant to provide) services, or by any recipient of services under this subchapter regarding any waiver request, including those under section 3030c–3 of this title.

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

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

(B) The plan shall provide assurances that—

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

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

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

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

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

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

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

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

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

(9) The plan shall provide assurances that—

(A) the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 3058g of this title and this subchapter, and will expend for such purpose an amount that is not less than the amount expended by the State agency with funds received under this subchapter for fiscal year 2019, and an amount that is not less than the amount expended by the State agency with funds received under subchapter VII for fiscal year 2019; and

(B) funds made available to the State agency pursuant to section 3058g of this title shall be used to supplement and not supplant other Federal, State, and local funds expended to support

activities described in section 3058g of this title.

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

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

(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act [42 U.S.C. 2996 et seq.] (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and (iii) attempt to involve the private bar in legal assistance activities authorized under this subchapter, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

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

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

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

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

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

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

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

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

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

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

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

(C) all information gathered in the course of receiving reports and making referrals shall

remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.

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

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

(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.

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

(A) to utilize, in the delivery of outreach services under section 3026(a)(2)(A) of this title, the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

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

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

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

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

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

(i) older individuals residing in rural areas;

(ii) older individuals with greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);

(iii) older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);

(iv) older individuals with severe disabilities;

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

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

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

(17) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with

disabilities, including severe disabilities, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.

(18) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 3026(a)(7) of this title, for older individuals who—

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

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

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

(19) The plan shall include the assurances and description required by section 3058d(a) of this title.

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

(21) The plan shall—

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

(B) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this subchapter, if applicable, and specify the ways in which the State agency intends to implement the activities.

(22) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 3026(a)(8) of this title.

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

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

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

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

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

(26) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this chapter, consistent with self-directed care.

(27)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

(B) Such assessment may include—

(i) the projected change in the number of older individuals in the State;

(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

(28) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.

(29) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

(30) The plan shall contain an assurance that the State shall prepare and submit to the Assistant Secretary annual reports that describe—

(A) data collected to determine the services that are needed by older individuals whose needs were the focus of all centers funded under subchapter IV in fiscal year 2019;

(B) data collected to determine the effectiveness of the programs, policies, and services provided by area agencies on aging in assisting such individuals; and

(C) outreach efforts and other activities carried out to satisfy the assurances described in paragraphs (18) and (19) of section 3026(a) of this title.

(b) Approval by Assistant Secretary; waiver of requirements

(1) The Assistant Secretary shall approve any State plan which the Assistant Secretary finds fulfills the requirements of subsection (a), except the Assistant Secretary may not approve such plan unless the Assistant Secretary determines that the formula submitted under section 3025(a)(2)(D) of this title complies with the guidelines in effect under section 3025(a)(2)(C) of this title.

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

(c) Notice and hearing prior to disapproval

(1) The Assistant Secretary shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 3025 of this title, without first affording the State reasonable notice and opportunity for a hearing.

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

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

(d) Discontinuance of payments; disbursement of withheld funds to agencies with approved plans; matching funds

Whenever the Assistant Secretary, after reasonable notice and opportunity for a hearing to the State agency, finds that—

(1) the State is not eligible under section 3025 of this title,

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

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Assistant Secretary shall notify such State agency that no further payments from its allotments under section 3024 of this title and section 3028 of this title will be made to the State (or, in the Assistant Secretary's discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until the Assistant Secretary is satisfied that there will no longer be any failure to comply. Until the Assistant Secretary is so satisfied, no further payments shall be made to such State from its allotments under section 3024 of this title and section 3028 of this title (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Assistant Secretary shall, in accordance with regulations the Assistant Secretary shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 3024 of this title.

(e) Appeal

(1) A State which is dissatisfied with a final action of the Assistant Secretary under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Assistant Secretary, or any officer designated by the Assistant Secretary for such purpose. The Assistant Secretary thereupon shall file in the court the record of the proceedings on which the Assistant Secretary's action is based, as provided in section 2112 of title 28.

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

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

(f) Confidentiality of information relating to legal assistance

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

(Pub. L. 89–73, title III, §307, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1524; amended Pub. L. 97–115, §§3(d), 7, Dec. 29, 1981, 95 Stat. 1597, 1598; Pub. L. 98–459, title III, §307, Oct. 9, 1984, 98 Stat. 1775; Pub. L. 100–175, title I, §§128, 129(d), (e), 130(b), 131(b), 132(c), 136(c), 137(b), 138, 140(c), 141(c), 142, 144(d), 155(e)(2), 182(k), Nov. 29, 1987, 101 Stat. 934, 935, 938–940, 943, 944, 946, 947, 949, 953, 965; Pub. L. 100–628, title VII, §705(6), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(b)(4), (5), (10)(A), (C), (E), (F), title III, §307, title VII, §708(c)(4), title IX, §904(a)(13), Sept. 30, 1992, 106 Stat. 1201, 1202, 1228, 1293, 1308; Pub. L. 103–171, §§2(9), 3(a)(5), Dec. 2, 1993, 107 Stat. 1988, 1990; Pub. L. 106–501, title III, §306, title VIII, §801(c)(4), Nov. 13, 2000, 114 Stat. 2242, 2292; Pub. L. 109–365, title III, §307, Oct. 17, 2006, 120 Stat. 2544; Pub. L. 114–144, §4(e), Apr. 19, 2016, 130 Stat. 339; Pub. L. 116–131, title I, §118(c), title II, §§206(2), 207(b), Mar. 25, 2020, 134 Stat. 247, 256, 257.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Legal Services Corporation Act, referred to in subsec. (a)(11)(A), is title X of Pub. L. 88–452, as added

by Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 378, which is classified generally to subchapter X (§2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

PRIOR PROVISIONS

A prior section 3027, Pub. L. 89–73, title III, §307, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 44, related to payment of grants or contracts, prior to the general amendment of this subchapter by Pub. L. 95–478. See section 3029 of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, §305, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 41; Pub. L. 94–135, title I, §§106(a), (b), 114(e), Nov. 28, 1975, 89 Stat. 715, 725, which was classified to section 3025 of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2020—Subsec. (a)(9). Pub. L. 116–131, §206(2), amended par. (9) generally. Prior to amendment, text read as follows: "The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 3058g of this title and this subchapter, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this subchapter for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under subchapter XI for fiscal year 2000."

Subsec. (a)(26). Pub. L. 116–131, §118(c), redesignated former par. (27) as (26) and struck out former par. (26), which read as follows: "The plan shall provide assurances that funds received under this subchapter will not be used to pay any part of a cost (including an administrative cost) incurred by the State agency or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this subchapter."

Subsec. (a)(27) to (29). Pub. L. 116–131, §118(c), redesignated former pars. (28) to (30) as (27) to (29), respectively. Former par. (27) redesignated (26).

Subsec. (a)(30). Pub. L. 116–131, §207(b), added par. (30). Former par. (30) redesignated (29).

2016—Subsec. (a)(2)(A). Pub. L. 114–144 substituted "3012(a)(26)" for "3012(a)(29)".

2006—Subsec. (a)(2)(C). Pub. L. 109–365, §307(1), substituted "section 3026(c)" for "section 3026(b)".

Subsec. (a)(4). Pub. L. 109–365, §307(2), substituted "(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for ", with particular attention to low-income minority individuals and older individuals residing in rural areas".

Subsec. (a)(14), (15). Pub. L. 109–365, §307(3)–(5), added par. (14), redesignated former par. (14) as (15), and struck out former par. (15) which read as follows: "The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

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

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

Subsec. (a)(16)(A)(ii), (iii). Pub. L. 109–365, §307(6)(A), substituted "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "(with particular attention to low-income minority individuals and older individuals residing in rural areas)".

Subsec. (a)(16)(A)(vi). Pub. L. 109–365, §307(6)(B), substituted "and related" for "or related".

Subsec. (a)(27) to (30). Pub. L. 109–365, §307(7), added pars. (27) to (30).

2000—Subsec. (a)(1) to (5). Pub. L. 106–501, §306(1), added pars. (1) to (5) and struck out former pars. (1) to (5) which required each State plan to: in par. (1), contain assurances that the State plan would be based on area plans and that the State would distribute a uniform format for developing area plans, in par. (2), provide that each area agency on aging develop an area plan for approval by the State agency, in par. (3), provide that the State agency would evaluate the need for supportive services, nutrition services, and multipurpose senior centers within the State and spend not less than 105 percent of fiscal year 1978 expenditures for services to older individuals residing in rural areas in the State, in par. (4), provide methods of administration of the plan and any necessary reorganization and reassignment of functions to assure efficient administration, and, in par. (5), provide that the State agency would conduct hearings upon request by an area agency on aging submitting a plan, a service provider under a plan, or an applicant to provide service under a plan.

Subsec. (a)(7)(C). Pub. L. 106–501, §306(2), struck out subpar. (C) which required the plan to provide assurances that the State agency and each area agency on aging would maintain the integrity and public purpose of services provided and service providers under the State plan in all contractual and commercial

relationships, disclose the parties to and the nature of a contract or relationship relating to services to older individuals, demonstrate no loss or diminution in quantity or quality of services as a result of such contract or relationship, demonstrate enhancement of quantity and quality of services as a result of such contract or relationship, and disclose on request all sources and expenditures of funds the State agency and area agency on aging received or expended to provide services to older individuals.

Subsec. (a)(8), (9). Pub. L. 106–501, §306(3), added pars. (8) and (9) and struck out former pars. (8) and (9) which read as follows:

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

"(9) The plan shall provide for establishing and maintaining information and assistance services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and assistance services under section 3026(a)(4) of this title will have reasonably convenient access to such services."

Subsec. (a)(10). Pub. L. 106–501, §306(4), added par. (10) and struck out former par. (10) which read as follows: "The plan shall provide that no supportive services, nutrition services, or in-home services (as defined in section 3030i of this title) will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging."

Subsec. (a)(11). Pub. L. 106–501, §306(5), (6), redesignated par. (15) as (11) and struck out former par. (11) which read as follows: "The plan shall provide that subject to the requirements of merit employment systems of State and local governments—

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

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

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

Subsec. (a)(12). Pub. L. 106–501, §306(5), (6), redesignated par. (16) as (12) and struck out former par. (12) which read as follows: "The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 3058g of this title and this subchapter."

Subsec. (a)(13). Pub. L. 106–501, §306(5), (8), redesignated par. (18) as (13) and struck out former par. (13) which related to a list of requirements that the plan was to provide with respect to nutrition services.

Subsec. (a)(14). Pub. L. 106–501, §306(5), (10), redesignated par. (20) as (14) and struck out former par. (14) which related to required provisions of the plan with respect to acquisition, alteration, or renovation of existing facilities to serve as multipurpose senior centers.

Subsec. (a)(15). Pub. L. 106–501, §306(12), redesignated par. (23) as (15). Former par. (15) redesignated (11).

Subsec. (a)(16). Pub. L. 106–501, §306(12), (13), redesignated par. (24) as (16) and inserted "and older individuals residing in rural areas" after "low-income minority individuals" in cls. (ii) and (iii). Former par. (16) redesignated (12).

Subsec. (a)(17). Pub. L. 106–501, §306(14), inserted "to enhance services" before "and develop collaborative programs".

Pub. L. 106–501, §306(7), (12), redesignated par. (25) as (17) and struck out former par. (17) which read as follows: "The plan shall provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this chapter."

Subsec. (a)(18). Pub. L. 106–501, §306(12), (15), redesignated par. (26) as (18) and, in introductory provisions, substituted "section 3026(a)(7)" for "section 3026(a)(6)(I)". Former par. (18) redesignated (13).

Subsec. (a)(19). Pub. L. 106–501, §306(9), (17), redesignated par. (30) as (19) and struck out former par. (19) which read as follows: "The plan shall provide, with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and

training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts)."

Subsec. (a)(20). Pub. L. 106–501, §306(17), redesignated par. (32) as (20). Former par. (20) redesignated (14).

Subsec. (a)(21). Pub. L. 106–501, §306(11), (18), added par. (21) and struck out former par. (21) which read as follows: "The plan shall provide assurances that the State agency, in carrying out the State Long-Term Care Ombudsman program under subsection (a)(12) of this section, will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this subchapter."

Subsec. (a)(22). Pub. L. 106–501, §801(c)(4)(A), substituted "3026(a)(8)" for "3026(a)(20)".

Pub. L. 106–501, §306(11), (19), redesignated par. (36) as (22) and struck out former par. (22) which read as follows: "The plan shall specify a minimum percentage of the funds received by each area agency on aging for part B of this subchapter that will be expended, in the absence of the waiver granted under section 3026(b)(1) of this title, by such area agency on aging to provide each of the categories of services specified in section 3026(a)(2) of this title."

Subsec. (a)(23) to (25). Pub. L. 106–501, §306(21), redesignated pars. (41), (42), and (44) as (23) to (25), respectively. Former pars. (23), (24), and (25) redesignated (15) to (17), respectively.

Subsec. (a)(26). Pub. L. 106–501, §306(22), added par. (26). Former par. (26) redesignated (18).

Subsec. (a)(27) to (29). Pub. L. 106–501, §306(16), struck out pars. (27) to (29) which read as follows:

"(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 3030h of this title with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.

"(28) The plan shall provide assurances that if the State receives funds appropriated under section 3023(e) of this title, the State agency and area agencies on aging will expend such funds to carry out part E of this subchapter.

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

Subsec. (a)(30). Pub. L. 106–501, §306(17), redesignated par. (30) as (19).

Subsec. (a)(31). Pub. L. 106–501, §306(16), struck out par. (31) which read as follows:

"(31)(A) If 50 percent or more of the area plans in the State provide for an area volunteer services coordinator, as described in section 3026(a)(12) of this title, the State plan shall provide for a State volunteer services coordinator, who shall—

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

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

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

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

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

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

Subsec. (a)(32). Pub. L. 106–501, §306(17), redesignated par. (32) as (20).

Subsec. (a)(33) to (35). Pub. L. 106–501, §306(18), struck out pars. (33) to (35) which read as follows:

"(33) The plan—

"(A) shall include the statement and the demonstration required by paragraphs (2) and (4) of section 3025(d) of this title; and

"(B) may not be approved unless the Assistant Secretary approves such statement and such demonstration.

"(34) The plan shall provide an assurance that the State agency will coordinate programs under this subchapter and subchapter X of this chapter, if applicable.

"(35) The plan shall—

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

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

Subsec. (a)(36). Pub. L. 106–501, §306(19), redesignated par. (36) as (22).

Subsec. (a)(37) to (40). Pub. L. 106–501, §306(20), struck out pars. (37) to (40) which read as follows:

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

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

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

"(40) The plan shall provide assurances that if the State receives funds appropriated under section 3023(g) of this title the State agency and area agencies on aging will expend such funds to carry out part G of this subchapter."

Subsec. (a)(41), (42). Pub. L. 106–501, §306(21), redesignated pars. (41) and (42) as (23) and (24), respectively.

Subsec. (a)(43). Pub. L. 106–501, §306(20), struck out par. (43) which read as follows: "The plan shall provide that the State agency shall issue guidelines applicable to grievance procedures required by section 3026(a)(6)(P) of this title."

Subsec. (a)(44). Pub. L. 106–501, §306(21), redesignated par. (44) as (25).

Subsec. (f). Pub. L. 106–501, §801(c)(4)(B), struck out par. (1) designation before "Neither a State" and struck out par. (2) which read as follows: "Information disclosed under section 3026(a)(14)(B)(i) of this title or subsection (a)(7)(C)(ii)(I) of this section may be disclosed to the public by the State agency or the State only if such information could be disclosed under section 552 of title 5 by an agency of the United States."

1993—Pub. L. 103–171, §3(a)(5)(B), substituted "Assistant Secretary" for "Commissioner" wherever appearing.

Subsec. (a)(8). Pub. L. 103–171, §2(9)(A)(i), substituted "knowledgeable" for "knowledgable".

Subsec. (a)(24). Pub. L. 103–171, §2(9)(A)(ii), substituted period for semicolon at end.

Subsec. (b)(2). Pub. L. 103–171, §2(9)(B), substituted "such requirement" for "the requirement described in clause (3)(B) of subsection (a) of this section".

Subsecs. (d), (e). Pub. L. 103–171, §3(a)(5)(A), substituted "Assistant Secretary's" for "Commissioner's" wherever appearing.

1992—Subsec. (a). Pub. L. 102–375, §307(a)(1), (2), inserted "the succeeding sentence and" after "provided in" in first sentence and inserted after first sentence "If the Commissioner determines, in the discretion of the Commissioner, that a State failed in 2 successive years to comply with the requirements under this subchapter, then the State shall submit to the Commissioner a State plan for a 1-year period that meets such criteria, for subsequent years until the Commissioner determines that the State is in compliance with such requirements." before "Each such plan shall comply".

Subsec. (a)(1). Pub. L. 102–375, §102(b)(10)(F), substituted "agencies on aging in" for "agencies in".

Subsec. (a)(3)(A). Pub. L. 102–375, §307(a)(3), inserted "and transportation services" after "legal assistance" and inserted at end "To conduct the evaluation, the State agency shall use the procedures implemented under section 3012(a)(29) of this title."

Subsec. (a)(5). Pub. L. 102–375, §307(b), inserted at end "The State agency shall establish and publish procedures for requesting and conducting such hearing."

Subsec. (a)(7). Pub. L. 102–375, §307(c), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (a)(8). Pub. L. 102–375, §904(a)(13)(A)(i), substituted "greatest economic need and older individuals with greatest social need" for "the greatest economic or social needs".

Pub. L. 102–375, §307(d), inserted at end "In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgable about the needs and concerns of low-income minority older individuals."

Subsec. (a)(9). Pub. L. 102–375, §102(b)(4), substituted "information and assistance" for "information and referral" in two places.

Subsec. (a)(10). Pub. L. 102–375, §102(b)(5), substituted "section 3030i of this title" for "section 3030i(1) of this title".

Subsec. (a)(11). Pub. L. 102–375, §307(e), substituted "governments—" for "governments, preference shall be given to individuals aged 60 or older" and added subpars. (A) and (B).

Subsec. (a)(12). Pub. L. 102–375, §307(f), amended par. (12) generally, substituting provisions requiring

the plan to provide assurances that a State Long-Term Care Ombudsman program be carried out in accordance with section 3058g of this title for provisions setting out, in subpars. (A) to (K), the assurances required to be provided by the plan with respect to such a program.

Subsec. (a)(13)(A). Pub. L. 102–375, §904(a)(13)(A)(ii)(I), (II), substituted "to older individuals" for "to individuals aged 60 or older" and "by older individuals" for "by the elderly".

Subsec. (a)(13)(B). Pub. L. 102–375, §904(a)(13)(A)(ii)(III), substituted "subparagraph" for "subclause".

Pub. L. 102–375, §307(g)(1), inserted "(other than under section 3023(b)(3) of this title)" after "available under this subchapter".

Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (a)(13)(F). Pub. L. 102–375, §307(g)(2), inserted "dietitians (or individuals with comparable experience)," after "advice of" and substituted "project will" for "project may".

Subsec. (a)(13)(H). Pub. L. 102–375, §307(g)(3), struck out "and" at end.

Pub. L. 102–375, §102(b)(10)(E), substituted "area agency on aging" for "area agency" in two places.

Subsec. (a)(13)(I). Pub. L. 102–375, §904(a)(13)(A)(ii)(IV), substituted "participating older individuals" for "elderly participants".

Pub. L. 102–375, §307(g)(4), substituted semicolon for period at end.

Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (a)(13)(J) to (M). Pub. L. 102–375, §307(g)(5), added subpars. (J) to (M).

Subsec. (a)(14). Pub. L. 102–375, §102(b)(10)(A), substituted "area agencies on aging" for "area agencies".

Subsec. (a)(14)(D). Pub. L. 102–375, §904(a)(13)(A)(iii), substituted "subparagraph" for "clause".

Subsec. (a)(15)(B). Pub. L. 102–375, §102(b)(10)(C), substituted "area agency on aging" for "area agency".

Subsec. (a)(15)(E). Pub. L. 102–375, §307(h), added subpar. (E).

Subsec. (a)(16). Pub. L. 102–375, §307(i), substituted "shall provide," for "shall provide that" and "provide for a" for ", if funds are not appropriated under section 3023(g) of this title for a fiscal year, provide that for such".

Subsec. (a)(16)(B). Pub. L. 102–375, §904(a)(13)(A)(iv), substituted "paragraph" for "clause".

Subsec. (a)(18). Pub. L. 102–375, §307(j), inserted "(one of whom shall be known as a legal assistance developer)" after "personnel".

Subsec. (a)(20)(A). Pub. L. 102–375, §708(c)(4), substituted "section 3026(a)(2)(A) of this title" for "sections 3026(a)(2)(A) and 3026(a)(6)(P) of this title".

Subsec. (a)(21). Pub. L. 102–375, §307(k), amended par. (21) generally. Prior to amendment, par. (21) read as follows: "The State plan shall provide that the State agency, from funds allotted under section 3024(a) of this title for part B of this subchapter and for paragraph (12) (relating to the State long-term care ombudsman) shall expend to carry out paragraph (12), for each fiscal year in which the allotment for part B of this subchapter for the State is not less than the allotment for fiscal year 1987 for part B of this subchapter for such State, an amount which is not less than the amount expended from funds received under this chapter by such State in fiscal year 1987 to carry out paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. This paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

Subsec. (a)(22). Pub. L. 102–375, §102(b)(10)(E), substituted "area agency on aging" for "area agency" in two places.

Subsec. (a)(24). Pub. L. 102–375, §307(l), amended par. (24) generally. Prior to amendment, par. (24) read as follows: "The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this subchapter, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance."

Subsec. (a)(30). Pub. L. 102–375, §307(m), amended par. (30) generally. Prior to amendment, par. (30) read as follows: "The plan shall provide assurances that if the State receives funds appropriated under section 3023(g) of this title, the State agency and area agencies on aging will expend such funds to carry out part G of this subchapter."

Subsec. (a)(31). Pub. L. 102–375, §307(n), amended par. (31) generally, substituting provisions relating to an area or State volunteer services coordinator for provisions that State agency make funds available to eligible area agencies on aging based on number of older individuals with greatest economic need and inadequacy of outreach activities and application assistance, that State agency require area agency to submit

application describing and evaluating activities for which funds were sought, that State agency distribute to area agencies certain eligibility information, and that State agency submit to Commissioner a report on evaluations required to be submitted to it by area agencies.

Subsec. (a)(32) to (44). Pub. L. 102–375, §307(n), added pars. (32) to (44).

Subsec. (b)(1). Pub. L. 102–375, §307(o), inserted before period at end ", except the Commissioner may not approve such plan unless the Commissioner determines that the formula submitted under section 3025(a)(2)(D) of this title complies with the guidelines in effect under section 3025(a)(2)(C) of this title".

Subsec. (b)(2). Pub. L. 102–375, §904(a)(13)(B), substituted "described in paragraph" for "described in clause".

Subsec. (c). Pub. L. 102–375, §307(p), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f). Pub. L. 102–375, §307(q), (r), redesignated subsec. (g) as subsec. (f)(1), added subsec. (f)(2), and struck out former subsec. (f) which related to demonstration projects for health and nutrition education.

Subsec. (g). Pub. L. 102–375, §307(r)(1), redesignated subsec. (g) as subsec. (f)(1).

1988—Subsec. (a)(3)(A). Pub. L. 100–628 substituted a period for "; and" at end.

1987—Subsec. (a). Pub. L. 100–175, §182(k)(1), substituted "Each such plan shall comply with all of the following requirements:" for "Each such plan shall—".

Subsec. (a)(1), (2). Pub. L. 100–175, §182(k)(2), (3), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(3)(A). Pub. L. 100–175, §182(k)(4)(A), inserted "The plan shall".

Subsec. (a)(3)(B), (4) to (7). Pub. L. 100–175, §182(k)(4)(B), (5)–(8), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(8). Pub. L. 100–175, §182(k)(9), inserted "The plan shall" and substituted a period for semicolon.

Pub. L. 100–175, §132(c)(1), inserted ", including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals" before semicolon.

Pub. L. 100–175, §128, inserted ", and public hearings on," after "evaluations of".

Subsec. (a)(9). Pub. L. 100–175, §182(k)(10), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(10). Pub. L. 100–175, §182(k)(11), inserted "The plan shall" and substituted a period for semicolon.

Pub. L. 100–175, §140(c)(1), which directed that par. (10) be amended by substituting "nutrition services, or in-home services (as defined in section 3030i(1) of this title)" for "including nutrition services,", was executed by making the substitution for "or nutrition services," to reflect the probable intent of Congress and a previous amendment made by Pub. L. 98–459, §307(a)(2). See 1984 Amendment note below.

Subsec. (a)(11). Pub. L. 100–175, §182(k)(12), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(12). Pub. L. 100–175, §129(d), amended par. (12) generally, revising and restating as subpars. (A) to (K) provisions of former subpars. (A) to (E).

Subsec. (a)(13). Pub. L. 100–175, §182(k)(13), inserted "The plan shall", and in subpar. (I) substituted a period for semicolon.

Subsec. (a)(13)(I). Pub. L. 100–175, §136(c)(1), inserted ", and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this chapter" before semicolon.

Subsec. (a)(14). Pub. L. 100–175, §182(k)(14), inserted "The plan shall", and in subpar. (E) substituted a period for semicolon.

Subsec. (a)(15). Pub. L. 100–175, §182(k)(15), inserted "The plan shall", and in subpar. (D) substituted a period for semicolon.

Subsec. (a)(16). Pub. L. 100–175, §182(k)(16), inserted "The plan shall", and in subpar. (C) substituted a period for semicolon.

Pub. L. 100–175, §144(d)(1), substituted ", if funds are not appropriated under section 3023(g) of this title for a fiscal year, provide that for such fiscal year" for second reference to "provide".

Subsec. (a)(17) to (19). Pub. L. 100–175, §182(k)(17)–(19), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(20). Pub. L. 100–175, §182(k)(20), inserted "The plan shall", and in subpar. (B)(ii) substituted a period for "; and".

Subsec. (a)(20)(A). Pub. L. 100–175, §155(e)(2)(A), substituted "sections 3026(a)(2)(A) and 3026(a)(6)(P) of this title" for "section 3026(a)(2)(A) of this title".

Subsec. (a)(21). Pub. L. 100–175, §129(e), amended par. (21) generally. Prior to amendment, par. (21) read as follows: "provide that the State agency, from funds allotted under section 3024(a) of this title for part B will use an amount equal to an amount not less than 1 percent of such allotment or $20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

Subsec. (a)(22). Pub. L. 100–175, §130(b), added par. (22).

Subsec. (a)(23). Pub. L. 100–175, §131(b), added par. (23).

Subsec. (a)(24). Pub. L. 100–175, §132(c)(2), added par. (24).

Subsec. (a)(25). Pub. L. 100–175, §136(c)(2), added par. (25).

Subsec. (a)(26). Pub. L. 100–175, §138, added par. (26).

Subsec. (a)(27). Pub. L. 100–175, §140(c)(2), added par. (27).

Subsec. (a)(28). Pub. L. 100–175, §141(c), added par. (28).

Subsec. (a)(29). Pub. L. 100–175, §142, added par. (29).

Subsec. (a)(30). Pub. L. 100–175, §144(d)(2), added par. (30).

Subsec. (a)(31). Pub. L. 100–175, §155(e)(2)(B), added par. (31).

Subsec. (g). Pub. L. 100–175, §137(b), added subsec. (g).

1984—Subsec. (a)(3)(A). Pub. L. 98–459, §307(a)(1), substituted "legal assistance" for "legal services".

Subsec. (a)(10). Pub. L. 98–459, §307(a)(2), substituted "supportive services or nutrition services" for "supportive services, including nutrition services", and inserted ", or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging".

Subsec. (a)(12)(A). Pub. L. 98–459, §307(a)(3)(A)–(C), substituted ", other than an agency or organization which is responsible" for "which is not responsible", "which is an association" for "which is not an association", and "which provides an individual who will, on a full-time basis—" for "which will—", in provision preceding cl. (i).

Subsec. (a)(12)(A)(iv). Pub. L. 98–459, §307(a)(3)(D), substituted "training staff and volunteers" for "training volunteers".

Subsec. (a)(12)(E). Pub. L. 98–459, §307(a)(3)(E)–(G), added subpar. (E).

Subsec. (a)(13)(B). Pub. L. 98–459, §307(a)(4)(A), substituted "subclause (H)" for "subparagraph (H)".

Subsec. (a)(13)(C)(i). Pub. L. 98–459, §307(a)(4)(B), substituted "solicit voluntary contributions" for "charge participating individuals".

Subsec. (a)(13)(C)(ii). Pub. L. 98–459, §307(a)(4)(C), substituted "voluntary contributions" for "charges".

Subsec. (a)(15). Pub. L. 98–459, §307(a)(5), substituted "legal assistance" for "legal services" in provision preceding subpar. (A).

Subsec. (a)(15)(A). Pub. L. 98–459, §307(a)(5), substituted "legal assistance" for "legal services" wherever appearing.

Subsec. (a)(15)(B). Pub. L. 98–459, §307(a)(6), in amending subpar. (B) generally, substituted provisions requiring assurances regarding the furnishing of legal assistance by grantees administering programs designed to provide legal assistance to older individuals with social or economic need for provisions requiring assurances regarding the furnishing of legal services by grantees who were either recipients of funds under the Legal Services Corporation Act or who administered programs designed to provide legal services to all older individuals with social or economic need.

Subsec. (a)(16) to (18). Pub. L. 98–459, §307(a)(10), added pars. (16) to (18). Former pars. (16) to (18) redesignated (19) to (21), respectively.

Subsec. (a)(19), (20). Pub. L. 98–459, §307(a)(9), redesignated former pars. (16) and (17) as (19) and (20), respectively.

Subsec. (a)(20)(B)(ii). Pub. L. 98–459, §307(a)(7), substituted "; and" for the period at the end.

Subsec. (a)(21). Pub. L. 98–459, §307(a)(9), redesignated former par. (18) as (21).

Subsec. (a)(21)(B). Pub. L. 98–459, §307(a)(8), substituted "Commonwealth of the Northern Mariana Islands" for "Northern Mariana Islands".

Subsec. (b)(1). Pub. L. 98–459, §307(b), substituted "the Commissioner finds" for "he finds".

Subsec. (d). Pub. L. 98–459, §307(c), substituted "in the Commissioner's discretion" for "in his discretion", "until the Commissioner is satisfied" for "until he is satisfied", "Until the Commissioner is so satisfied" for "Until he is so satisfied", "the Commissioner shall prescribe" for "he shall prescribe", and "the provisions of this section" for "the provisions of section 307".

Subsec. (e)(1). Pub. L. 98–459, §307(d)(1), substituted "designated by the Commissioner" for "designated by him" and "the Commissioner's action is based" for "he based his action".

Subsec. (e)(2). Pub. L. 98–459, §307(d)(2), substituted "set aside the Commissioner's order" for "set aside his order".

Subsec. (f). Pub. L. 98–459, §307(e), added subsec. (f).

1981—Subsec. (a). Pub. L. 97–115, §7(a), substituted "for a two-, three-, or four-year period determined by the State agency" for "for a 3-year period" in provisions preceding par. (1).

Subsec. (a)(3)(A), (10). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

Subsec. (a)(13)(A). Pub. L. 97–115, §7(b), substituted "aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided" for "aged 60 or older, and to their spouses".

Subsec. (a)(13)(B). Pub. L. 97–115, §7(c), substituted "primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this subchapter to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart II of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this subchapter, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H)" for "each project will provide meals in a congregate setting, except that each such project may provide home delivered meals based upon a determination of need made by the recipient of a grant or contract entered into under this subchapter".

Subsec. (a)(13)(C)(ii). Pub. L. 97–115, §7(d), inserted ", to facilitate access to such meals, and to provide other supportive services directly related to nutrition services" after "the project involved".

Subsec. (a)(13)(D). Pub. L. 97–115, §§3(d), 7(e), inserted "in the case of meals served in a congregate setting," before "a site for such services", substituted "supportive services" for "social services", and struck out "or home delivered meals are furnished to eligible individuals who are homebound" after "transportation to such site is furnished".

Subsec. (a)(13)(I). Pub. L. 97–115, §7(f), substituted "each area agency shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours" for "each State agency may only for fiscal years 1979 and 1980, use not to exceed 20 percent for the amounts allotted under part C to the State for supportive services, including recreational activities, informational services, health and welfare counseling, and referral services, directly related to the delivery of congregate or home delivered meals, except that the Commissioner may approve an application from a State to use not to exceed 50 percent of its amount allotted under part C in areas with unusually high supportive services costs".

Subsec. (a)(16) to (18). Pub. L. 97–115, §7(g), added pars. (16) and (17) and redesignated former par. (16) as (18).

Subsec. (b)(2), (3). Pub. L. 97–115, §7(h), redesignated par. (3) as (2). Former par. (2), which related to the authority of the Commissioner to waive particular requirements of State plans for fiscal years 1979 and 1980, was struck out.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 307 and 708(c)(4) of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by sections 307 and 708(c)(4) of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(2), (6) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a

note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES PROVIDED AT SENIOR CENTERS AND OTHER SITES

Pub. L. 100–175, title I, §111, Nov. 29, 1987, 101 Stat. 932, directed Commissioner on Aging, not later than Sept. 30, 1989, to submit to Congress a report assessing national unmet need for supportive services, nutrition services, and multipurpose senior centers by summarizing in detail for each State the results of the most recent evaluation conducted by the State agency under the then current plan submitted under 42 U.S.C. 3027(a)(3)(A) and containing recommendations of the Secretary with respect to need for administrative action and legislation relating to satisfying the demand for supportive services provided at senior centers and other sites.

STUDY OF OMBUDSMAN PROGRAM

Pub. L. 100–175, title I, §129(b), Nov. 29, 1987, 101 Stat. 934, directed Commissioner on Aging, not later than Dec. 31, 1989, to conduct a study and submit a report to Congress concerning involvement in the ombudsman program established under 42 U.S.C. 3027(a)(12) and its impact upon issues and problems affecting residents of board and care facilities and other similar adult care homes who are older individuals as defined in 42 U.S.C. 3022(10), and the effectiveness of recruiting, supervising, and retaining volunteer ombudsmen.

§3028. Cost of administration of State plans

(a) Activities constituting administration; use of excess funds to supplement cost of administration of area plans; election to pay costs from sums received for administration of area plans

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

(2) Any sums available to a State under subsection (b) for part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used by the State to supplement the amount available under section 3024(d)(1)(A) of this title to cover part of the cost of the administration of area plans.

(3) Any State which has been designated a single planning and service area under section 3025(a)(1)(E) of this title covering all, or substantially all, of the older individuals in such State, as determined by the Assistant Secretary, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section of out of sums made available for the administration of area plans under section 3024(d)(1)(A) of this title, but shall not pay such costs out of sums received or allotted under both such sections.

(b) Formula for computation of allotment; application for additional funds; approval of application by Assistant Secretary; limitation on amount of additional funds; transfer of funds

(1) If for any fiscal year the aggregate amount appropriated under section 3023 of this title does not exceed $800,000,000, then—

(A) except as provided in subparagraph (B), the greater of—

(i) 5 percent of the total amount of the allotments made to a State under sections 3024(a)(1) and 3030s–1(f) of this title; or

(ii) $300,000; and

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such total amount or $75,000;

shall be available to such State to carry out the purposes of this section.

(2) If for any fiscal year the aggregate amount appropriated under section 3023 of this title exceeds $800,000,000, then—

(A) except as provided in subparagraph (B), the greater of—

(i) 5 percent of the total amount of the allotments made to a State under sections 3024(a)(1) and 3030s–1(f) of this title; or

(ii) $750,000; and

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such total amount or $100,000;

shall be available to such State to carry out the purposes of this section.

(3)(A) If the aggregate amount appropriated under section 3023 of this title for a fiscal year does not exceed $800,000,000, then any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Assistant Secretary in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Assistant Secretary may require, except that such application may not be made as part of, or as an amendment to, the State plan.

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

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

(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 3025(a)(2)(A) of this title in the administration of its State plan in accordance with subsection (a); and

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

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

(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 3024(a) of this title to such State to carry out the State plan for such fiscal year.

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

(4)(A) Notwithstanding any other provision of this subchapter and except as provided in

subparagraph (B), with respect to funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 3023(b) of this title, the State may elect to transfer not more than 40 percent of the funds so received between subpart I and subpart II of part C, for use as the State considers appropriate to meet the needs of the area served. The Assistant Secretary shall approve any such transfer unless the Assistant Secretary determines that such transfer is not consistent with the objectives of this chapter.

(B) If a State demonstrates, to the satisfaction of the Assistant Secretary, that funds received by the State and attributable to funds appropriated under paragraph (1) or (2) of section 3023(b) of this title, including funds transferred under subparagraph (A) without regard to this subparagraph, for any fiscal year are insufficient to satisfy the need for services under subpart I or subpart II of part C, then the Assistant Secretary may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 10 percent of the funds so received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 3023(b) of this title.

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

(i) be not more than one page in length;

(ii) include a request that the waiver be granted;

(iii) specify the amount of the funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 3023(b) of this title, over the permissible 40 percent referred to in subparagraph (A), that the State requires to satisfy the need for services under subpart I or II of part C; and

(iv) not include a request for a waiver with respect to an amount if the transfer of the amount would jeopardize the appropriate provision of services under subpart I or II of part C.

(D) The State, in consultation with area agencies on aging, shall ensure the process used by the State in transferring funds under this paragraph (including requirements relating to the authority and timing of such transfers) is simplified and clarified to reduce administrative barriers and direct limited resources to the greatest nutrition service needs at the community level. Such process shall be modified to attempt to lessen the administrative barriers of such transfers, and help direct limited resources to where they are needed the most as the unmet need for nutrition services grows.

(5)(A) Notwithstanding any other provision of this subchapter, of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 3023 of this title, the State may elect to transfer not more than 30 percent for any fiscal year between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.

(B) At a minimum, the notification described in subparagraph (A) shall include a description of the amount to be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred.

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

(7) The Assistant Secretary shall annually collect, and include in the report required by section 3018(a) of this title, data regarding the transfers described in paragraphs (4)(A) and (5)(A), including—

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

(B) the rationales for the transfers;

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

(i) subpart I of part C; and

(ii) subpart II of part C; and

(D) in the case of transfers described in paragraph (5)(A)—

(i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and

(ii) the effect of the transfers on the provision of services provided under—
(I) part B; and
(II) part C, including the effect on the number of meals served.

(8) The Assistant Secretary shall review the reports submitted under section 3027(a)(30) of this title and include aggregate data in the report required by section 3018(a) of this title, including data on—

(A) the effectiveness of the programs, policies, and services provided by area agencies on aging in assisting older individuals whose needs were the focus of all centers funded under subchapter IV in fiscal year 2019; and

(B) outreach efforts and other activities carried out to satisfy the assurances described in paragraphs (18) and (19) of section 3026(a) of this title, to identify such older individuals and their service needs.

(c) Availability of funds under this section to provide services under parts B and C

The amounts of any State's allotment under subsection (b) for any fiscal year which the Assistant Secretary determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

(Pub. L. 89–73, title III, §308, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1530; amended Pub. L. 97–115, §§3(d), 8, Dec. 29, 1981, 95 Stat. 1597, 1600; Pub. L. 98–459, title III, §308, Oct. 9, 1984, 98 Stat. 1777; Pub. L. 100–175, title I, §§129(c)(2), 182(l), Nov. 29, 1987, 101 Stat. 935, 966; Pub. L. 102–375, title I, §102(b)(9)(C), (10)(A), title III, §308, title IX, §904(a)(14), Sept. 30, 1992, 106 Stat. 1202, 1234, 1308; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title III, §307, Nov. 13, 2000, 114 Stat. 2245; Pub. L. 116–131, title II, §§209–211, Mar. 25, 2020, 134 Stat. 257, 258.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3028, Pub. L. 89–73, title III, §308, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 44; Pub. L. 94–135, title I, §§108, 112(c), Nov. 28, 1975, 89 Stat. 717, 719, related to model projects, prior to the general amendment of this subchapter by Pub. L. 95–478.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, §306, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 43; Pub. L. 94–135, title I, §107, Nov. 28, 1975, 89 Stat. 716, which was classified to section 3026 of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2020—Subsec. (a)(1), (2). Pub. L. 116–131, §209(1), substituted "subsection (b)" for "subsection (b)(1)".

Subsec. (b)(1)(A). Pub. L. 116–131, §209(2)(A)(i), substituted "subparagraph (B)" for "clause (ii)" and "greater of—", cl. (i), and designation for cl. (ii) for "greater of 5 percent of the allotment to a State under section 3024(a)(1) of this title or".

Subsec. (b)(1)(B). Pub. L. 116–131, §209(2)(A)(ii), substituted "such total amount" for "such allotment".

Subsec. (b)(2)(A). Pub. L. 116–131, §209(2)(A)(i), (B), substituted "subparagraph (B)" for "clause (ii)" and "greater of—", cl. (i), and designation for cl. (ii) for "greater of 5 percent of the allotment to a State under section 3024(a)(1) of this title or" and, in cl. (ii), substituted "$750,000" for "$500,000".

Subsec. (b)(2)(B). Pub. L. 116–131, §209(2)(A)(ii), substituted "such total amount" for "such allotment".

Subsec. (b)(4)(D). Pub. L. 116–131, §210, added subpar. (D).

Subsec. (b)(8). Pub. L. 116–131, §211, added par. (8).

2000—Subsec. (b)(4)(A). Pub. L. 106–501, §307(1)(A)(ii), substituted "40 percent" for "30 percent".

Pub. L. 106–501, §307(1)(A)(i), which directed amendment of subpar. (A) by striking "in its plan under section 3027(a)(13) of this title regarding Part C of this subchapter," was executed by striking "in its plan under section 3027(a)(13) regarding part C of this subchapter," after "the State may elect" to reflect the probable intent of Congress.

Subsec. (b)(4)(B). Pub. L. 106–501, §307(1)(B), substituted "for any fiscal year" for "for fiscal year 1993, 1994, 1995, or 1996" and "to satisfy such need an additional 10 percent of the funds so received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 3023(b) of this title." for "to satisfy

such need—

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

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

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

Subsec. (b)(4)(C). Pub. L. 106–501, §307(1)(C), added subpar. (C).

Subsec. (b)(5). Pub. L. 106–501, §307(2), added par. (5) and struck out former par. (5) which authorized election by a State to transfer funds for fiscal years 1993 through 1996 between programs under parts B and C of this subchapter, provided for a State to obtain a need-based waiver to transfer additional funds, and related to required contents and approval of the application for such transfer of funds.

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a)(3). Pub. L. 102–375, §308(1), inserted "been" after "Any State which has".

Subsec. (b)(1)(B), (2)(B). Pub. L. 102–375, §904(a)(14)(A), inserted "United States" before "Virgin Islands".

Subsec. (b)(3)(B)(iii). Pub. L. 102–375, §§102(b)(9)(C), (10)(A), 904(a)(14)(B), inserted "on aging" after "area agencies", struck out "designated under section 3025 of this title" after "such State", and substituted "objectives" for "purposes".

Subsec. (b)(4). Pub. L. 102–375, §§308(2)(A), 904(a)(14)(B), designated existing provisions as subpar. (A), inserted "and except as provided in subparagraph (B)" after "provision of this subchapter", substituted "received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 3023(b) of this title, the" for "received under section 3023(b)(1) and (2) of this title, a", "not more than 30 percent of the funds so received" for "a portion of the funds appropriated", and "objectives" for "purposes", and added subpar. (B).

Subsec. (b)(5) to (7). Pub. L. 102–375, §308(2)(B), added pars. (5) to (7) and struck out former par. (5) which read as follows:

"(A) Notwithstanding any other provisions of this subchapter and except as provided in subparagraph (B), with respect to funds received under subsection (a)(1) and subsection (b) of section 3023 of this title, a State may elect to transfer not more than 20 per centum of the funds allotted for any fiscal year between programs under part B and part C of this subchapter, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

"(B) Of the funds received under subsections (a)(1) and (b) of section 3023 of this title, a State may elect to transfer under subparagraph (A) not more than 30 percent of the funds allotted for any fiscal year."

1987—Subsec. (b)(1). Pub. L. 100–175, §182(l)(1), (2), struck designation "(A)" after "(1)" and redesignated former cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (b)(2). Pub. L. 100–175, §182(l)(3), struck designation "(A)" after "(1)" and redesignated former cls. (i) and (ii) as subpars. (A) and (B), respectively.

Subsec. (b)(3)(C). Pub. L. 100–175, §182(l)(4), substituted "the Commissioner" for "he".

Subsec. (b)(5)(A). Pub. L. 100–175, §182(l)(5), substituted "allotted" for "appropriated".

Pub. L. 100–175, §129(c)(2)(A), substituted "received under subsection (a)(1)" for "received under subsection (a)".

Subsec. (b)(5)(B). Pub. L. 100–175, §182(l)(6), substituted provision that State may elect to transfer not more than 30 percent of funds allotted for any fiscal year for provision that State may elect to transfer not more than 27 percent of funds allotted for fiscal year 1985, not more than 29 percent of funds allotted for fiscal year 1986, and not more than 30 percent of funds allotted for fiscal year 1987.

Pub. L. 100–175, §182(l)(5), substituted "allotted" for "appropriated".

Pub. L. 100–175, §129(c)(2)(B), inserted "subsections (a)(1) and (b) of" after first reference to "under".

1984—Subsec. (a)(1). Pub. L. 98–459, §308(a)(1), substituted "Amounts available to States under subsection (b)(1)" for "Amounts appropriated under section 3023 of this title".

Subsec. (a)(2). Pub. L. 98–459, §308(a)(2), substituted "available to a State under subsection (b)(1)" for "received by a State under this section".

Subsec. (b)(1). Pub. L. 98–459, §308(b)(6), added par. (1). Former par. (1), which contained provisions, with respect to allotments to States for State planning, coordination, evaluation, and administration of State plans, that each State had to be allotted funds on the basis of its population aged 60 or older as compared to all States, and specifying minimum amounts for each State of no less than one-half of 1 percent of appropriations or $300,000, whichever was greater, and for territories of no less than one-fourth of 1 percent of appropriations or $75,000, whichever was greater, was struck out.

Subsec. (b)(2). Pub. L. 98–459, §308(b)(6), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 98–459, §308(b)(4), (5), redesignated former par. (2) as (3) and struck out former par. (3) which had provided that each State would be entitled to an allotment under this section for any fiscal

year in an amount which is not less than the amount of the allotment to which such State was entitled under former par. (1) for the fiscal year ending June 30, 1975.

Subsec. (b)(3)(A). Pub. L. 98–459, §308(b)(1), substituted "If the aggregate amount appropriated under section 3023 of this title for a fiscal year does not exceed $800,000,000, then any" for "Any".

Subsec. (b)(4). Pub. L. 98–459, §308(b)(2), (4), (5), redesignated par. (5) as (4), and substituted "unless the Commissioner determines" for "unless he determines", and struck out former par. (4) which had provided that the number of individuals aged 60 or older in any State and in all States had to be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

Subsec. (b)(5), (6). Pub. L. 98–459, §308(b)(3), (5), redesignated par. (6) as (5), inserted "(A)" after paragraph designation and "and except as provided in subparagraph (B)", and added subpar. (B). Former par. (5) redesignated (4).

1981—Subsec. (a)(1). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

Subsec. (b)(6). Pub. L. 97–115, §8, added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§3029. Payments of grants or contracts

(a) Advances or reimbursement; installments; assistance in development of State plan

Payments of grants or contracts under this subchapter may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Assistant Secretary may determine. From a State's allotment for a fiscal year which is available under section 3028 of this title the Assistant Secretary may pay to a State which does not have a State plan approved under section 3027 of this title such amounts as the Assistant Secretary deems appropriate for the purpose of assisting such State in developing a State plan.

(b) Matching funds; percentage limitation

(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 3024(d) of this title shall be met from funds from State or local public sources.

(2) Funds required to meet the non-Federal share required by section 3024(d)(1)(D) of this title, in amounts exceeding 10 percent of the cost of the services specified in such section 3024(d)(1)(D) of this title, shall be met from State sources.

(c) Reduction of State allotment

A State's allotment under section 3024 of this title for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 3027 of this title are less than its average annual expenditures from such sources for the period of 3 fiscal years preceding such year.

(Pub. L. 89–73, title III, §309, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1532; amended Pub. L. 98–459, title III, §309, Oct. 9, 1984, 98 Stat. 1779; Pub. L. 100–175, title I, §139, Nov. 29, 1987, 101 Stat. 944; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 109–365, title III, §308, Oct. 17, 2006, 120 Stat. 2545.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3029, Pub. L. 89–73, title III, §309, as added Pub. L. 93–351, §3, July 12, 1974, 88 Stat. 357, related to transportation projects, prior to the general amendment of this subchapter by Pub. L. 95–478. See section 3026 of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89–73, title III, §307, as added Pub. L. 93–29, title III, §301, May 3, 1973, 87 Stat. 44, which was classified to section 3027 of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2006—Subsec. (b)(2). Pub. L. 109–365 substituted "10 percent of the cost of the services specified in such section 3024(d)(1)(D) of this title" for "the non-Federal share required prior to fiscal year 1981".

1993—Subsec. (a). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1987—Subsec. (c). Pub. L. 100–175 substituted "its average annual expenditures from such sources for the period of 3 fiscal years preceding such year" for "its expenditures from such sources for the preceding fiscal year".

1984—Subsec. (a). Pub. L. 98–459, §309(a), substituted "as the Commissioner deems appropriate" for "as he deems appropriate".

Subsec. (b)(2). Pub. L. 98–459, §309(b), substituted "section 3024(d)(1)(D)" for "section 3024(d)(1)(B)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3030. Disaster relief reimbursements

(a) Application; limitations

(1) The Assistant Secretary may provide reimbursements to any State (or to any tribal organization receiving a grant under subchapter X), upon application for such reimbursement, for funds such State makes available to area agencies on aging in such State (or funds used by such tribal organization) for the delivery of supportive services (and related supplies) during any major disaster declared by

the President in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

(2) Total payments to all States and such tribal organizations under paragraph (1) in any fiscal year shall not exceed 2 percent of the total amount appropriated and available to carry out subchapter IV.

(3) If the Assistant Secretary decides, in the 5-day period beginning on the date such disaster is declared by the President, to provide an amount of reimbursement under paragraph (1) to a State or such tribal organization, then the Assistant Secretary shall provide not less than 75 percent of such amount to such State or such tribal organization not later than 5 days after the date of such decision.

(b) Setting aside of funds by Assistant Secretary

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

(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available to carry out subchapter IV.

(c) Effect on other laws

Nothing in this section shall be construed to prohibit expenditures by States and such tribal organizations for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this chapter or under other provisions of Federal or State law, or from private sources.

(Pub. L. 89–73, title III, §310, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1533; amended Pub. L. 97–115, §§3(d), 11(b)(2), Dec. 29, 1981, 95 Stat. 1597, 1606; Pub. L. 100–707, title I, §109(q), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 102–375, title I, §102(b)(10)(A), title III, §309, Sept. 30, 1992, 106 Stat. 1202, 1235; Pub. L. 103–171, §§2(10), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990; Pub. L. 106–501, title III, §308, Nov. 13, 2000, 114 Stat. 2246.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(1), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–501, §308(1)(A), inserted "(or to any tribal organization receiving a grant under subchapter X)" after "any State" and "(or funds used by such tribal organization)" before "for the delivery of supportive services".

Subsec. (a)(2). Pub. L. 106–501, §308(1)(B), inserted "and such tribal organizations" after "States".

Subsec. (a)(3). Pub. L. 106–501, §308(1)(C), inserted "or such tribal organization" after "State" in two places.

Subsecs. (b)(1), (c). Pub. L. 106–501, §308(2), inserted "and such tribal organizations" after "States".

1993—Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner" wherever appearing in subsecs. (a)(1), (3) and (b)(1).

Subsec. (a)(1). Pub. L. 103–171, §2(10), substituted "Robert T. Stafford Disaster Relief and Emergency Assistance Act" for "Disaster Relief and Emergency Assistance Act".

1992—Subsec. (a)(1). Pub. L. 102–375, §§102(b)(10)(A), 309(1)(A), substituted "area agencies on aging" for "area agencies" and inserted "(and related supplies)" after "supportive services".

Subsec. (a)(2). Pub. L. 102–375, §309(2), substituted "2 percent" for "5 percent" and "to carry out subchapter IV" for "for carrying out the purposes of section 3035a of this title".

Subsec. (a)(3). Pub. L. 102–375, §309(1)(B), added par. (3).

Subsec. (b)(1). Pub. L. 102–375, §309(2), substituted "2 percent" for "5 percent" and "to carry out subchapter IV" for "for carrying out the purposes of section 3035a of this title".

Subsec. (b)(2). Pub. L. 102–375, §309(2)(B), substituted "to carry out subchapter IV" for "for carrying out

the purposes of section 3035a of this title".

1988—Subsec. (a)(1). Pub. L. 100–707 substituted "Disaster Relief and Emergency Assistance Act" for "Disaster Relief Act of 1974".

1981—Subsec. (a)(1). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

Subsecs. (a)(2), (b)(1), (2). Pub. L. 97–115, §11(b)(2), substituted reference to section 3035a of this title for reference to section 3035b of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective at the close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3030a. Nutrition services incentive program

(a) Purpose

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

(b) Allotment and provision and payment

(1) The Secretary shall allot and provide, in accordance with this section, to or on behalf of each State agency with a plan approved under this subchapter for a fiscal year, and to or on behalf of each grantee with an application approved under subchapter X for such fiscal year, an amount bearing the same ratio to the total amount appropriated for such fiscal year under subsection (e) as the number of meals served in the State under such plan approved for the preceding fiscal year (or the number of meals served by the title VI [subchapter X] grantee, under such application approved for such preceding fiscal year), bears to the total number of such meals served in all States and by all title VI [subchapter X] grantees under all such plans and applications approved for such preceding fiscal year.

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

(c) Donation of products

(1) Agricultural commodities (including bonus commodities) and products purchased by the Secretary of Agriculture under section 612c of title 7, shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this subchapter.

(2) The Commodity Credit Corporation shall dispose of food commodities (including bonus commodities) under section 1431 of title 7 by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this subchapter.

(3) Dairy products (including bonus commodities) purchased by the Secretary of Agriculture under section 1446a–1 of title 7 shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this subchapter.

(4) Among the commodities provided under this subsection, the Secretary of Agriculture shall give special emphasis to foods of high nutritional value to support the health of older individuals. The Secretary of Agriculture, in consultation with the Assistant Secretary, is authorized to prescribe the terms and conditions respecting the provision of commodities under this subsection.

(d) Option to obtain commodities from Secretary of Agriculture

(1) Each State agency and each title VI [subchapter X] grantee shall be entitled to use all or any

part of amounts allotted under subsection (b) to obtain, subject to paragraphs (2) and (3), from the Secretary of Agriculture commodities available through any food program of the Department of Agriculture at the rates at which such commodities are valued for purposes of such program.

(2) The Secretary of Agriculture shall determine and report to the Secretary, by such date as the Secretary may require, the amount (if any) of its allotment under subsection (b) which each State agency and title VI [subchapter X] grantee has elected to receive in the form of commodities. Such amount shall include an amount bearing the same ratio to the costs to the Secretary of Agriculture of providing such commodities under this subsection as the value of commodities received by such State agency or title VI [subchapter X] grantee under this subsection bears to the total value of commodities so received.

(3) From the allotment under subsection (b) for each State agency and title VI [subchapter X] grantee, the Secretary shall transfer funds to the Secretary of Agriculture for the costs of commodities received by such State agency or grantee, and expenses related to the procurement of the commodities on behalf of such State agency or grantee, under this subsection, and shall then pay the balance (if any) to such State agency or grantee. The amount of funds transferred for the expenses related to the procurement of the commodities shall be mutually agreed on by the Secretary and the Secretary of Agriculture. The transfer of funds for the costs of the commodities and the related expenses shall occur in a timely manner after the Secretary of Agriculture submits the corresponding report described in paragraph (2), and shall be subject to the availability of appropriations. Amounts received by the Secretary of Agriculture pursuant to this section to make commodity purchases for a fiscal year for a State agency or title VI [subchapter X] grantee shall remain available, only for the next fiscal year, to make commodity purchases for that State agency or grantee pursuant to this section.

(4) Each State agency and title VI [subchapter X] grantee shall promptly and equitably disburse amounts received under this subsection to recipients of grants and contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase domestically produced foods for their nutrition projects.

(5) Nothing in this subsection shall be construed to require any State agency or title VI [subchapter X] grantee to elect to receive cash payments under this subsection.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section (other than subsection (c)(1)) $171,273,830 for fiscal year 2020, $181,550,260 for fiscal year 2021, $192,443,275 for fiscal year 2022, $203,989,872 for fiscal year 2023, and $216,229,264 for fiscal year 2024.

(f) Dissemination of information

In each fiscal year, the Secretary and the Secretary of Agriculture shall jointly disseminate to State agencies, title VI [subchapter X] grantees, area agencies on aging, and providers of nutrition services assisted under this subchapter, information concerning the foods available to such State agencies, title VI [subchapter X] grantees, area agencies on aging, and providers under subsection (c).

(Pub. L. 89–73, title III, §311, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1533; amended Pub. L. 97–115, §9, Dec. 29, 1981, 95 Stat. 1600; Pub. L. 98–459, title III, §310, Oct. 9, 1984, 98 Stat. 1779; Pub. L. 99–269, §§2, 3(b), 4, Apr. 1, 1986, 100 Stat. 78; Pub. L. 100–175, title I, §122(c), Nov. 29, 1987, 101 Stat. 933; Pub. L. 102–375, title I, §102(b)(10)(A), title III, §310, Sept. 30, 1992, 106 Stat. 1202, 1236; Pub. L. 103–171, §3(a)(6), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title III, §309, Nov. 13, 2000, 114 Stat. 2246; Pub. L. 108–7, div. G, title II, §217(a), Feb. 20, 2003, 117 Stat. 325; Pub. L. 109–365, title III, §309, Oct. 17, 2006, 120 Stat. 2545; Pub. L. 110–19, §2, Apr. 23, 2007, 121 Stat. 84; Pub. L. 114–144, §4(f), Apr. 19, 2016, 130 Stat. 339; Pub. L. 116–131, title II, §203(b), Mar. 25, 2020, 134 Stat. 255.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (e). Pub. L. 116–131 amended subsec. (e) generally. Prior to amendment, text read as

follows: "There are authorized to be appropriated to carry out this section (other than subsection (c)(1)) $164,055,664 for fiscal year 2017, $167,486,502 for fiscal year 2018, and $170,917,349 for fiscal year 2019."

2016—Subsec. (e). Pub. L. 114–144, which directed substitution of "$164,055,664 for fiscal year 2017, $167,486,502 for fiscal year 2018, and $170,917,349 for fiscal year 2019." for "such sums" and all that followed through the period at the end, was executed by making the substitution for "such sums as may be necessary for fiscal year 2007 and such sums as may be necessary for each of the 4 succeeding fiscal years." to reflect the probable intent of Congress.

2007—Subsec. (b)(3). Pub. L. 110–19, §2(1), struck out par. (3) which read as follows: "State agencies that elect to make grants and enter into contracts for purposes of this section shall promptly and equitably disburse amounts received under this subsection to the recipients of the grants and contracts."

Subsec. (d). Pub. L. 110–19, §2(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to purchase of commodities and payments to school food authorities.

Subsec. (f). Pub. L. 110–19, §2(3), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: "In each fiscal year, the Assistant Secretary and the Secretary of Agriculture shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this subchapter, information concerning—

"(1) school food authorities participating in programs authorized under the Richard B. Russell National School Lunch Act within the geographic area served by each such State agency, area agency on aging, and provider; and

"(2) the foods available to such State agencies, area agencies on aging, and providers under subsection (c)."

2006—Subsec. (b)(3). Pub. L. 109–365, §309(1), added par. (3).

Subsec. (c)(1), (2). Pub. L. 109–365, §309(2)(A), (B), inserted "(including bonus commodities)" after "commodities".

Subsec. (c)(3). Pub. L. 109–365, §309(2)(C), inserted "(including bonus commodities)" after "products".

Subsec. (c)(4). Pub. L. 109–365, §309(2)(D), added par. (4).

Subsec. (d). Pub. L. 109–365, §309(3), amended subsec. (d) generally, substituting provisions relating to purchase of agricultural commodities and payments to a school food authority to obtain commodities for provisions relating to entitlement to obtain commodities, report on amounts elected to be received, reimbursement for costs, disbursement of amounts, and emphasis on high protein foods.

Subsec. (e). Pub. L. 109–365, §309(4), substituted "2007" for "2001".

Subsec. (f). Pub. L. 109–365, §309(5), substituted "the Assistant Secretary and the Secretary of Agriculture" for "the Secretary of Agriculture and the Secretary of Health and Human Services" in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

"(1) the existence of any Federal commodity processing program in which such State agencies, area agencies on aging, and providers may be eligible to participate; and

"(2) the procedures to be followed to participate in the program."

2003—Subsec. (b). Pub. L. 108–7, §217(a)(1)(A), substituted "and payment" for "of cash or commodities" in heading that had been supplied editorially.

Subsec. (b)(1). Pub. L. 108–7, §217(a)(1)(B), substituted "The Secretary shall allot and provide, in accordance with this section, to or on behalf of each State agency" for "The Secretary of Agriculture shall allot and provide in the form of cash or commodities or a combination thereof (at the discretion of the State) to each State agency" and "to or on behalf of each grantee" for "to each grantee".

Subsec. (d). Pub. L. 108–7, §217(a)(2)(A), inserted heading.

Subsec. (d)(1). Pub. L. 108–7, §217(a)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "In any case in which a State elects to receive cash payments,, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution."

Subsec. (d)(2). Pub. L. 108–7, §217(a)(2)(E), added par. (2). Former par. (2) redesignated (4).

Subsec. (d)(3). Pub. L. 108–7, §217(a)(2)(D), (E), added par. (3) and struck out former par. (3) which read as follows: "Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection."

Subsec. (d)(4). Pub. L. 108–7, §217(a)(2)(F), amended first sentence generally. Prior to amendment, first sentence read as follows: "When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts."

Pub. L. 108–7, §217(a)(2)(C), redesignated par. (2) as par. (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 108–7, §217(a)(2)(G), which directed the substitution of "provision" for "donation", was executed by substituting "provision" for "donating", to reflect the probable intent of Congress.

Pub. L. 108–7, §217(a)(2)(C), redesignated par. (4) as (5).

2000—Pub. L. 106–501, §309(1), in section catchline substituted "Nutrition services incentive program" for "Availability of surplus commodities".

Subsecs. (a), (b). Pub. L. 106–501, §309(3), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 106–501, §309(2), (4), redesignated subsec. (a) as (c) and struck out par. (4) which related to the level of assistance the Secretary of Agriculture was to maintain in donating commodities under this subsection for fiscal years 1992 and 1993 and required the Secretary to give emphasis to high protein foods, meat, and meat alternates. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 106–501, §309(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (d)(1). Pub. L. 106–501, §309(5), substituted "In any case in which a State elects to receive cash payments," for "Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this chapter, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election".

Subsec. (d)(4). Pub. L. 106–501, §309(6), added par. (4).

Subsec. (e). Pub. L. 106–501, §309(7), added subsec. (e) and struck out former subsec. (e) which authorized appropriations for fiscal years 1992 to 1995 to carry out this section, set a deadline for final reimbursement claims for meals, provided for a reduction of the cents-per-meal level in any fiscal year in which costs exceed amounts authorized, and required adjustment of final reimbursement claims to use the full amount appropriated for a fiscal year.

Pub. L. 106–501, §309(2), redesignated subsec. (c) as (e).

Subsec. (f). Pub. L. 106–501, §309(2), redesignated subsec. (d) as (f).

1993—Subsec. (a)(4)(B). Pub. L. 103–171 substituted "Assistant Secretary for Aging" for "Commissioner".

1992—Subsec. (a)(4). Pub. L. 102–375, §310(1), designated existing provisions as subpars. (A) and (B) and, in subpar. (A), substituted "shall maintain—" for "shall maintain an annually programmed level of assistance of not less than 56.76 cents per meal during fiscal years 1986 through 1991." and added cls. (i) and (ii).

Subsec. (c)(1)(A). Pub. L. 102–375, §310(2)(A), substituted "$250,000,000 for fiscal year 1992, $310,000,000 for fiscal year 1993, $380,000,000 for fiscal year 1994, and $460,000,000 for fiscal year 1995" for "$151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, and $201,000,000 for the fiscal year 1991".

Subsec. (c)(2). Pub. L. 102–375, §310(2)(B), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), in" for "In", and added subpar. (B).

Subsec. (d)(1). Pub. L. 102–375, §102(b)(10)(A), substituted "area agencies on aging" for "area agencies".

1987—Subsec. (a)(4). Pub. L. 100–175, §122(c)(1), substituted "fiscal years 1986 through 1991" for "fiscal year 1986 and during each fiscal year thereafter" and struck out after first sentence "The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after September 30, 1986, to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent."

Subsec. (c)(1)(A). Pub. L. 100–175, §122(c)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows:

"(i) There are authorized to be appropriated $144,000,000 for fiscal year 1986 and $144,000,000 for fiscal year 1987 to carry out this section (other than subsection (a)(1) of this section).

"(ii) The provisions of the second and third sentences of subsection (a)(4) of this section shall not apply for fiscal years 1986 and 1987."

1986—Subsec. (a)(4). Pub. L. 99–269, §2, substituted "56.76 cents per meal during fiscal year 1986 and during" for "15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal for" and "September 30, 1986" for "June 30, 1975".

Subsec. (c)(1)(A). Pub. L. 99–269, §3(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "There are authorized to be appropriated $105,000,000 for fiscal year 1984, $120,800,000 for fiscal year 1985, $125,900,000 for fiscal year 1986, and $132,000,000 for fiscal year 1987, to carry out the provisions of this section (other than the provisions of subsection (a)(1) of this section) and such additional sums as may be necessary for each such fiscal year to maintain the level of reimbursement for the number of meals served under such provisions in fiscal year 1983."

Subsec. (d). Pub. L. 99–269, §4, added subsec. (d).

1984—Subsec. (a)(4). Pub. L. 98–459, §310(a)(1), (2), substituted "subsection (c) of this section" for "subsection (d) of this section" and "Consumer Price Index for All Urban Consumers" for "Consumer Price

Index".

Subsec. (c). Pub. L. 98–459, §310(b)(1), which directed the amendment of this section by redesignating subsec. (d)(1) as (c)(1), was executed by redesignating subsec. (d) as (c) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 98–459, §310(b)(2), (3), inserted "(A)" after paragraph designation, struck out therein provisions authorizing appropriations of $93,200,000 for fiscal year 1982 and $100,000,000 for fiscal year 1983, inserted provisions authorizing appropriations of $120,800,000 for fiscal year 1985, $125,900,000 for fiscal year 1986, and $132,000,000 for fiscal year 1987, substituted "fiscal year 1983" for "fiscal year 1981" at the end, and added subpar. (B).

Subsec. (c)(2). Pub. L. 98–459, §310(b)(4), substituted "appropriations" for "appropriation".

Subsec. (d). Pub. L. 98–459, §310(b)(1), redesignated subsec. (d) as (c). See 1984 Amendment note for subsec. (c) above.

1981—Subsec. (a)(4). Pub. L. 97–115, §9(a), substituted "Subject to the authorization of appropriations specified in subsection (d) of this section, in donating" and "30 cents per meal for each fiscal year thereafter" for "In donating" and "30 cents per meal during the three succeeding fiscal years", respectively.

Subsecs. (b), (c). Pub. L. 97–115, §9(b), redesignated subsec. (c) as (b). Former subsec. (b), providing for the purchase, during fiscal years ending before Oct. 1, 1981, of high protein foods, meats, and meat alternatives by the Secretary of Agriculture for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this subchapter, was struck out.

Subsec. (d). Pub. L. 97–115, §9(c), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–19, §3, Apr. 23, 2007, 121 Stat. 85, provided that:

"(a) IN GENERAL.—The amendments made by section 2 [amending this section] shall take effect beginning with fiscal year 2008.

"(b) APPLICATION PROCESS.—Effective on the date of enactment of this Act [Apr. 23, 2007], the Secretary of Agriculture shall take such actions as will enable State agencies and title VI [subchapter X of this chapter] grantees described in section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) to apply during fiscal year 2007 for allotments under such section for fiscal year 2008."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–269, §5, Apr. 1, 1986, 100 Stat. 79, provided that: "This Act and the amendments made by this Act [amending this section and enacting provisions set out as notes under this section and section 3001 of this title] shall take effect on October 1, 1985."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

ESTABLISHMENT OF MAXIMUM RATE OF REIMBURSEMENT TO STATES FOR MEALS; AVAILABILITY OF FUNDS

Pub. L. 104–37, title IV, Oct. 21, 1995, 109 Stat. 324, provided in part: "That hereafter notwithstanding any other provision of law, for meals provided pursuant to the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], a maximum rate of reimbursement to States will be established by the Secretary, subject to reduction if obligations would exceed the amount of available funds, with any unobligated funds to remain available only for obligation in the fiscal year beginning October 1, 1996."

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 99–269, §3(a), Apr. 1, 1986, 100 Stat. 78, authorized appropriations for fiscal year 1985 in order to provide reimbursement at the level of 56.76 cents per meal during fiscal year 1985 determined under subsec. (a)(4) of this section.

§3030b. Recapture of payments made for multipurpose senior centers

If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this subchapter—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

(2) the facility ceases to be used for the purposes for which it was acquired (unless the Assistant Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(Pub. L. 89–73, title III, §312, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1534; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Par. (2). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3030c. Audit; request for information

(a) The Assistant Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this subchapter.

(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this chapter or a payment made for such services.

(Pub. L. 89–73, title III, §313, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1535; amended Pub. L. 98–459, title III, §311, Oct. 9, 1984, 98 Stat. 1779; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

1984—Pub. L. 98–459 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3030c–1. Rights relating to in-home services for frail older individuals

The Assistant Secretary shall require entities that provide in-home services under this subchapter to promote the rights of each older individual who receives such services. Such rights include the following:

(1) The right—

(A) to be fully informed in advance about each in-home service provided by such entity under this subchapter and about any change in such service that may affect the well-being of such individual; and

(B) to participate in planning and changing an in-home service provided under this subchapter by such entity unless such individual is judicially adjudged incompetent.

(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.

(3) The right to confidentiality of records relating to such individual.

(4) The right to have the property of such individual treated with respect.

(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this subchapter, of such individual's rights and obligations under this subchapter.

(Pub. L. 89–73, title III, §314, as added Pub. L. 102–375, title III, §311, Sept. 30, 1992, 106 Stat. 1237; amended Pub. L. 103–171, §§2(11), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–171 struck out "(a) PROMOTION.—" before "The Assistant" and substituted "Assistant Secretary" for "Commissioner".

§3030c–2. Consumer contributions

(a) Cost sharing

(1) In general

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

(2) Exception

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

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

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

(C) Congregate and home delivered meals.

(D) Any services delivered through tribal organizations.

(3) Prohibitions

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

(4) Payment rates

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

(5) Requirements

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

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

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

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

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

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

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

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

(6) Waiver

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

(A) a significant proportion of persons receiving services under this chapter subject to cost sharing in the planning and service area have incomes below the threshold established in State policy; or

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

(b) Voluntary contributions

(1) In general

Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this chapter if the method of solicitation is noncoercive. Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line, at contribution levels based on the actual cost of services.

(2) Local decision

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

(3) Prohibited acts

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

(4) Required acts

The area agency on aging shall ensure that each service provider will—

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

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

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

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

(E) use all collected contributions to expand the service for which the contributions were given and to supplement (not supplant) funds received under this chapter.

(c) Participation

(1) In general

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

(2) Plans

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

(d) Evaluation

Not later than 1 year after November 13, 2000, and annually thereafter, the Assistant Secretary shall conduct a comprehensive evaluation of practices for cost sharing to determine its impact on participation rates (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas). If the Assistant Secretary finds that there is a disparate impact upon low-income or minority older individuals or older individuals residing in rural areas in any State or region within the State regarding the provision of services, the Assistant Secretary shall take corrective action to assure that such services are provided to all older individuals without regard to the cost sharing criteria.

(e) Response to area agencies on aging

(1) In general

Upon request from an area agency on aging, the State shall make available any policies or guidance pertaining to policies established under this section.

(2) Rule of construction

Nothing in paragraph (1) shall require a State to develop policies or guidance pertaining to policies established under this section.

(Pub. L. 89–73, title III, §315, as added Pub. L. 106–501, title III, §310, Nov. 13, 2000, 114 Stat. 2247; amended Pub. L. 109–365, title III, §310, Oct. 17, 2006, 120 Stat. 2546; Pub. L. 116–131, title II, §212, Mar. 25, 2020, 134 Stat. 258.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 106–501, §310, which directed the addition of this section at the end of Part A of title III (42 U.S.C. 3021 et seq.), was executed by adding this section at the end of Part A of title III of the Older Americans Act of 1965 to reflect the probable intent of Congress.

AMENDMENTS

2020—Subsec. (e). Pub. L. 116–131 added subsec. (e).

2006—Subsec. (b)(1). Pub. L. 109–365, §310(1)(A), substituted "if" for "provided that" and inserted at end "Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line, at contribution levels based on the actual cost of services."

Subsec. (b)(4)(E). Pub. L. 109–365, §310(1)(B), inserted "and to supplement (not supplant) funds received under this chapter" after "given".

Subsec. (c)(2). Pub. L. 109–365, §310(2), substituted "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "(with particular attention to low-income minority individuals and older individuals residing in rural areas)".

Subsec. (d). Pub. L. 109–365, §310(3), substituted "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)" for "with particular attention to low-income and minority older individuals and older individuals residing in rural areas".

§3030c–3. Waivers

(a) In general

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

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

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

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

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

(b) Requirements subject to waiver

The provisions of this subchapter that may be waived under this section are—

(1) any provision of sections 3025, 3026, and 3027 of this title requiring statewide uniformity of programs carried out under this subchapter, to the extent necessary to permit demonstrations, in limited areas of a State, of innovative approaches to assist older individuals;

(2) any area plan requirement described in section 3026(a) of this title if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this chapter;

(3) any State plan requirement described in section 3027(a) of this title if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this chapter;

(4) any restriction under paragraph (5) of section 3028(b) of this title, on the amount that may be transferred between programs carried out under part B and part C; and

(5) the requirement of section 3029(c) of this title that certain amounts of a State allotment be

used for the provision of services, with respect to a State that reduces expenditures under the State plan of the State (but only to the extent that the non-Federal share of the expenditures is not reduced below any minimum specified in section 3024(d) of this title or any other provision of this subchapter).

(c) Duration of waiver

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

(d) Reports to Secretary

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

(Pub. L. 89–73, title III, §316, as added Pub. L. 106–501, title III, §310, Nov. 13, 2000, 114 Stat. 2249.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 106–501, §310, which directed the addition of this section at the end of Part A of title III (42 U.S.C. 3021 et seq.), was executed by adding this section at the end of Part A of title III of the Older Americans Act of 1965 to reflect the probable intent of Congress.

PART B—SUPPORTIVE SERVICES

§3030d. Grants for supportive services

(a) Grants

The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 3027 of this title for any of the following supportive services:

(1) health (including mental and behavioral health), education and training, welfare, informational, recreational, homemaker, counseling, referral, chronic condition self-care management, or falls prevention services;

(2) transportation services to facilitate access to supportive services or nutrition services, and services provided by an area agency on aging, in conjunction with local transportation service providers, public transportation agencies, and other local government agencies, that result in increased provision of such transportation services for older individuals;

(3) services designed to encourage and assist older individuals to use the facilities and services (including information and assistance services) available to them, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this subchapter;

(4) services designed (A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards; (B) to adapt homes to meet the needs of older individuals who have physical disabilities; (C) to prevent unlawful entry into residences of

older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or (D) to assist older individuals in obtaining housing for which assistance is provided under programs of the Department of Housing and Urban Development;

(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including—

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

(B) supportive activities to meet the special needs of caregivers, including caretakers who provide in-home services to frail older individuals; and

(C) in-home services and other community services, including home health, homemaker, shopping, escort, reader, and letter writing services, to assist older individuals to live independently in a home environment;

(6) services designed to provide to older individuals legal assistance and other counseling services and assistance, including—

(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

(B) representation—

(i) of individuals who are wards (or are allegedly incapacitated); and

(ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and

(C) provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children;

(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity, exercise, music therapy, art therapy, cultural experiences (including the arts), and dance-movement therapy;

(8) services designed to provide health screening (including mental and behavioral health screening, screening for negative health effects associated with social isolation, falls prevention services screening, and traumatic brain injury screening) to detect or prevent (or both) illnesses and injuries that occur most frequently in older individuals;

(9) services designed to provide, for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;

(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate for the well-being of such individuals;

(11) provision of services and assistive devices (including provision of assistive technology services and assistive technology devices) which are designed to meet the unique needs of older individuals who are disabled, and of older individuals who provide uncompensated care to their adult children with disabilities;

(12) services to encourage the employment of older workers, including job and second career counseling and, where appropriate, job development, referral, and placement, and including the coordination of the services with programs administered by or receiving assistance from the Department of Labor, including programs carried out under the Workforce Innovation and Opportunity Act;

(13) crime prevention services and victim assistance programs for older individuals;

(14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of low-income older individuals in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health

(including mental and behavioral health), employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Assistant Secretary may determine are necessary or especially appropriate to meet the needs of low-income older individuals and to assure them greater self-sufficiency;

(15) services for the prevention of abuse of older individuals in accordance with subpart III of part A of subchapter XI and section 3027(a)(12) of this title, and screening for elder abuse, neglect, and exploitation;

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

(17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation of age-related diseases and chronic disabling conditions;

(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services;

(19) services designed to support family members and other persons providing voluntary care to older individuals that need long-term care services;

(20) services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships;

(21) services to encourage and facilitate regular interaction between students and older individuals, including services for older individuals with limited English proficiency and visits in long-term care facilities, multipurpose senior centers, and other settings;

(22) in-home services for frail older individuals, including individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their families, including in-home services defined by a State agency in the State plan submitted under section 3027 of this title, taking into consideration the age, economic need, and noneconomic and nonhealth factors contributing to the frail condition and need for services of the individuals described in this paragraph, and in-home services defined by an area agency on aging in the area plan submitted under section 3026 of this title;

(23) services designed to support States, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental and behavioral health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment;

(24) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning;

(25) services that promote or support social connectedness and reduce negative health effects associated with social isolation; and

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

if such services meet standards prescribed by the Assistant Secretary and are necessary for the general welfare of older individuals. For purposes of paragraph (5), the term "client assessment through case management" includes providing information relating to assistive technology.

(b) Existing facilities

(1) The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 3027 of this title for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction or modernization of facilities to serve as multipurpose senior centers.

(2) Funds made available to a State under this part may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

(c) Coordination of services with other providers

In carrying out the provisions of this part, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall coordinate services described in subsection (a)

with other community agencies and voluntary organizations providing the same services. In coordinating the services, the area agency on aging shall make efforts to coordinate the services with agencies and organizations carrying out intergenerational programs or projects, and pursue opportunities for the development of intergenerational shared site models for programs or projects, consistent with the purposes of this chapter.

(d) Relationship to other funding sources

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

(e) "Adult child with a disability" defined

In this section, the term "adult child with a disability" means a child who—

(1) is age 18 or older;

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

(3) has a disability.

(Pub. L. 89–73, title III, §321, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1535; amended Pub. L. 97–115, §§3(d), 10(a)–(c), Dec. 29, 1981, 95 Stat. 1597, 1600; Pub. L. 98–459, title III, §312, Oct. 9, 1984, 98 Stat. 1779; Pub. L. 100–175, title I, §§136(d), 146(b), 182(m), Nov. 29, 1987, 101 Stat. 943, 950, 967; Pub. L. 102–375, title III, §312, title VII, §708(b), title IX, §904(a)(15), Sept. 30, 1992, 106 Stat. 1237, 1292, 1308; Pub. L. 103–171, §§2(12), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990; Pub. L. 106–501, title III, §311, title VIII, §801(c)(5), Nov. 13, 2000, 114 Stat. 2251, 2292; Pub. L. 109–365, title III, §311, Oct. 17, 2006, 120 Stat. 2547; Pub. L. 113–128, title V, §512(w)(2), July 22, 2014, 128 Stat. 1713; Pub. L. 114–144, §§4(g), 9(5), Apr. 19, 2016, 130 Stat. 339, 352; Pub. L. 116–131, title II, §§213, 214, Mar. 25, 2020, 134 Stat. 259.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (a)(12), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2020—Subsec. (a)(7). Pub. L. 116–131, §214(b), inserted "cultural experiences (including the arts)," after "art therapy,".

Subsec. (a)(8). Pub. L. 116–131, §213, substituted "screening, screening for negative health effects associated with social isolation," for "screening and" and inserted ", and traumatic brain injury screening" after "falls prevention services screening".

Subsec. (a)(25), (26). Pub. L. 116–131, §214(a), added par. (25) and redesignated former par. (25) as (26).

2016—Subsec. (a)(1). Pub. L. 114–144, §9(5)(A), inserted "and behavioral" after "mental".

Pub. L. 114–144, §4(g)(1)(A), substituted "referral, chronic condition self-care management, or falls prevention services" for "or referral services".

Subsec. (a)(8). Pub. L. 114–144, §4(g)(1)(B), substituted "(including mental and behavioral health screening and falls prevention services screening) to detect or prevent (or both) illnesses and injuries that occur most frequently in older individuals;" for "(including mental health screening) to detect or prevent illnesses, or both, that occur most frequently in older individuals;".

Subsec. (a)(14)(B). Pub. L. 114–144, §9(5)(B), inserted "and behavioral" after "mental".

Subsec. (a)(15). Pub. L. 114–144, §4(g)(1)(C), inserted ", and screening for elder abuse, neglect, and exploitation" before semicolon at end.

Subsec. (a)(23). Pub. L. 114–144, §9(5)(C), inserted "and behavioral" after "mental".

Subsec. (b)(1). Pub. L. 114–144, §4(g)(2), inserted "or modernization" after "construction".

Subsec. (c). Pub. L. 114–144, §4(g)(3), inserted before period at end ", and pursue opportunities for the development of intergenerational shared site models for programs or projects, consistent with the purposes of

this chapter".

Subsec. (e). Pub. L. 114–144, §4(g)(4), added subsec. (e).

2014—Subsec. (a)(12). Pub. L. 113–128 substituted "including programs carried out under the Workforce Innovation and Opportunity Act" for "including programs carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

2006—Subsec. (a)(8). Pub. L. 109–365, §311(1), inserted "(including mental health screening)" after "provide health screening".

Subsec. (a)(11). Pub. L. 109–365, §311(2), substituted "provision of services and assistive devices (including provision of assistive technology services and assistive technology devices)" for "services".

Subsec. (a)(14)(B). Pub. L. 109–365, §311(3), inserted "(including mental health)" after "existing health".

Subsec. (a)(21). Pub. L. 109–365, §311(4), substituted "students" for "school-age children" and inserted "services for older individuals with limited English proficiency and" after "including".

Subsec. (a)(23) to (25). Pub. L. 109–365, §311(5)–(7), added pars. (23) and (24) and redesignated former par. (23) as (25).

2000—Subsec. (a)(2). Pub. L. 106–501, §311(1)(A), substituted "and services provided by an area agency on aging, in conjunction with local transportation service providers, public transportation agencies, and other local government agencies, that result in increased provision of such transportation services for older individuals" for "or both".

Subsec. (a)(4). Pub. L. 106–501, §311(1)(B), substituted "or (D) to assist older individuals in obtaining housing for which assistance is provided under programs of the Department of Housing and Urban Development;" for "or (D) to receive applications from older individuals for housing under section 1701q of title 12;".

Subsec. (a)(5). Pub. L. 106–501, §311(1)(C), substituted "including—" and subpars. (A) to (C) for "including client assessment through case management and integration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;".

Subsec. (a)(12). Pub. L. 106–501, §311(1)(D), inserted before semicolon at end ", and including the coordination of the services with programs administered by or receiving assistance from the Department of Labor, including programs carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

Subsec. (a)(15). Pub. L. 106–501, §801(c)(5), substituted "section 3027(a)(12)" for "section 3027(a)(16)".

Subsec. (a)(22). Pub. L. 106–501, §311(1)(E), (F), added par. (22). Former par. (22) redesignated (23).

Subsec. (a)(23). Pub. L. 106–501, §311(1)(G), (H), redesignated par. (22) as (23) and inserted "necessary for the general welfare of older individuals" before semicolon at end.

Subsecs. (c), (d). Pub. L. 106–501, §311(2), added subsecs. (c) and (d).

1993—Subsec. (a). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner" in introductory and concluding provisions and in par. (14).

Subsec. (a)(15). Pub. L. 103–171, §2(12), which directed amendment of par. (15) by substituting "subpart III of part A of subchapter XI and section 3027(a)(16) of this title" for "clause (16) of section 3027(a) of this title", was executed by making the substitution for "paragraph (16) of section 3027(a) of this title" to reflect the probable intent of Congress and amendment by Pub. L. 102–375, §904(a)(15)(C). See 1992 Amendment note below.

Subsec. (b)(1). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner".

1992—Subsec. (a)(3). Pub. L. 102–375, §312(1), (2), inserted "(including information and assistance services)" after "and services" and ", including language translation services to assist older individuals with limited-English speaking ability to obtain services under this subchapter" before semicolon at end.

Subsec. (a)(4)(C). Pub. L. 102–375, §904(a)(15)(A), substituted "residences of older" for "residences of elderly".

Subsec. (a)(4)(D). Pub. L. 102–375, §312(3), added subpar. (D).

Subsec. (a)(6). Pub. L. 102–375, §312(4), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "services designed to provide legal assistance and other counseling services and assistance, including tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage, to older individuals;".

Subsec. (a)(7). Pub. L. 102–375, §312(5), substituted "physical activity, exercise, music therapy, art therapy, and dance-movement therapy" for "physical activity and exercise".

Subsec. (a)(9). Pub. L. 102–375, §312(6), substituted ", for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate

matters" for "preretirement and second career counseling for older individuals".

Subsec. (a)(11). Pub. L. 102–375, §312(7), inserted before semicolon at end ", and of older individuals who provide uncompensated care to their adult children with disabilities".

Subsec. (a)(12). Pub. L. 102–375, §312(8), inserted "and second career" after "including job".

Subsec. (a)(14). Pub. L. 102–375, §904(a)(15)(B)(i), substituted "low-income older individuals" for "older, poor individuals 60 years of age or older".

Subsec. (a)(14)(D). Pub. L. 102–375, §904(a)(15)(B)(ii), substituted "low-income older individuals" for "the older poor".

Subsec. (a)(15). Pub. L. 102–375, §904(a)(15)(C), substituted "paragraph" for "clause".

Pub. L. 102–375, §708(b), which directed the substitution of "subpart III of part A of subchapter XI of this chapter and section 3027(a)(16) of this title" for "clause (16) of section 3027(a) of this title" in par. (15) of this section could not be executed because this section does not contain a par. (15).

Subsec. (a)(17). Pub. L. 102–375, §312(9), inserted before semicolon at end ", including information concerning prevention, diagnosis, treatment, and rehabilitation of age-related diseases and chronic disabling conditions".

Subsec. (a)(19) to (22). Pub. L. 102–375, §312(10)–(12), added pars. (19) to (21) and redesignated former par. (19) as (22).

1987—Subsec. (a). Pub. L. 100–175, §146(b), inserted sentence at end defining "client assessment through case management" for purposes of par. (5).

Subsec. (a)(1). Pub. L. 100–175, §136(d)(1), inserted "(including mental health)" after "health".

Subsec. (a)(4)(B). Pub. L. 100–175, §136(d)(2), substituted "who have physical disabilities" for "suffering from physical disabilities".

Subsec. (a)(10). Pub. L. 100–175, §182(m), inserted "for" after "advocate".

1984—Subsec. (a)(5). Pub. L. 98–459, §312(a)(1), in amending par. (5) generally, substituted "services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including client assessment through case management and integration and coordination of community services such as" for "services designed to assist older individuals in avoiding institutionalization, including" and "and letter writing services, through resource development and management to assist such individuals to live" for "letter writing services, and other similar services designed to assist such individuals to continue living".

Subsec. (a)(6). Pub. L. 98–459, §312(a)(2), substituted "legal assistance" for "legal services" and ", financial counseling, and counseling regarding appropriate health and life insurance coverage" for "and financial counseling".

Subsec. (a)(8). Pub. L. 98–459, §312(a)(3), substituted "illnesses" for "illness".

Subsec. (a)(15) to (19). Pub. L. 98–459, §312(a)(4)–(6), added pars. (15) to (18) and redesignated former par. (15) as (19).

Subsec. (b)(1). Pub. L. 98–459, §312(b)(1), struck out provision that senior centers had to be community facilities for the organization and provision of a broad spectrum of services, including provision of health, social, nutritional, and educational services and provision of facilities for recreational activities for older individuals.

Subsec. (b)(2). Pub. L. 98–459, §312(b)(2), struck out the comma after "may be used" and substituted "centers and meeting" for "centers, to meet".

1981—Subsec. (a). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services" in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 97–115, §10(a), substituted "education and training" for "continuing education".

Subsec. (a)(2). Pub. L. 97–115, §3(d), substituted "supportive services" for "social services".

Subsec. (a)(4). Pub. L. 97–115, §10(b), designated existing provisions as cls. (A) and (B) and added cl. (C).

Subsec. (a)(12) to (15). Pub. L. 97–115, §10(c), added pars. (12) to (14) and redesignated former par. (12) as (15).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 708(b) of Pub. L. 102–375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as a note under section 3001 of this title.

Amendment by section 708(b) of Pub. L. 102–375 inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

PART C—NUTRITION SERVICES

§3030d–21. Purposes

The purposes of this part are—

(1) to reduce hunger, food insecurity, and malnutrition;

(2) to promote socialization of older individuals; and

(3) to promote the health and well-being of older individuals by assisting such individuals to gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior.

(Pub. L. 89–73, title III, §330, as added Pub. L. 109–365, title III, §312, Oct. 17, 2006, 120 Stat. 2547; amended Pub. L. 116–131, title I, §106(2), Mar. 25, 2020, 134 Stat. 244.)

EDITORIAL NOTES

AMENDMENTS

2020—Par. (1). Pub. L. 116–131 substituted ", food insecurity, and malnutrition" for "and food insecurity".

SUBPART I—CONGREGATE NUTRITION SERVICES

§3030e. Grants for establishment and operation of nutrition projects

The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 3027 of this title for the establishment and operation of nutrition projects that—

(1) 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by regulation) and a lesser frequency is approved by the State agency), provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide;

(2) shall be provided in congregate settings, including adult day care facilities and multigenerational meal sites; and

(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants.

(Pub. L. 89–73, title III, §331, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1536; amended Pub. L. 102–375, title III, §313, Sept. 30, 1992, 106 Stat. 1238; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title III, §312(c), Nov. 13, 2000, 114 Stat. 2252; Pub. L. 109–365, title III, §313, Oct. 17, 2006, 120 Stat. 2548.)

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–365, §313(1), substituted "projects that—" for "projects—" in introductory provisions.

Par. (1). Pub. L. 109–365, §313(2), struck out "which," before "5 or more days".

Par. (2). Pub. L. 109–365, §313(3), struck out "which" before "shall be provided".

Par. (3). Pub. L. 109–365, §313(4), added par. (3) and struck out former par. (3) which read as follows: "which may include nutrition education services and other appropriate nutrition services for older individuals."

2000—Par. (2). Pub. L. 106–501 inserted ", including adult day care facilities and multigenerational meal sites" before semicolon.

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" in introductory provisions and par. (1).

1992—Par. (1). Pub. L. 102–375 inserted "(except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency)" after "week" and struck out before semicolon at end ", each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

NUTRITION SERVICES

Pub. L. 116–136, div. A, title III, §3222, Mar. 27, 2020, 134 Stat. 379, provided that:

"(a) DEFINITIONS.—In this section, the terms 'Assistant Secretary', 'Secretary', 'State agency', and 'area agency on aging' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

"(b) NUTRITION SERVICES TRANSFER CRITERIA.—During any portion of the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d), the Secretary shall allow a State agency or an area agency on aging, without prior approval, to transfer not more than 100 percent of the funds received by the State agency or area agency on aging, respectively, and attributable to funds appropriated under paragraph (1) or (2) of section 303(b) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)), between subpart 1 and subpart 2 of part C (42 U.S.C. 3030d–2 et seq.) [probably means subparts 1 and 2 of part C of title III of the Act, 42 U.S.C. 3030e; 3030f, 3030g] for such use as the State agency or area agency on aging, respectively, considers appropriate to meet the needs of the State or area served.

"(c) HOME-DELIVERED NUTRITION SERVICES WAIVER.—For purposes of State agencies' determining the delivery of nutrition services under section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g), during the period of the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d), the same meaning shall be given to an individual who is unable to obtain nutrition because the individual is practicing social distancing due to the emergency as is given to an individual who is homebound by reason of illness.

"(d) DIETARY GUIDELINES WAIVER.—To facilitate implementation of subparts 1 and 2 of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030d–2 et seq.) [42 U.S.C. 3030e; 3030f, 3030g] during any portion of the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d), the Assistant Secretary may waive the requirements for meals provided under

those subparts to comply with the requirements of clauses (i) and (ii) of section 339(2)(A) of such Act (42 U.S.C. 3030g–21(2)(A))."

NUTRITION PROJECTS FOR ELDERLY UNDER PRIOR PROVISIONS, QUALIFIED UNDER SUCCESSOR PROVISIONS, ELIGIBLE FOR FUNDS UNDER SUCH PROVISIONS; DISCONTINUANCE OF PAYMENTS FOR INEFFECTIVE ACTIVITIES

Operation of predecessor projects under successor provisions, see section 501(b) of Pub. L. 95–478, set out as a note under section 3045 of this title.

SUBPART II—HOME DELIVERED NUTRITION SERVICES

§3030f. Program authorized

The Assistant Secretary shall establish and carry out a program to make grants to States under State plans approved under section 3027 of this title for the establishment and operation of nutrition projects for older individuals that provide—

(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, or fresh foods and, as appropriate, supplemental foods, and any additional meals that the recipient of a grant or contract under this subpart elects to provide; and

(2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.

(Pub. L. 89–73, title III, §336, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1536; amended Pub. L. 102–375, title III, §314, Sept. 30, 1992, 106 Stat. 1238; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 109–365, title III, §314, Oct. 17, 2006, 120 Stat. 2548; Pub. L. 114–144, §4(h), Apr. 19, 2016, 130 Stat. 339.)

EDITORIAL NOTES

AMENDMENTS

2016—Par. (1). Pub. L. 114–144 substituted "canned, or fresh foods and, as appropriate, supplemental foods, and any additional meals" for "canned, fresh, or supplemental foods and any additional meals".

2006—Pub. L. 109–365 amended section generally. Prior to amendment, text read as follows: "The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 3027 of this title for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by regulation) and a lesser frequency is approved by the State agency), provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide."

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" in two places.

1992—Pub. L. 102–375 inserted "(except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency)" after "week" and struck out before period at end ", each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§3030g. Criteria

The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning and food service management, and aging, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 3030f of this title.

(Pub. L. 89–73, title III, §337, as added Pub. L. 95–478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1536; amended Pub. L. 97–115, §10(e), Dec. 29, 1981, 95 Stat. 1601; Pub. L. 100–175, title I, §182(n), Nov. 29, 1987, 101 Stat. 967; Pub. L. 102–375, title III, §315, Sept. 30, 1992, 106 Stat. 1239; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 109–365, title III, §315, Oct. 17, 2006, 120 Stat. 2548.)

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–365 amended section generally. Prior to amendment, text read as follows: "The Assistant Secretary, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Dietary Managers Association, the National Association of Area Agencies on Aging, the National Association of Nutrition and Aging Services Programs, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 3030f of this title. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services."

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

1992—Pub. L. 102–375 inserted "the Dietary Managers Association," after "Dietetic Association,".

1987—Pub. L. 100–175 substituted "National Association of Area Agencies" for "Association of Area Agencies".

1981—Pub. L. 97–115 substituted "National Association of Nutrition and Aging Services Programs" for "National Association of Title VII Project Directors".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95–478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

HOME-DELIVERED NUTRITION SERVICES WAIVER

Pub. L. 116–260, div. N, title VII, §732(b), Dec. 27, 2020, 134 Stat. 2105, provided that: "For purposes of determining eligibility for the delivery of nutrition services under section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g), with funds received by a State under the Older Americans Act of 1965 (42 U.S.C. 2001 [3001] et seq.) for fiscal [year] 2021, the State shall treat an older individual who is unable to obtain nutrition because the individual is practicing social distancing due to the public health emergency in the same manner as the State treats an older individual who is homebound by reason of illness."

SUBPART III—GENERAL PROVISIONS

EDITORIAL NOTES

CODIFICATION

Pub. L. 106–501, title III, §312(b), Nov. 13, 2000, 114 Stat. 2252, redesignated subpart IV of this part as subpart III.

PRIOR PROVISIONS

A prior subpart III, consisting of sections 3030g–11 to 3030g–13 of this title, related to school-based meals for volunteer older individuals and multigenerational programs, prior to repeal by Pub. L. 106–501, title III, §312(a), Nov. 13, 2000, 114 Stat. 2252.

Section 3030g–11, Pub. L. 89–73, title III, §338, as added Pub. L. 102–375, title III, §316(a), Sept. 30, 1992, 106 Stat. 1239; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, provided for establishment and implementation of the programs.

Section 3030g–12, Pub. L. 89–73, title III, §338A, as added Pub. L. 102–375, title III, §316(a), Sept. 30, 1992, 106 Stat. 1240; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 103–382, title III, §391(r)(1), Oct. 20, 1994, 108 Stat. 4024, described required contents of application and criteria for selection among applicants.

Section 3030g–13, Pub. L. 89–73, title III, §338B, as added Pub. L. 102–375, title III, §316(a), Sept. 30, 1992, 106 Stat. 1240; amended Pub. L. 103–171, §3(a)(11), (13), Dec. 2, 1993, 107 Stat. 1990, required States receiving grants to submit reports evaluating projects.

§3030g–21. Nutrition

A State that establishes and operates a nutrition project under this chapter [1] shall—

(1) utilize the expertise of a dietitian or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, and

(2) ensure that the project—

(A) provides meals that—

(i) comply with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and

(ii) provide to each participating older individual—

(I) a minimum of 331/3 percent of the dietary reference intakes established by the Food and Nutrition Board of the National Academies of Sciences, Engineering, and Medicine, if the project provides one meal per day,

(II) a minimum of 662/3 percent of the allowances if the project provides two meals per day, and

(III) 100 percent of the allowances if the project provides three meals per day, and

(iii) to the maximum extent practicable, are adjusted to meet any special dietary needs of program participants, including meals adjusted for cultural considerations and preferences and medically tailored meals,

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

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

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

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

(F) comply [2] with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery

of meals to an older individual,

(G) ensures that meal providers solicit the advice and expertise of—

(i) a dietitian or other individual described in paragraph (1),

(ii) meal participants, and

(iii) other individuals knowledgeable with regard to the needs of older individuals,

(H) ensures that each participating area agency on aging establishes procedures that allow nutrition project administrators the option to offer a meal, on the same basis as meals provided to participating older individuals, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with older individuals eligible under this chapter,[1]

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

(J) provides for nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate,

(K) encourages individuals who distribute nutrition services under subpart II to provide, to homebound older individuals, available medical information approved by health care professionals, such as informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals' communities, and

(L) where feasible, encourages the use of locally grown foods in meal programs and identifies potential partnerships and contracts with local producers and providers of locally grown foods.

(Pub. L. 89–73, title III, §339, as added Pub. L. 106–501, title III, §313, Nov. 13, 2000, 114 Stat. 2252; amended Pub. L. 109–365, title III, §316, Oct. 17, 2006, 120 Stat. 2548; Pub. L. 114–144, §4(i), Apr. 19, 2016, 130 Stat. 339; Pub. L. 116–131, title II, §215, title VII, §701(9), Mar. 25, 2020, 134 Stat. 259, 271.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 106–501, §313, which directed amendment of subpart 4 of part C of title III of the Older Americans Act of 1965 (Pub. L. 89–73) by striking section 339 and inserting this section, was executed in this subpart, which is subpart 3 of part C of title III of the Act, by repealing prior section 3030g–21, and inserting this section, to reflect the probable intent of Congress and the redesignation of subpart 4 of part C of title III of the Act as subpart 3 by Pub. L. 106–501, §312(b).

PRIOR PROVISIONS

A prior section 3030g–21, Pub. L. 89–73, title III, §339, as added Pub. L. 102–375, title III, §317, Sept. 30, 1992, 106 Stat. 1241, related to compliance with dietary guidelines prior to repeal by Pub. L. 106–501, title III, §313, Nov. 13, 2000, 114 Stat. 2252. See Codification note above.

AMENDMENTS

2020—Par. (2)(A)(ii)(I). Pub. L. 116–131, §701(9), substituted "National Academies of Sciences, Engineering, and Medicine" for "Institute of Medicine of the National Academy of Sciences".

Par. (2)(A)(iii). Pub. L. 116–131, §215, inserted ", including meals adjusted for cultural considerations and preferences and medically tailored meals" before comma at end.

2016—Par. (1). Pub. L. 114–144, §4(i)(1), substituted "utilize" for "solicit".

Par. (2)(L). Pub. L. 114–144, §4(i)(2), added subpar. (L).

2006—Par. (1). Pub. L. 109–365, §316(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "solicit the advice of a dietitian or individual with comparable expertise in the planning of nutritional services, and".

Par. (2)(A)(i). Pub. L. 109–365, §316(2)(A)(i), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of

Agriculture,".

Par. (2)(A)(ii)(I). Pub. L. 109–365, §316(2)(A)(ii), substituted "dietary reference intakes" for "daily recommended dietary allowances as".

Par. (2)(D). Pub. L. 109–365, §316(2)(B), inserted "joint" after "encourages".

Par. (2)(G). Pub. L. 109–365, §316(2)(C), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "ensures that meal providers carry out such project with the advice of dietitians (or individuals with comparable expertise), meal participants, and other individuals knowledgeable with regard to the needs of older individuals,".

Par. (2)(H). Pub. L. 109–365, §316(2)(D), struck out "and accompany" after "home with".

Par. (2)(J), (K). Pub. L. 109–365, §316(2)(E), (F), added subpars. (J) and (K) and struck out former subpar. (J) which read as follows: "provide for nutrition screening and, where appropriate, for nutrition education and counseling."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TEMPORARY DIETARY GUIDELINES WAIVER

Pub. L. 116–260, div. N, title VII, §732(c), Dec. 27, 2020, 134 Stat. 2105, provided that: "To facilitate implementation of subparts 1 [42 U.S.C. 3030e] and 2 [42 U.S.C. 3030f, 3030g] of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030d–2 [3030d–21] et seq.), with funds received by a State for fiscal year 2021, the Assistant Secretary for Aging may waive, but continue to make every effort practicable to encourage the restoration of, the applicable requirements for meals provided under such subparts comply [sic] with the requirements of clauses (i) and (ii) of section 339(2)(A) of such Act (42 U.S.C. 3030g–21(2)(A))."

[1] So in original. Title III of Pub. L. 89–73, as amended, contained parts and subparts, but not chapters.

[2] So in original. Probably should be "complies".

§3030g–22. Payment requirement

Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 3030a of this title.

(Pub. L. 89–73, title III, §339A, as added Pub. L. 102–375, title III, §317, Sept. 30, 1992, 106 Stat. 1241.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 3030h to 3030l were repealed by Pub. L. 106–501, title III, §314(1), Nov. 13, 2000, 114 Stat. 2253.

Section 3030h, Pub. L. 89–73, title III, §341, as added Pub. L. 100–175, title I, §140(d), Nov. 29, 1987, 101 Stat. 945; amended Pub. L. 102–375, title I, §102(b)(6), (10)(C), Sept. 30, 1992, 106 Stat. 1201, 1202; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, authorized a grant program for States.

Section 3030i, Pub. L. 89–73, title III, §342, as added Pub. L. 100–175, title I, §140(d), Nov. 29, 1987, 101 Stat. 945; amended Pub. L. 102–375, title I, §102(b)(7), title III, §318, Sept. 30, 1992, 106 Stat. 1201, 1241, defined "in-home services".

Section 3030j, Pub. L. 89–73, title III, §343, as added Pub. L. 100–175, title I, §140(d), Nov. 29, 1987, 101 Stat. 945, provided for the State agency to develop eligibility criteria.

Section 3030k, Pub. L. 89–73, title III, §344, as added Pub. L. 100–175, title I, §140(d), Nov. 29, 1987, 101 Stat. 946, required that funds available under former part D of this subchapter be in addition to funds otherwise expended.

Section 3030l, Pub. L. 89–73, title III, §351, as added Pub. L. 100–175, title I, §141(d), Nov. 29, 1987, 101 Stat. 946; amended Pub. L. 102–375, title VII, §708(a)(2)(C), Sept. 30, 1992, 106 Stat. 1292; Pub. L.

103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, authorized program of grants to satisfy special needs of older individuals.

§3030g–23. Nutrition services impact study

(a) Study

(1) In general

The Assistant Secretary shall perform a study to assess how to measure and evaluate the discrepancy between available services and the demand for such services in the home delivered nutrition services program and the congregate nutrition services program under this part, which shall include assessing various methods (such as those that States use) to measure and evaluate the discrepancy (such as measurement through the length of waitlists).

(2) Contents

In performing the study, the Assistant Secretary shall—

(A) consider means of obtaining information in rural and underserved communities; and

(B) consider using existing tools (existing as of the date the Assistant Secretary begins the study) such as the tools developed through the Performance Outcome Measurement Project.

(3) Analysis

The Assistant Secretary shall analyze and determine which methods are the least burdensome and most effective for measuring and evaluating the discrepancy described in paragraph (1).

(b) Recommendations

(1) Preparation

Not later than 3 years after March 25, 2020, the Assistant Secretary shall prepare recommendations—

(A) on how to measure and evaluate, with the least burden and the most effectiveness, the discrepancy described in subsection (a)(1) (such as measurement through the length of waitlists); and

(B) about whether studies similar to the study described in subsection (a) should be carried out for programs carried out under this chapter, other than this part.

(2) Issuance

The Assistant Secretary shall issue the recommendations, and make the recommendations available as a notification pursuant to section 3012(a)(34) of this title and to the committees of the Senate and of the House of Representatives with jurisdiction over this chapter, and the Special Committee on Aging of the Senate.

(Pub. L. 89–73, title III, §339B, as added Pub. L. 116–131, title II, §216, Mar. 25, 2020, 134 Stat. 259.)

PART D—EVIDENCE-BASED DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

EDITORIAL NOTES

CODIFICATION

Pub. L. 114–144, §4(j)(1), Apr. 19, 2016, 130 Stat. 340, inserted "Evidence-Based" before "Disease" in part heading.

Pub. L. 106–501, title III, §314(2), Nov. 13, 2000, 114 Stat. 2253, redesignated part F of this subchapter as part D.

PRIOR PROVISIONS

A prior part D, consisting of sections 3030h to 3030k of this title, related to in-home services for frail older individuals, prior to repeal by Pub. L. 106–501, title III, §314(1), Nov. 13, 2000, 114 Stat. 2253. See prior provisions notes under section 3030g–22 of this title.

§3030m. Program authorized

(a) Grants to States

The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 3027 of this title to provide evidence-based disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites. In carrying out such program, the Assistant Secretary shall provide technical assistance on the delivery of evidence-based disease prevention and health promotion services in different settings and for different populations, and consult with the Directors of the Centers for Disease Control and Prevention and the National Institute on Aging.

(b) Community organizations and agencies

The Assistant Secretary shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

(c) Improving indoor air quality

The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.

(Pub. L. 89–73, title III, §361, as added Pub. L. 100–175, title I, §143(c), Nov. 29, 1987, 101 Stat. 947; amended Pub. L. 102–375, title III, §319(a), Sept. 30, 1992, 106 Stat. 1241; Pub. L. 103–171, §§2(13), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990; Pub. L. 109–365, title III, §319, Oct. 17, 2006, 120 Stat. 2551; Pub. L. 114–144, §4(j)(2), Apr. 19, 2016, 130 Stat. 340; Pub. L. 116–131, title I, §117(b), Mar. 25, 2020, 134 Stat. 246.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–131 inserted "provide technical assistance on the delivery of evidence-based disease prevention and health promotion services in different settings and for different populations, and" before "consult".

2016—Subsec. (a). Pub. L. 114–144 inserted "evidence-based" after "to provide".

2006—Subsec. (c). Pub. L. 109–365 added subsec. (c).

1993—Subsec. (a). Pub. L. 103–171, §§2(13), 3(a)(13), substituted "Assistant Secretary" for "Commissioner" in two places and inserted "and Prevention" after "Control".

Subsec. (b). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner".

1992—Subsec. (a). Pub. L. 102–375, §319(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Commissioner shall carry out a program for making grants to States under State plans approved under section 3027 of this title for periodic preventive health services to be provided at senior centers or alternative sites as appropriate."

Subsecs. (b), (c). Pub. L. 102–375, §319(a)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "Preventive health services under this part may not include services eligible for reimbursement under Medicare."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal

year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3030n. Distribution to area agencies on aging

The State agency shall give priority, in carrying out this part, to areas of the State—

(1) which are medically underserved; and

(2) in which there are a large number of older individuals who have the greatest economic need for such services.

(Pub. L. 89–73, title III, §362, as added Pub. L. 100–175, title I, §143(c), Nov. 29, 1987, 101 Stat. 948; amended Pub. L. 102–375, title I, §102(b)(10)(G), Sept. 30, 1992, 106 Stat. 1202.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 3030o to 3030r were repealed by Pub. L. 106–501, title III, §§315, 316(1), Nov. 13, 2000, 114 Stat. 2253.

Section 3030o, Pub. L. 89–73, title III, §363, as added Pub. L. 100–175, title I, §143(c), Nov. 29, 1987, 101 Stat. 948; amended Pub. L. 102–375, title III, §319(b), Sept. 30, 1992, 106 Stat. 1242; Pub. L. 103–382, title III, §391(r)(2), Oct. 20, 1994, 108 Stat. 4024, defined "disease prevention and health promotion services".

Section 3030p, Pub. L. 89–73, title III, §381, as added Pub. L. 102–375, title III, §320, Sept. 30, 1992, 106 Stat. 1243; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, authorized grant program for States to provide supportive activities for caretakers who provide in-home services to frail older individuals.

Another prior section 3030p, Pub. L. 89–73, title III, §371, as added Pub. L. 100–175, title I, §144(e), Nov. 29, 1987, 101 Stat. 949, authorized program for prevention of abuse, neglect and exploitation of older individuals, prior to the general amendment of former part G of this subchapter by section 320 of Pub. L. 102–375.

Section 3030q, Pub. L. 89–73, title III, §382, as added Pub. L. 102–375, title III, §320, Sept. 30, 1992, 106 Stat. 1243, defined "in-home services".

Section 3030r, Pub. L. 89–73, title III, §383, as added Pub. L. 102–375, title III, §320, Sept. 30, 1992, 106 Stat. 1243, required that funds available under former part G of this subchapter be in addition to funds otherwise expended.

AMENDMENTS

1992—Pub. L. 102–375 substituted "area agencies on aging" for "area agencies" in section catchline.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

PART E—NATIONAL FAMILY CAREGIVER SUPPORT PROGRAM

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part E, consisting of section 3030l of this title, related to authorization of grant program for States to provide additional assistance for special needs of older individuals, prior to repeal by Pub. L. 106–501, title III, §314(1), Nov. 13, 2000, 114 Stat. 2253. See Prior Provisions note set out under section 3030g–22 of this

title.

A prior part F of this subchapter, consisting of sections 3030m to 3030o of this title, was redesignated part D of this subchapter.

A prior part G of this subchapter consisting of sections 3030p to 3030r of this title, related to supportive activities for caretakers who provide in-home services to frail older individuals, prior to repeal by Pub. L. 106–501, title III, §316(1), Nov. 13, 2000, 114 Stat. 2253. See Prior Provisions notes set out under section 3030n of this title.

§3030s. Definitions

(a) In general

In this part:

(1) Caregiver assessment

The term "caregiver assessment" means a defined process of gathering information to identify the specific needs, barriers to carrying out caregiving responsibilities, and existing supports of a family caregiver or older relative caregiver, as identified by the caregiver involved, to appropriately target recommendations for support services described in section 3030s–1(b) of this title. Such assessment shall be administered through direct contact with the caregiver, which may include contact through a home visit, the Internet, telephone or teleconference, or in-person interaction.

(2) Child

The term "child" means an individual who is not more than 18 years of age.

(3) Individual with a disability

The term "individual with a disability" means an individual with a disability, as defined in section 12102 of this title, who is not less than age 18 and not more than age 59.

(4) Older relative caregiver

The term "older relative caregiver" means a caregiver who—

(A)(i) is age 55 or older; and

(ii) lives with, is the informal provider of in-home and community care to, and is the primary caregiver for, a child or an individual with a disability;

(B) in the case of a caregiver for a child—

(i) is the grandparent, stepgrandparent, or other relative (other than the parent) by blood, marriage, or adoption, of the child;

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

(iii) has a legal relationship to the child, such as legal custody, adoption, or guardianship, or is raising the child informally; and

(C) in the case of a caregiver for an individual with a disability, is the parent, grandparent, or other relative by blood, marriage, or adoption, of the individual with a disability.

(b) Rule

In providing services under this part, for family caregivers who provide care for individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction, the State involved shall give priority to caregivers who provide care for older individuals with such disease or disorder.

(Pub. L. 89–73, title III, §372, as added Pub. L. 106–501, title III, §316(2), Nov. 13, 2000, 114 Stat. 2254; amended Pub. L. 109–365, title III, §320, Oct. 17, 2006, 120 Stat. 2551; Pub. L. 114–144, §4(k)(2), (m), Apr. 19, 2016, 130 Stat. 340, 341; Pub. L. 116–131, title II, §217(a), Mar. 25, 2020, 134 Stat. 260.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–131 added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

2016—Pub. L. 114–144, §4(m), substituted "this part" for "this subpart" in introductory provisions.

Subsec. (a)(1). Pub. L. 114–144, §4(k)(2)(A)(i), struck out "or who is an individual with a disability" before period at end.

Subsec. (a)(2), (3). Pub. L. 114–144, §4(k)(2)(A)(ii), added pars. (2) and (3) and struck out former par. (2) which defined grandparent or older individual who is a relative caregiver.

Subsec. (b). Pub. L. 114–144, §4(k)(2)(B), substituted "this part," for "this subpart—", struck out par. (1) designation before "for family caregivers", and struck out par. (2) which read as follows: "for grandparents or older individuals who are relative caregivers, the State involved shall give priority to caregivers who provide care for children with severe disabilities."

2006—Pub. L. 109–365 designated existing provisions as subsec. (a) and inserted heading, inserted "or who is an individual with a disability" after "age" in par. (1), substituted "a child by blood, marriage, or adoption" for "a child by blood or marriage" and "55 years" for "60 years" in par. (3), redesignated par. (3) as (2), struck out former par. (2) which defined term "family caregiver", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of this part as the "National Family Caregiver Support Act", see section 371 of Pub. L. 89–73, set out as a Short Title note under section 3001 of this title.

RECOGNIZE, ASSIST, INCLUDE, SUPPORT, AND ENGAGE FAMILY CAREGIVERS

Pub. L. 115–119, Jan. 22, 2018, 132 Stat. 23, as amended by Pub. L. 116–131, title I, §122(b), (c), Mar. 25, 2020, 134 Stat. 248, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Recognize, Assist, Include, Support, and Engage Family Caregivers Act of 2017' or the 'RAISE Family Caregivers Act'.

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ADVISORY COUNCIL.—The term 'Advisory Council' means the Family Caregiving Advisory Council convened under section 4.

"(2) FAMILY CAREGIVER.—The term 'family caregiver' means an adult family member or other individual who has a significant relationship with, and who provides a broad range of assistance to, an individual with a chronic or other health condition, disability, or functional limitation.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Assistant Secretary for Aging.

"(4) STRATEGY.—The term 'Strategy' means the Family Caregiving Strategy set forth under section 3.

"SEC. 3. FAMILY CAREGIVING STRATEGY.

"(a) IN GENERAL.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop jointly with the Advisory Council and submit to the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the State agencies responsible for carrying out family caregiver programs, and make publicly available on the internet website of the Department of Health and Human Services, a Family Caregiving Strategy.

"(b) CONTENTS.—The Strategy shall identify recommended actions that Federal (under existing Federal programs), State, and local governments, communities, health care providers, long-term services and supports providers, and others are taking, or may take, to recognize and support family caregivers in a manner that reflects their diverse needs, including with respect to the following:

"(1) Promoting greater adoption of person- and family-centered care in all health and long-term services and supports settings, with the person receiving services and supports and the family caregiver (as appropriate) at the center of care teams.

"(2) Assessment and service planning (including care transitions and coordination) involving family caregivers and care recipients.

"(3) Information, education and training supports, referral, and care coordination, including with respect to hospice care, palliative care, and advance planning services.

"(4) Respite options.

"(5) Financial security and workplace issues.

"(6) Delivering services based on the performance, mission, and purpose of a program while eliminating redundancies.

"(c) DUTIES OF THE SECRETARY.—The Secretary, in carrying out subsection (a), shall oversee the following:

"(1) Collecting and making publicly available information submitted by the Advisory Council under section 4(d) to the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the State agencies responsible for carrying out family caregiver programs, including evidence-based or promising practices and innovative models (both domestic and foreign) regarding the provision of care by family caregivers or support for family caregivers.

"(2) Coordinating and assessing existing Federal Government programs and activities to recognize and support family caregivers while ensuring maximum effectiveness and avoiding unnecessary duplication.

"(3) Providing technical assistance, as appropriate, such as disseminating identified best practices and information sharing based on reports provided under section 4(d), to State or local efforts to support family caregivers.

"(d) INITIAL STRATEGY; UPDATES.—The Secretary shall—

"(1) not later than 18 months after the date of enactment of this Act [Jan. 22, 2018], develop, publish, and submit to the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the State agencies responsible for carrying out family caregiver programs, an initial Strategy incorporating the items addressed in the Advisory Council's initial report under section 4(d) and other relevant information, including best practices, for recognizing and supporting family caregivers; and

"(2) biennially update, republish, and submit to the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the State agencies responsible for carrying out family caregiver programs the Strategy, taking into account the most recent annual report submitted under section 4(d)(1)—

"(A) to reflect new developments, challenges, opportunities, and solutions; and

"(B) to review progress based on recommendations for recognizing and supporting family caregivers in the Strategy and, based on the results of such review, recommend priority actions for improving the implementation of such recommendations, as appropriate.

"(e) PROCESS FOR PUBLIC INPUT.—The Secretary shall establish a process for public input to inform the development of, and updates to, the Strategy, including a process for the public to submit recommendations to the Advisory Council and an opportunity for public comment on the proposed Strategy.

"(f) NO PREEMPTION.—Nothing in this Act preempts any authority of a State or local government to recognize or support family caregivers.

"(g) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to permit the Secretary (through regulation, guidance, grant criteria, or otherwise) to—

"(1) mandate, direct, or control the allocation of State or local resources;

"(2) mandate the use of any of the best practices identified in the reports required under this Act; or

"(3) otherwise expand the authority of the Secretary beyond that expressly provided to the Secretary in this Act.

"SEC. 4. FAMILY CAREGIVING ADVISORY COUNCIL.

"(a) CONVENING.—The Secretary shall convene a Family Caregiving Advisory Council to advise and provide recommendations, including identified best practices, to the Secretary on recognizing and supporting family caregivers.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The members of the Advisory Council shall consist of—

"(A) the appointed members under paragraph (2); and

"(B) the Federal members under paragraph (3).

"(2) APPOINTED MEMBERS.—In addition to the Federal members under paragraph (3), the Secretary shall appoint not more than 15 voting members of the Advisory Council who are not

representatives of Federal departments or agencies and who shall include at least 1 representative of each of the following:

"(A) Family caregivers.

"(B) Older adults with long-term services and supports needs.

"(C) Individuals with disabilities.

"(D) Health care and social service providers.

"(E) Long-term services and supports providers.

"(F) Employers.

"(G) Paraprofessional workers.

"(H) State and local officials.

"(I) Accreditation bodies.

"(J) Veterans.

"(K) As appropriate, other experts and advocacy organizations engaged in family caregiving.

"(3) FEDERAL MEMBERS.—The Federal members of the Advisory Council, who shall be nonvoting members, shall consist of the following:

"(A) The Administrator of the Centers for Medicare & Medicaid Services (or the Administrator's designee).

"(B) The Administrator of the Administration for Community Living (or the Administrator's designee who has experience in both aging and disability).

"(C) The Secretary of Veterans Affairs (or the Secretary's designee).

"(D) The heads of other Federal departments or agencies (or their designees), including relevant departments or agencies that oversee labor and workforce, economic, government financial policies, community service, and other impacted populations, as appointed by the Secretary or the Chair of the Advisory Council.

"(4) DIVERSE REPRESENTATION.—The Secretary shall ensure that the membership of the Advisory Council reflects the diversity of family caregivers and individuals receiving services and supports.

"(c) MEETINGS.—The Advisory Council shall meet quarterly during the 1-year period beginning on the date of enactment of this Act [Jan. 22, 2018] and at least three times during each year thereafter. Meetings of the Advisory Council shall be open to the public.

"(d) ADVISORY COUNCIL ANNUAL REPORTS.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Advisory Council shall submit to the Secretary, the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the State agencies responsible for carrying out family caregiver programs, and make publicly available on the internet website of the Department of Health and Human Services, a report concerning the development, maintenance, and updating of the Strategy, including a description of the outcomes of the recommendations and any priorities included in the initial report pursuant to paragraph (2), as appropriate.

"(2) INITIAL REPORT.—The Advisory Council's initial report under paragraph (1) shall include—

"(A) an inventory and assessment of all federally funded efforts to recognize and support family caregivers and the outcomes of such efforts, including analyses of the extent to which federally funded efforts are reaching family caregivers and gaps in such efforts;

"(B) recommendations—

"(i) to improve and better coordinate Federal programs and activities to recognize and support family caregivers, as well as opportunities to improve the coordination of such Federal programs and activities with State programs; and

"(ii) to effectively deliver services based on the performance, mission, and purpose of a program while eliminating redundancies, avoiding unnecessary duplication and overlap, and ensuring the needs of family caregivers are met;

"(C) the identification of challenges faced by family caregivers, including financial, health, and other challenges, and existing approaches to address such challenges; and

"(D) an evaluation of how family caregiving impacts the Medicare program, the Medicaid program, and other Federal programs.

"(e) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the Advisory Council.

"SEC. 5. FUNDING.

"No additional funds are authorized to be appropriated to carry out this Act. This Act shall be carried out using funds otherwise authorized.

"SEC. 6. SUNSET PROVISION.

"The authority and obligations established by this Act shall terminate on the date that is 4 years after the date of enactment of this Act [Jan. 22, 2018]."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 14095. INCREASING ACCESS TO HIGH-QUALITY CARE AND SUPPORTING CAREGIVERS

Ex. Ord. No. 14095, Apr. 18, 2023, 88 F.R. 24669, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. High-quality early care and education and long-term care are critical to our Nation's economic growth and economic security. Early care and education give young children a strong start in life, while long-term care helps older Americans and people with disabilities live, work, and participate in their communities with dignity. Access to both types of care is also critical to our national security because it helps ensure the recruitment, readiness, and retention of our military service members.

Throughout this order, early care and education are collectively referred to as "child care." References to "care" that do not specify the type of care refer to both child care and long-term care. References to the "care workforce" refer to individuals and businesses working in the fields of child care and long-term care.

A sizeable majority of families and individuals in the United States who require care cannot access the affordable, high-quality care they need. The markets for child care and long-term care for persons with disabilities and older adults who need support in their homes and communities fail to deliver enough high-quality care because of a persistent gap between the costs of providing this care and the prices families can pay. High-quality care is labor intensive and requires skilled workers, and providers have limited ability to reduce costs. As a result, even when high-quality care is available, it costs far more than many families and individuals can afford, causing them to forgo care altogether, seek lower-quality care options, juggle unconventional shifts at work, reduce their own paid work hours, drop out of the labor force, or make other arrangements. Care expenditures represent a significant and increasing share of families' budgets, with child care prices growing by approximately 26 percent and some types of long-term care costs growing by over 40 percent in the last decade. Inadequate supply is exacerbated by high turnover in the care workforce. Care workers—disproportionately women of color—are among the lowest-paid in the country and often have to rely on public benefits despite working complex and demanding jobs. Investments in the care workforce are foundational to helping to retain care workers and improving health and educational outcomes. In recent years, more than half of the long-term care workforce and nearly 20 percent of the child care workforce turned over each year. And the workforce remains 8 percent smaller than before the COVID–19 pandemic.

In 2019, more than three in four United States households that searched for care reported difficulty finding adequate care for their young children, and roughly the same share of center-based child care providers turned families away because they lacked enough child care slots. Similarly, more than three in four long-term care service providers have reported not being able to accept new clients, making it harder for older Americans and people with disabilities to find the care they need. Military families consistently cite access to high-quality child care as an impediment to military spouse employment and family economic security. Difficulty accessing care also poses a challenge for both spouses—and, as data shows, particularly for women in dual military couples—to continuing their service if they have caregiving responsibilities. The need for long-term care is likely to become more acute as our Nation's population ages. By 2060, there will be approximately twice as many adults over the age of 65 than in 2016, and projections indicate that there will be around 8 million long-term care job openings over the next decade.

Family caregivers provide informal, often unpaid, care to help loved ones live in their homes and communities, including caring for aging family members, people with disabilities, and children. At least 53 million people are family caregivers in the United States—including 5.5 million who are caring for wounded, ill, and injured service members and veterans—and many face challenges due to lack of support, training, and opportunities for rest. Family caregivers include spouses, parents, siblings, adult and minor children, grandparents, and other relatives. Family caregivers reflect the diversity of America's communities, and people can assume family caregiving responsibilities at any stage of life. Without adequate resources, family caregiving can affect caregivers' own physical and emotional health and well-being and contribute to financial strain. These negative consequences are felt most acutely by women, who make up nearly two-thirds of family caregivers and drop out of the workforce at a rate three times higher than men.

It is the policy of my Administration to enable families—including our military and veteran families—to

have access to affordable, high-quality care and to have support and resources as caregivers themselves. It is also the policy of my Administration to ensure that the care workforce is supported, valued, and paid well. Additionally, care workers should have the free and fair choice to join a union.

The Congress must provide the transformative investments necessary to increase access to high-quality child care—including preschool and Head Start—and long-term care services, as well as high-quality, well-paying jobs that reflect the value the care workforce provides to families and communities. Such investments include removing barriers and providing the funding needed for Tribal Nations to effectively provide high-quality child care and long-term care.

Nearly every other advanced country makes greater public investments in care than the United States. Investing in care is an investment in the future of America's families, workforce, and economy.

While the Congress must make significant new investments to give families in this country more breathing room when it comes to care, executive departments and agencies (agencies) must do what they can within their existing authorities to boost the supply of high-quality early care and education and long-term care and to provide support for family caregivers. Through this order, I direct agencies to make all efforts to improve jobs and support for caregivers, increase access to affordable care for families, and provide more care options for families.

SEC. 2. *Increasing Compensation and Improving Job Quality for Family Caregivers, Early Educators, and Long-Term Care Workers*. (a) To increase compensation and benefits for early childhood educators and long-term care professionals who are providing federally funded services:

(i) the Secretary of Health and Human Services, through the Administrator for the Centers for Medicare and Medicaid Services (CMS), shall issue guidance to States on ways to use enhanced funding to better connect home- and community-based workers who provide services to Medicaid beneficiaries;

(ii) the Secretary of Health and Human Services shall implement strategies to encourage comparability of compensation and benefits between staff employed by Head Start grant recipients and elementary school teachers;

(iii) the Secretary of Health and Human Services shall expand efforts to improve care workers' access to health insurance; and

(iv) the Secretary of Education shall use grant notices for the Child Care Access Means Parents in School (CCAMPIS) program to encourage grantees to improve quality in funded programs, including by increasing compensation and providing support services for early childhood educators who serve children of students at CCAMPIS colleges using Federal and non-Federal funding as appropriate;

(v) the Department of the Treasury shall conduct outreach on the Saver's Match credit, and the Department of Commerce shall conduct—and the Small Business Administration is encouraged to consider conducting—outreach on potential Federal resources available to assist small businesses in offering retirement plans, including a per-employee credit of up to $1,000, as provided in the SECURE 2.0 Act of 2022 (Division T of Public Law 117–328) [see Tables for classification], in order to ensure that the care workforce, including individuals and small businesses, are aware of Federal retirement assistance for which they may be eligible.

(b) To improve working conditions and job quality in federally assisted child care and long-term care programs, encourage providers to establish incentives to recruit and retain workers, help prevent burnout, make it as easy as possible for care workers to access behavioral health services, and thereby improve the care that individuals receive, the Secretary of Health and Human Services shall:

(i) consider additional actions—such as providing guidance, technical assistance, and provider and resident education—and rulemaking on nursing home staffing transparency to promote adequate staffing at nursing homes, building on the Department of Health and Human Services' efforts to propose minimum standards for staffing adequacy at nursing homes;

(ii) consider additional actions to reduce nursing staff turnover in nursing facilities and improve retention of those staff, advancing the Department of Health and Human Services' efforts to measure and adjust payments based on staff turnover; and

(iii) implement strategies to expand mental health support for the care workforce, including early childhood providers supported through the Child Care and Development Fund (CCDF) and Head Start.

(c) To expand training pathways and professional learning opportunities to increase job quality, improve quality of care, and attract new entrants into the care workforce, the Secretary of Labor and the Secretary of Education, in consultation with the Secretary of Health and Human Services, shall:

(i) encourage recipients of Federal financial assistance to expand opportunities for early childhood educators and long-term care professionals through community college programming, career and technical education, Registered Apprenticeship, pre-apprenticeships leading to Registered Apprenticeship, and other job training and professional development;

(ii) make available innovative funding opportunities, develop and evaluate demonstration projects for care

training and educational attainment, and provide technical assistance to State, local, and Tribal partners to improve job quality for care occupations; and

(iii) develop partnerships with key stakeholders, including State, local, Tribal, and territorial governments; unions and labor organizations; State and local workforce development boards; institutions of higher education (including community colleges, Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority Serving Institutions); aging and disability networks; and national- and community-based organizations that focus on care (including professional membership organizations).

(d) To support family caregivers of beneficiaries of Federal health care programs and services, and in conjunction with implementing the 2022 National Strategy to Support Family Caregivers:

(i) the Secretary of Health and Human Services shall, consistent with the criteria set out in section 1115A(b)(2) of the Social Security Act (42 U.S.C. 1315a(b)(2)), consider whether to select for testing by the Center for Medicare and Medicaid Innovation an innovative new health care payment and service delivery model focused on dementia care that would include family caregiver supports such as respite care;

(ii) the Secretary of Health and Human Services shall consider how better to evaluate and clearly set expectations for family caregivers in the Acute Hospital Care at Home program, which allows hospitals to treat in their homes those who would otherwise be hospital inpatients;

(iii) the Secretary of Health and Human Services shall take steps to ensure that hospitals are actively involving family caregivers in the discharge planning process, consistent with CMS condition of participation discharge planning requirements, including by promoting best practices such as partnerships with community-based organizations and using resources from the Administration for Community Living and the Agency for Healthcare Research and Quality;

(iv) the Secretary of Health and Human Services shall increase beneficiary communications and support family caregivers by increasing promotion of the option for Medicare beneficiaries to choose to give family caregivers access to their Medicare information via 1–800–MEDICARE and the State health insurance assistance program networks;

(v) the Secretary of Veterans Affairs shall consider issuing a notice of proposed rulemaking by the end of this fiscal year that would make any appropriate modifications to eligibility criteria for the Program of Comprehensive Assistance for Family Caregivers, which provides services and benefits, including a monthly stipend, for eligible caregivers of veterans who sustained a serious injury or illness in the line of duty; and

(vi) the Secretary of Veterans Affairs shall develop and implement a pilot program to offer psychotherapy via video telehealth to family caregivers within the Program of Comprehensive Assistance for Family Caregivers to improve their access to mental health services.

(e) To improve and expand opportunities through AmeriCorps to encourage more individuals to enter early learning careers, the Chief Executive Officer of AmeriCorps is encouraged to consider:

(i) expanding access to Segal AmeriCorps Education Awards, which AmeriCorps members can use to pay for education and training or reduce their student debt; providing loan forbearance for AmeriCorps members involved in early learning; and providing other benefits to supplement national service activities that support early learning; and

(ii) prioritizing applications that propose to implement or expand high-quality programs focused on early learning and prioritizing projects intended to prepare AmeriCorps members and AmeriCorps Seniors volunteers to enter early learning careers.

(f) To improve jobs of domestic child care and long-term care workers:

(i) the Secretary of Labor shall create and publish in multiple languages, as appropriate, compliance assistance and best practices materials—such as sample employment agreements for domestic child care and long-term care workers and their employers—to promote fair workplaces and ensure the parties know their rights and responsibilities, and shall identify other means to promote employers' adoption of best practices;

(ii) the Secretary of Labor shall work with community and other local partners to expand culturally and linguistically appropriate community outreach and education efforts to domestic child care and long-term care workers in order to combat their exploitation; and

(iii) the Chair of the Equal Employment Opportunity Commission is encouraged to work with the Attorney General, the Secretary of Labor, and the Secretary of Homeland Security to develop materials addressing the employment rights of non-citizen domestic child care and long-term care workers who are legally eligible to work.

(g) To improve data and information on the care workforce:

(i) the Secretary of Labor shall conduct and publish an analysis of early childhood and home care workers' pay in comparison to the pay of other workers with similar levels of training and skill;

(ii) the Secretary of Labor shall issue guidance to help States and localities conduct their own analyses of comparable pay rates for care workers in their respective jurisdictions; and

(iii) the Secretary of Labor and the Secretary of Health and Human Services shall, in consultation with relevant agencies and external experts and organizations, jointly conduct a review to identify gaps in knowledge about the home- and community-based workforce serving people with disabilities and older adults; identify and evaluate existing data sources; and identify opportunities to expand analyses, supplement data, or launch new efforts to provide important data on the home- and community-based care workforce and ensure equity for people with disabilities and older adults. The Secretaries shall publicly release the findings and recommendations of this review no later than April 2024.

SEC. 3. *Making Care More Accessible and Affordable for Families*. (a) To increase access to affordable, high-quality child care and long-term care for workers delivering federally assisted projects:

(i) Agencies shall identify and issue guidance on which agency discretionary, formula, and program-specific funds can be used for child care and long-term care as a supportive service for workers who are being trained for and working on federally funded projects, and in doing so shall consider agency funds made available by the bipartisan Infrastructure Investment and Jobs Act (Public Law 117–58) [see Tables for classification]; Public Law 117–169, commonly referred to as the Inflation Reduction Act of 2022 [see Tables for classification]; and division A of Public Law 117–167, known as the Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act of 2022 [see Tables for classification].

(ii) With respect to the agency funds identified in subsection (a)(i) of this section:

(A) Agencies shall consider requiring, where appropriate, applicants for Federal job-creation or workforce development funds to provide affordable, accessible, safe, and reliable child care and long-term care for workers carrying out federally assisted projects (including both construction and operating phases where applicable), or shall consider preferencing applicants that use the funds for this purpose or encouraging applicants to use funds for this purpose. Agencies shall provide implementation guidance to relevant program staff and collaborate with the Department of Labor to identify potential support for these actions, including technical assistance for guidance and funding opportunities.

(B) Agencies shall consider providing technical assistance to help funding recipients provide access to child care and long-term care as a supportive service and to connect funding recipients with potential partners, including care associations, community-based organizations, Registered Apprenticeship and pre-apprenticeship programs, and labor unions.

(C) In cases where child care or long-term care is required or encouraged, agencies shall consider collecting information from funding recipients on whether and how they will provide access to child care and long-term care, and how many workers (including apprentices and pre-apprentices) would be affected.

(iii) The Secretary of Labor and the Secretary of Health and Human Services, in consultation with the Secretary of Commerce, shall support the efforts outlined in subsection (a) of this section by issuing guidance and providing technical assistance with best practices and models for how to provide supportive services, including child care and long-term care.

(b) To lower child care costs for families eligible for Federal programs, the Secretary of Health and Human Services shall:

(i) consider issuing regulations to pursue policies to reduce child care costs for families benefiting from CCDF;

(ii) identify potential opportunities to reduce barriers to eligibility for Head Start and CCDF;

(iii) encourage States, through all available avenues, to increase the use of Temporary Assistance for Needy Families funds for basic assistance and work supports for families—including access to child care—and to spend more funds on cash assistance for families; and

(iv) identify other potential strategies to make child care and Head Start more accessible for those families most in need.

(c) To help more Federal employees access affordable care:

(i) the Director of the Office of Personnel Management shall consider establishing criteria that support equitable and accessible employee participation in child care programs, to include agencies' adoption of income thresholds that are aligned with increasing costs of child care;

(ii) the Director of the Office of Personnel Management shall conduct a review of child care subsidy policy and agency program data to determine the effectiveness of current child care subsidies within the Federal Government;

(iii) the heads of agencies are encouraged to expand employee access to child care services through Federal child care centers, child care subsidies, or contracted care providers; and

(iv) the Department of Defense shall take steps to enhance recruitment and retention of the Department's child development program workers and to improve the affordability of child care for service members by

September 2023, in addition to its ongoing efforts as part of the Fourteenth Quadrennial Review of Military Compensation to assess how child care costs impact the ability of the military to attract and retain its workforce.

SEC. 4. *Expanding Options for Families by Building the Supply of Care*. (a) To provide families with more options for high-quality long-term, home-, and community-based care and early learning services:

(i) The Secretary of Health and Human Services shall consider rulemaking to improve access to home- and community-based services under Medicaid. As part of any such rulemaking, the Secretary shall consider taking steps to support provider participation in Medicaid home- and community-based programs.

(ii) The Secretary of Health and Human Services shall issue policies that would support child care providers to give families more options to access high-quality child care providers, and shall update payment practices to improve provider stability and supply.

(iii) The Secretary of Education shall update a guide for schools and districts to expand high-quality early learning programming using Federal funds so that more preschoolers are fully prepared to succeed in school.

(iv) The Secretary of Education and the Secretary of Health and Human Services shall identify and disseminate evidence-based practices for serving children with disabilities and their families in high-quality early childhood education programs, including Head Start. The Secretaries shall also take steps to ensure that services are inclusive of children with disabilities and their families; highlight any resources that are available to aid in that effort, including for preschool-aged children with disabilities under section 619 of the Individuals with Disabilities Education Act (IDEA) [20 U.S.C. 1419] and for infants and toddlers with disabilities and their families under Part C of the IDEA [20 U.S.C. 1431 et seq.]; and provide information to support all early childhood programs in meeting their obligations under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794] and the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

(v) The Director of the Bureau of Consumer Financial Protection is encouraged to consider developing financial guidance resources that support families during their care planning.

(vi) The Secretary of Health and Human Services shall take steps to streamline processes for Tribes to use CCDF and Head Start funding to construct and improve facilities, including facilities that are jointly funded.

(vii) The 12 agencies that signed the October 2022 Memorandum of Agreement to implement Public Law 102–477 (the "Tribal 477 Program") shall increase the effectiveness of Tribal employment and training programs to ensure child care can be used as a support for families by reducing and streamlining administrative requirements, including through consolidation of budgeting, reporting, and auditing systems.

(b) To expand options for quality home- and community-based services to veterans:

(i) The Secretary of Veterans Affairs shall consider expanding the existing Veteran Directed Care Program—which provides veterans who need help with daily living with a budget to spend on home- and community-based services including personal care services—to all Department of Veterans Affairs Medical Centers by the end of Fiscal Year 2024, and shall consider developing an implementation plan for this expansion by June 2023.

(ii) The Secretary of Veterans Affairs shall consider designing and evaluating a pilot program in no fewer than five veteran sites or in five States for a new Co-Employer Option for delivering veteran home health services. Features of the program may include allowing veterans to choose who provides their care and to determine when and how that care is delivered, and connecting veterans with a third-party agency that would help coordinate administrative tasks and act as an intermediary between veterans and their home health workers. Should the Department of Veterans Affairs implement this pilot program, it shall provide an implementation plan—including cost estimates and evaluation strategy—to the President, through the Assistant to the President for Domestic Policy, before August 31, 2023.

(iii) The Secretary of Veterans Affairs shall consider expanding the Home-Based Primary Care program by adding 75 new interdisciplinary teams to provide care to veterans in their homes.

(c) To increase the supply of providers and options for families by encouraging greater private financial protection, support, and technical assistance for care providers:

(i) the Secretary of the Treasury shall consider providing information to and sharing industry best practices with Community Development Financial Institutions to facilitate capital flows and support to care providers;

(ii) the Administrator of the Small Business Administration is encouraged to consider publishing a guide on how individuals in the care workforce may start and sustainably operate care businesses locally and through Small Business Administration programming; and

(iii) the Director of the Bureau of Consumer Financial Protection is encouraged to consider issuing guidance addressing financial institution practices that may increase the burden on the care workforce, discourage their work, and harm their financial well-being.

(d) To build the capacity of local communities to better coordinate and deliver care:

(i) the Secretary of Health and Human Services shall review existing policies to identify

opportunities—including among Tribal communities—to increase the capacity of community care entities by providing operational support to these networks of providers; and

(ii) the Secretary of Agriculture shall use the Rural Partners Network and issue guidance developed in partnership with the Secretary of Health and Human Services to promote opportunities—including by hosting workshops—to increase access to child care and long-term care in rural and Tribal communities.

(e) To make the delivery and design of Federal care assistance and programs work better for families, the care workforce, and people seeking care, the Secretaries of the Treasury, Defense, Agriculture, Labor, Health and Human Services, Education, and Veterans Affairs shall consider—and the Administrator of the Small Business Administration is encouraged to consider—prioritizing engagement with parents, guardians, and other relatives with care responsibilities; individuals receiving long-term care; State and local care experts; care providers and workers; employers; and labor unions.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Where not already specified, independent agencies are encouraged to comply with the requirements of this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§3030s–1. Program authorized

(a) In general

The Assistant Secretary shall carry out a program for making grants to States with State plans approved under section 3027 of this title, to pay for the Federal share of the cost of carrying out State programs, to enable area agencies on aging, or entities that such area agencies on aging contract with, to provide multifaceted systems of support services—

(1) for family caregivers; and

(2) for older relative caregivers.

(b) Support services

The services provided, which may be informed through the use of caregiver assessments, in a State program under subsection (a), by an area agency on aging, or entity that such agency has contracted with, shall include—

(1) information to caregivers about available services;

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

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

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

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

(c) Population served; priority

(1) Population served

Services under a State program under this part shall be provided to family caregivers, and older relative caregivers, who—

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

(B) with regard to the services specified in paragraphs (4) and (5) of subsection (b), in the case of a caregiver described in paragraph (1), is providing care to an older individual who

meets the condition specified in subparagraph (A)(i) or (B) of section 3002(22) of this title.

(2) Priority

In providing services under this part, the State, in addition to giving the priority described in section 3030s(b) of this title, shall give priority—

(A) to caregivers who are older individuals with greatest social need, and older individuals with greatest economic need (with particular attention to low-income older individuals); and

(B) to older relative caregivers of children with severe disabilities, or individuals with disabilities who have severe disabilities.

(d) Use of volunteers

In carrying out this part, each area agency on aging shall make use of trained volunteers to expand the provision of the available services described in subsection (b) and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.

(e) Best practices

Not later than 1 year after March 25, 2020, and every 5 years thereafter, the Assistant Secretary shall—

(1) identify best practices relating to the programs carried out under this section and section 3057k–11 of this title, regarding—

(A) the use of procedures and tools to monitor and evaluate the performance of the programs carried out under such sections;

(B) the use of evidence-based caregiver support services; and

(C) any other issue determined relevant by the Assistant Secretary; and

(2) make available, including on the website of the Administration and pursuant to section 3012(a)(34) of this title, best practices described in paragraph (1), to carry out the programs under this section and section 3057k–11 of this title.

(f) Quality standards and mechanisms and accountability

(1) Quality standards and mechanisms

The State shall establish standards and mechanisms designed to assure the quality of services provided with assistance made available under this part.

(2) Data and records

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

(3) Reports

The State shall prepare and submit to the Assistant Secretary reports on the data and records required under paragraph (2), including information on the services funded under this part, and standards and mechanisms, including caregiver assessments used in the State, by which the quality of the services shall be assured. The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or older relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities.

(g) Caregiver allotment

(1) In general

(A) From sums appropriated under section 3023(e) of this title for a fiscal year, the Assistant

Secretary shall allot amounts among the States proportionately based on the population of individuals 70 years of age or older in the States.

(B) In determining the amounts allotted to States from the sums appropriated under section 3023 of this title for a fiscal year, the Assistant Secretary shall first determine the amount allotted to each State under subparagraph (A) and then proportionately adjust such amounts, if necessary, to meet the requirements of paragraph (2).

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

(2) Minimum allotment

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

(B)(i) Each State shall be allotted ½ of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

(ii) Guam and the Virgin Islands of the United States shall each be allotted ¼ of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

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

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

(h) Availability of funds

(1) Use of funds for administration of area plans

Amounts made available to a State to carry out the State program under this part may be used, in addition to amounts available in accordance with section 3023(c)(1) of this title, for costs of administration of area plans.

(2) Federal share

(A) In general

Notwithstanding section 3024(d)(1)(D) of this title, the Federal share of the cost of carrying out a State program under this part shall be 75 percent.

(B) Non-Federal share

The non-Federal share of the cost shall be provided from State and local sources.

(i) Activities of national significance

The Assistant Secretary may award funds authorized under this section to States, public agencies, private nonprofit agencies, institutions of higher education, and organizations, including tribal organizations, for conducting activities of national significance that—

(1) promote quality and continuous improvement in the support provided to family caregivers and older relative caregivers through programs carried out under this section and section 3057k–11 of this title; and

(2) include, with respect to such programs, program evaluation, training, technical assistance, and research.

(j) Technical assistance for caregiver assessments

Not later than 1 year after March 25, 2020, the Assistant Secretary, in consultation with stakeholders with appropriate expertise and, as appropriate, informed by the strategy developed under the RAISE Family Caregivers Act (42 U.S.C. 3030s note), shall provide technical assistance to

promote and implement the use of caregiver assessments. Such technical assistance may include sharing available tools or templates, comprehensive assessment protocols, and best practices concerning—

(1) conducting caregiver assessments (including reassessments) as needed;

(2) implementing such assessments that are consistent across a planning and service area, as appropriate; and

(3) implementing caregiver support service plans, including conducting referrals to and coordination of activities with relevant State services.

(Pub. L. 89–73, title III, §373, as added Pub. L. 106–501, title III, §316(2), Nov. 13, 2000, 114 Stat. 2254; amended Pub. L. 109–365, title III, §321, Oct. 17, 2006, 120 Stat. 2551; Pub. L. 114–144, §4(l), (m), Apr. 19, 2016, 130 Stat. 341; Pub. L. 116–131, title II, §§217(b), 218(a), Mar. 25, 2020, 134 Stat. 260, 262.)

EDITORIAL NOTES

REFERENCES IN TEXT

The RAISE Family Caregivers Act, referred to in subsec. (j), is Pub. L. 115–119, Jan. 22, 2018, 132 Stat. 23, also known as the Recognize, Assist, Include, Support, and Engage Family Caregivers Act of 2017, which is set out as a note under section 3030s of this title.

AMENDMENTS

2020—Subsec. (b). Pub. L. 116–131, §217(b)(1), inserted "which may be informed through the use of caregiver assessments," after "provided," in introductory provisions.

Subsec. (e). Pub. L. 116–131, §217(b)(4), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(3). Pub. L. 116–131, §217(b)(2), inserted ", including caregiver assessments used in the State," after "mechanisms" in first sentence.

Subsecs. (f) to (h). Pub. L. 116–131, §217(b)(3), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

Subsec. (h)(2)(C). Pub. L. 116–131, §218(a), struck out subpar. (C). Text read as follows: "A State may use not more than 10 percent of the total Federal and non-Federal share available to the State to provide support services to older relative caregivers."

Subsecs. (i), (j). Pub. L. 116–131, §217(b)(5), added subsecs. (i) and (j).

2016—Pub. L. 114–144, §4(m), substituted "this part" for "this subpart" wherever appearing.

Subsec. (a)(2). Pub. L. 114–144, §4(l)(1), substituted "older relative caregivers." for "grandparents or older individuals who are relative caregivers."

Subsec. (c)(1). Pub. L. 114–144, §4(l)(2)(A), in introductory provisions, substituted "older relative caregivers, who" for "grandparents and older individuals who are relative caregivers, and who".

Subsec. (c)(2)(B). Pub. L. 114–144, §4(l)(2)(B), substituted "to older relative caregivers of children with severe disabilities, or individuals with disabilities who have severe disabilities" for "to older individuals providing care to individuals with severe disabilities, including children with severe disabilities".

Subsec. (e)(3). Pub. L. 114–144, §4(l)(3), substituted "older relative caregivers" for "grandparents or older individuals who are relative caregivers".

Subsec. (f)(1)(A). Pub. L. 114–144, §4(l)(4), substituted "for a fiscal year" for "for fiscal years 2007, 2008, 2009, 2010, and 2011".

Subsec. (g)(2)(C). Pub. L. 114–144, §4(l)(5), substituted "older relative caregivers" for "grandparents and older individuals who are relative caregivers of a child who is not more than 18 years of age".

2006—Subsec. (b)(3). Pub. L. 109–365, §321(1), substituted "assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles;" for "caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles;".

Subsec. (c)(1)(B). Pub. L. 109–365, §321(2)(A), substituted "subparagraph (A)(i) or (B) of section 3002(22)" for "subparagraph (A)(i) or (B) of section 3002(28)".

Subsec. (c)(2). Pub. L. 109–365, §321(2)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "In providing services under this subpart, the State shall give priority for services to older individuals with greatest social and economic need, (with particular attention to low-income

older individuals) and older individuals providing care and support to persons with mental retardation and related developmental disabilities (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001)) (referred to in this subpart as 'developmental disabilities')."

Subsec. (d). Pub. L. 109–365, §321(3), amended subsec. (d) generally. Prior to amendment, text read as follows: "In carrying out this subpart, each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, with the activities of other community agencies and voluntary organizations providing the types of services described in subsection (b) of this section."

Subsec. (e)(3). Pub. L. 109–365, §321(4), inserted at end "The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or grandparents or older individuals who are relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities."

Subsec. (f)(1)(A). Pub. L. 109–365, §321(5), substituted "2007, 2008, 2009, 2010, and 2011" for "2001 through 2005".

Subsec. (g)(2)(C). Pub. L. 109–365, §321(6), inserted "of a child who is not more than 18 years of age" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

MONITORING THE IMPACT OF THE ELIMINATION OF THE CAP ON FUNDS FOR OLDER RELATIVE CAREGIVERS

Pub. L. 116–131, title II, §218(b), Mar. 25, 2020, 134 Stat. 262, provided that:

"(1) REPORT.—Not later than 18 months after the date of enactment of this Act [Mar. 25, 2020], and annually thereafter, the Assistant Secretary [for Aging] shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives a report on the impact of the amendment made by subsection (a) [amending this section] to eliminate the limitation on funds that States may allocate to provide support services to older relative caregivers in the National Family Caregiver Support Program established under part E of title III of the Older Americans Act of 1965 (42 U.S.C. 3030s et seq.). Each such report shall also be made available to the public.

"(2) CONTENTS.—For purposes of reports required by paragraph (1), each State that receives an allotment under such National Family Caregiver Support Program for fiscal year 2020 or a subsequent fiscal year shall report to the Assistant Secretary for the fiscal year involved the amount of funds of the total Federal and non-Federal shares described in section 373(h)(2) of the Older Americans Act of 1965 (42 U.S.C. 3030s–1(h)(2)) used by the State to provide support services for older relative caregivers and the amount of such funds so used for family caregivers."

§3030s–2. Maintenance of effort

Funds made available under this part shall supplement, and not supplant, any Federal, State, or local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide services described in section 3030s–1 of this title.

(Pub. L. 89–73, title III, §374, as added Pub. L. 106–501, title III, §316(2), Nov. 13, 2000, 114 Stat. 2256; amended Pub. L. 114–144, §4(m), Apr. 19, 2016, 130 Stat. 341.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 3030s–11 and 3030s–12, which comprised subpart II of this part, were repealed by Pub. L. 109–365, title III, §322, Oct. 17, 2006, 120 Stat. 2552.

Section 3030s–11, Pub. L. 89–73, title III, §375, as added Pub. L. 106–501, title III, §316(2), Nov. 13, 2000, 114 Stat. 2256, provided for an innovation grant program.

Section 3030s–12, Pub. L. 89–73, title III, §376, as added Pub. L. 106–501, title III, §316(2), Nov. 13, 2000, 114 Stat. 2257, directed Assistant Secretary to carry out activities of national significance to promote quality and continuous improvement in the support provided to family and other informal caregivers of older individuals.

AMENDMENTS

2016—Pub. L. 114–144 substituted "this part" for "this subpart".

SUBCHAPTER IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY

EDITORIAL NOTES

CODIFICATION

Title IV of the Older Americans Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–73, title IV, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45, and amended by Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 717; Pub. L. 95–478, Oct. 18, 1978, 92 Stat. 1537; Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1601. Such title is shown herein, however, as having been added by Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2257, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 106–501.

Prior sections 3030aa to 3030jj were omitted in the general amendment of this subchapter by Pub. L. 106–501.

A prior section 3030aa, Pub. L. 89–73, title IV, §401, as added Pub. L. 98–459, title IV, §401, Oct. 9, 1984, 98 Stat. 1780; amended Pub. L. 100–175, title I, §151, Nov. 29, 1987, 101 Stat. 951; Pub. L. 102–375, title IV, §401, Sept. 30, 1992, 106 Stat. 1243, related to statement of purpose of this subchapter.

A prior section 3030bb, Pub. L. 89–73, title IV, §402, as added Pub. L. 98–459, title IV, §401, Oct. 9, 1984, 98 Stat. 1781; amended Pub. L. 100–175, title I, §§104(d), 105(d), 134(c)(1), Nov. 29, 1987, 101 Stat. 930, 941; Pub. L. 102–54, §13(q)(9)(C), June 13, 1991, 105 Stat. 281; Pub. L. 102–321, title I, §163(c)(2)(C), July 10, 1992, 106 Stat. 377; Pub. L. 102–375, title I, §102(b)(1)(A), title IV, §402, title IX, §904(a)(16), Sept. 30, 1992, 106 Stat. 1200, 1244, 1308; Pub. L. 103–171, §§2(14), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990, related to administration.

A prior section 3030jj, Pub. L. 89–73, title IV, §410, as added Pub. L. 98–459, title IV, §402, Oct. 9, 1984, 98 Stat. 1781; amended Pub. L. 100–175, title I, §134(c)(2), Nov. 29, 1987, 101 Stat. 941; Pub. L. 102–375, title IV, §403, Sept. 30, 1992, 106 Stat. 1244, related to purpose of former part A of this subchapter.

§3031. Purposes

The purposes of this subchapter are—

(1) to expand the Nation's knowledge and understanding of the older population and the aging process;

(2) to design, test, and promote the use of innovative ideas and best practices in programs and services for older individuals;

(3) to help meet the needs for trained personnel in the field of aging; and

(4) to increase awareness of citizens of all ages of the need to assume personal responsibility for their own longevity.

(Pub. L. 89–73, title IV, §401, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2257.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3031, Pub. L. 89–73, title IV, §411, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1601; amended Pub. L. 98–459, title IV, §403, Oct. 9, 1984, 98 Stat. 1781; Pub. L. 100–175, title I, §§105(e)(1), 134(c)(3), 156(a), Nov. 29, 1987, 101 Stat. 930, 941, 954; Pub. L. 100–628, title VII, §705(7), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(b)(1)(A), (10)(A), (H), title IV, §404, Sept. 30,

1992, 106 Stat. 1200, 1202, 1244; Pub. L. 103–171, §§2(15), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990, related to purposes and requirements of grants and contracts, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 3031, Pub. L. 89–73, title IV, §401, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45; amended Pub. L. 95–478, title I, §104(a)(1), Oct. 18, 1973, 92 Stat. 1537, related to Congressional statement of purpose in developing and implementing a national manpower policy for the field of aging, prior to the general amendment of this subchapter by Pub. L. 97–115.

Another prior section 3031, Pub. L. 89–73, title IV, §401, July 14, 1965, 79 Stat. 224; Pub. L. 90–42, §5(b), July 1, 1967, 81 Stat. 107; Pub. L. 91–69, §7, Sept. 17, 1969, 83 Stat. 111, related to description of activities, prior to repeal by Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45.

A prior section 401 of Pub. L. 89–73 was classified to section 3030aa of this title, prior to the general amendment of this subchapter by Pub. L. 106–501.

PART A—GRANT PROGRAMS

§3032. Program authorized

(a) In general

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

(1) education and training to develop an adequately trained workforce to work with and on behalf of older individuals;

(2) applied social research, aligned with evidence-based practice, and analysis to improve access to and delivery of services for older individuals;

(3) evaluation of the performance of the programs, activities, and services provided under this section;

(4) the development of methods and practices to improve the quality and effectiveness of the programs, services, and activities provided under this section;

(5) the demonstration of new approaches to design, deliver, and coordinate programs and services for older individuals;

(6) technical assistance in planning, developing, implementing, and improving the programs, services, and activities provided under this section;

(7) coordination with the designated State agency described in section 101(a)(2)(A)(i) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(2)(A)(i)) to provide services to older individuals who are blind as described in such Act [29 U.S.C. 701 et seq.];

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

(9) planning activities to prepare communities for the aging of the population, which activities may include—

(A) efforts to assess the aging population;

(B) activities to coordinate the activities of State and local agencies in order to meet the needs of older individuals; and

(C) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under subchapter X, in engaging in community planning activities;

(10) the development, implementation, and assessment of technology-based service models and best practices, to support the use of health monitoring and assessment technologies, communication devices, assistive technologies, and other technologies consistent with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) that may remotely connect family and

professional caregivers to frail older individuals residing in home and community-based settings or rural areas;

(11) conducting activities of national significance to promote quality and continuous improvement in the support provided to family and other informal caregivers of older individuals through activities that include program evaluation, training, technical assistance, and research, including—

(A) programs addressing unique issues faced by rural caregivers;

(B) programs focusing on the needs of older individuals with cognitive impairment such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their caregivers; and

(C) programs supporting caregivers in the role they play in providing disease prevention and health promotion services;

(12) building public awareness of cognitive impairments, such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, depression, mental disorders, and traumatic brain injury;

(13) in coordination with the Secretary of Labor, the demonstration of new strategies for the recruitment, retention, or advancement of direct care workers, and the soliciting, development, and implementation of strategies—

(A) to reduce barriers to entry for a diverse and high-quality direct care workforce, including providing wages, benefits, and advancement opportunities needed to attract or retain direct care workers; and

(B) to provide education and workforce development programs for direct care workers that include supportive services and career planning;

(14) the establishment and operation of a national resource center that shall—

(A) provide training and technical assistance to agencies in the aging network delivering services to older individuals experiencing the long-term and adverse consequences of trauma;

(B) share best practices with the aging network; and

(C) make subgrants to the agencies best positioned to advance and improve the delivery of person-centered, trauma-informed services for older individuals experiencing the long-term and adverse consequences of trauma;

(15) bringing to scale and sustaining evidence-based falls prevention programs that will reduce the number of falls, fear of falling, and fall-related injuries in older individuals, including older individuals with disabilities;

(16) bringing to scale and sustaining evidence-based chronic disease self-management programs that empower older individuals, including older individuals with disabilities, to better manage their chronic conditions;

(17) continuing support for program integrity initiatives concerning the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that train senior volunteers to prevent and identify health care fraud and abuse;

(18) projects that address negative health effects associated with social isolation among older individuals; and

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

(b) Authorization of appropriations

There are authorized to be appropriated to carry out—

(1) aging network support activities under this section, $14,514,550 for fiscal year 2020, $15,385,423 for fiscal year 2021, $16,308,548 for fiscal year 2022, $17,287,061 for fiscal year 2023, and $18,324,285 for fiscal year 2024; and

(2) elder rights support activities under this section, $15,613,440 for fiscal year 2020, $16,550,246 for fiscal year 2021, $17,543,261 for fiscal year 2022, $18,595,857 for fiscal year

2023, and $19,711,608 for fiscal year 2024.

(Pub. L. 89–73, title IV, §411, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2257; amended Pub. L. 109–365, title IV, §402, Oct. 17, 2006, 120 Stat. 2552; Pub. L. 114–144, §5(a), Apr. 19, 2016, 130 Stat. 341; Pub. L. 116–131, title I, §§104(3), 119, 120, title III, §§301–304, Mar. 25, 2020, 134 Stat. 243, 247, 263.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (a)(7), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Social Security Act, referred to in subsec. (a)(17), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 3032, Pub. L. 89–73, title IV, §412, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1601; amended Pub. L. 98–459, title IV, §404, Oct. 9, 1984, 98 Stat. 1782; Pub. L. 100–175, title I, §§105(e)(2), 134(c)(4), 146(c), 156(b), Nov. 29, 1987, 101 Stat. 930, 941, 950, 954; Pub. L. 102–375, title I, §102(b)(10)(I), title IV, §405, title IX, §904(a)(17), Sept. 30, 1992, 106 Stat. 1202, 1245, 1308; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to establishment and support of multidisciplinary centers of gerontology and gerontology centers of special emphasis, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 3032, Pub. L. 89–73, title IV, §402, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45; amended Pub. L. 95–478, title I, §104(a)(2), Oct. 18, 1978, 92 Stat. 1537, related to appraisal and assessment of personnel needs of field of aging, prior to the general amendment of this subchapter by Pub. L. 97–115.

Another prior section 3032, Pub. L. 89–73, title IV, §402, July 14, 1965, 79 Stat. 224, related to payments of grants, providing in: subsec. (a) for contribution by recipients; subsec. (b) adjustments, advances or reimbursement, installments and conditions; and subsec. (c) consultation of Secretary with State agency prior to making grants or contracts, prior to repeal by Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45.

A prior section 411 of Pub. L. 89–73 was classified to section 3031 of this title, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 411 of Pub. L. 89–73 was classified to section 3035 of this title, prior to the general amendment of this subchapter by Pub. L. 97–115.

AMENDMENTS

2020—Subsec. (a)(2). Pub. L. 116–131, §104(3)(A), inserted ", aligned with evidence-based practice," after "applied social research".

Subsec. (a)(10). Pub. L. 116–131, §104(3)(B), inserted "consistent with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d)" after "other technologies".

Subsec. (a)(12). Pub. L. 116–131, §302, substituted "impairments," for "impairments" and ", mental disorders, and traumatic brain injury" for ", and mental disorders".

Subsec. (a)(13). Pub. L. 116–131, §119(2), added par. (13). Former par. (13) redesignated (17).

Subsec. (a)(14). Pub. L. 116–131, §120(2), added par. (14). Former par. (14) redesignated (19).

Subsec. (a)(15), (16). Pub. L. 116–131, §303(2), added pars. (15) and (16).

Subsec. (a)(17). Pub. L. 116–131, §§119(1), 120(1), 303(1), redesignated par. (13) successively as (14), (15), and (17).

Subsec. (a)(18). Pub. L. 116–131, §304(1), (3), added par. (18).

Subsec. (a)(19). Pub. L. 116–131, §§119(1), 120(1), 303(1), 304(2), redesignated par. (14) successively as (15), (16), (18), and (19).

Subsec. (b). Pub. L. 116–131, §301, amended subsec. (b) generally. Prior to amendment, subsec. (b) related to authorization of appropriations for aging network support activities and elder rights support activities for fiscal years 2017 to 2019.

2016—Subsec. (a)(13), (14). Pub. L. 114–144, §5(a)(1), added par. (13) and redesignated former par. (13) as (14).

Subsec. (b). Pub. L. 114–144, §5(a)(2), substituted "carry out—" for "carry out this section such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011." and added pars. (1) and (2).

2006—Subsec. (a)(9) to (13). Pub. L. 109–365, §402(1), added pars. (9) to (12) and redesignated former par. (9) as (13).

Subsec. (b). Pub. L. 109–365, §402(2), substituted "years 2007, 2008, 2009, 2010, and 2011" for "year 2001, and such sums as may be necessary for subsequent fiscal years".

§3032a. Career preparation for the field of aging

(a) Grants

The Assistant Secretary shall make grants to institutions of higher education, including historically Black colleges or universities, Hispanic-serving institutions, and Hispanic Centers of Excellence in Applied Gerontology, to provide education and training that prepares students for careers in the field of aging.

(b) Definitions

For purposes of subsection (a):

(1) Hispanic Center of Excellence in Applied Gerontology

The term "Hispanic Center of Excellence in Applied Gerontology" means an institution of higher education with a program in applied gerontology that—

(A) has a significant number of Hispanic individuals enrolled in the program, including individuals accepted for enrollment in the program;

(B) has been effective in assisting Hispanic students of the program to complete the program and receive the degree involved;

(C) has been effective in recruiting Hispanic individuals to attend the program, including providing scholarships and other financial assistance to such individuals and encouraging Hispanic students of secondary educational institutions to attend the program; and

(D) has made significant recruitment efforts to increase the number and placement of Hispanic individuals serving in faculty or administrative positions in the program.

(2) Historically Black college or university

The term "historically Black college or university" has the meaning given the term "part B institution" in section 1061(2) of title 20.

(Pub. L. 89–73, title IV, §412, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2258; amended Pub. L. 109–365, title IV, §403, Oct. 17, 2006, 120 Stat. 2553.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 412 of Pub. L. 89–73 was classified to section 3032 of this title, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 412 of Pub. L. 89–73 was classified to section 3035a of this title, prior to repeal by Pub. L. 95–478, title I, §104(b)(3), Oct. 18, 1978, 92 Stat. 1539.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–365 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Assistant Secretary shall make grants to institutions of higher education, historically Black colleges or universities, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training to prepare students for careers in the field of aging."

§3032b. Older individuals' protection from violence projects

(a) Program authorized

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

(b) Activities

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

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

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

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

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

(c) Preference

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

(d) Coordination

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

(Pub. L. 89–73, title IV, §413, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2259.)

§3032c. Health care service demonstration projects in rural areas

(a) Authority

The Assistant Secretary, after consultation with the State agency of the State involved, shall make grants to eligible public agencies and nonprofit private organizations to pay part or all of the cost of developing or operating model health care service projects (including related home health care services, adult day health care, mental health services, outreach, and transportation) through multipurpose senior centers that are located in rural areas and that provide nutrition services under section 3030e of this title, to meet the health care needs of medically underserved older individuals residing in such areas.

(b) Eligibility

To be eligible to receive a grant under subsection (a), a public agency or nonprofit private organization shall submit to the Assistant Secretary an application containing such information and assurances as the Secretary may require, including—

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

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

(B) coordination and cooperation with—

(i) institutions of higher education having graduate programs with capability in public health, mental health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing such project; and

(ii) critical access hospitals (as defined in section 1395x(mm)(1) of this title and rural health clinics (as defined in section 1395x(aa)(2) of this title);

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

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

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

(B) in a State in which—

(i) not less than 331/3 of the population resides in rural areas; and

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

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

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

(c) Reports

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

(Pub. L. 89–73, title IV, §414, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2259; amended Pub. L. 109–365, title IV, §404, Oct. 17, 2006, 120 Stat. 2553.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–365, §404(1), inserted "mental health services," after "adult day health care,".

Subsec. (b)(1)(B)(i). Pub. L. 109–365, §404(2), inserted "mental health," after "public health,".

§3032d. Repealed. Pub. L. 114–144, §5(d), Apr. 19, 2016, 130 Stat. 342

Section, Pub. L. 89–73, title IV, §415, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2260, related to grants or contracts for computer training and enhanced Internet access for older individuals.

§3032e. Technical assistance and innovation to improve transportation for older individuals

(a) In general

The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

(b) Use of funds

(1) In general

A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds

received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

(2) Specific activities

In carrying out a demonstration project or providing technical assistance under paragraph (1) the organization may carry out activities that include—

(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

(B) preparing information on transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number, call center, website or Internet-based portal, mobile application, or other technological tools;

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

(D)(i) improving the aggregation, availability, and accessibility of information on options for transportation services for older individuals, including information on public transit, on-demand transportation services, volunteer-based transportation services, and other private transportation providers; and

(ii) providing older individuals with the ability to schedule trips both in advance and on demand, as appropriate;

(E) identifying opportunities to share resources and reduce costs of transportation services for older individuals;

(F) coordinating individualized trip planning responses to requests from older individuals for transportation services; and

(G) providing special services to link older individuals to transportation services not provided under subchapter III.

(c) Economically sustainable transportation

In this section, the term "economically sustainable transportation" means demand responsive transportation for older individuals—

(1) that may be provided through volunteers; and

(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.

(Pub. L. 89–73, title IV, §416, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2261; amended Pub. L. 109–365, title IV, §405, Oct. 17, 2006, 120 Stat. 2554; Pub. L. 116–131, title III, §305, Mar. 25, 2020, 134 Stat. 263.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (b)(2)(B). Pub. L. 116–131, §305(1), inserted ", call center, website or Internet-based portal, mobile application, or other technological tools" before semicolon at end.

Subsec. (b)(2)(D) to (G). Pub. L. 116–131, §305(2)–(4), added subpars. (D) to (F) and redesignated former subpar. (D) as (G).

2006—Pub. L. 109–365 amended section generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to grants and contracts to provide technical assistance to improve transportation for seniors.

§3032f. Demonstration, support, and research projects for multigenerational and civic engagement activities

(a) Grants and contracts

The Assistant Secretary shall award grants to and enter into contracts with eligible organizations to carry out projects, serving individuals in younger generations and older individuals, to—

(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities that contribute to the health and wellness of older individuals and individuals in younger generations by promoting—

(A) meaningful roles for participants;

(B) reciprocity in relationship building;

(C) reduced social isolation and improved participant social connectedness;

(D) improved economic well-being for older individuals;

(E) increased lifelong learning; or

(F) support for caregivers of families by—

(i) providing support for older relative caregivers (as defined in section 3030s(a) of this title) raising children (such as support for kinship navigator programs); or

(ii) involving volunteers who are older individuals who provide support and information to families who have a child with a disability or chronic illness, or other families in need of such family support;

(2) coordinate multigenerational activities and civic engagement activities, including multigenerational nutrition and meal service programs;

(3) promote volunteerism, including by providing opportunities for older individuals to become a mentor to individuals in younger generations; and

(4) facilitate development of, and participation in, multigenerational activities and civic engagement activities.

(b) Grant and contract periods

Each grant awarded and contract entered into under subsection (a) shall be for a period of not less than 36 months.

(c) Use of funds

(1) In general

An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under this section to carry out a project described in subsection (a).

(2) Provision of projects through grantees

In awarding grants and entering into contracts under this section, the Assistant Secretary shall ensure that such grants and contracts are for the projects that satisfy each requirement under paragraphs (1) through (4) of subsection (a).

(d) Preference

In awarding grants and entering into contracts to carry out a project described in subsection (a), the Assistant Secretary shall give preference to—

(1) eligible organizations with a demonstrated record of carrying out, intent to carry out, or intent to partner with local organizations or multiservice organizations to carry out, multigenerational activities or civic engagement activities;

(2) eligible organizations proposing multigenerational activity projects that will serve older individuals and communities with the greatest need (with particular attention to low-income minority individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

(3) eligible organizations proposing civic engagement projects that will serve communities with

the greatest need;

(4) eligible organizations with the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and nonprofit organizations; and

(5) eligible organizations proposing multigenerational activity projects that utilize shared site programs, such as collocated child care and long-term care facilities.

(e) Application

To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

(f) Eligible organizations

Organizations eligible to receive a grant or enter into a contract under subsection (a) shall—

(1) be a State, an area agency on aging, or an organization that provides opportunities for older individuals to participate in activities described in such subsection; and

(2) have the capacity to conduct the coordination, promotion, and facilitation described in such subsection through the use of multigenerational coordinators.

(g) Evaluation

(1) In general

Not later than 3 years after March 25, 2020, the Assistant Secretary shall, through data submitted by organizations carrying out projects through grants or contracts under this section, evaluate the activities supported through such grants and contracts to determine—

(A) the effectiveness of such activities;

(B) the impact of such activities on the community being served and the organization providing the activities; and

(C) the impact of such activities on older individuals participating in such projects.

(2) Report to Congress

Not later than 6 months after the Assistant Secretary completes the evaluation under paragraph (1), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses such evaluation and contains, at a minimum—

(A) the names or descriptive titles of the projects funded under subsection (a);

(B) a description of the nature and operation of such projects;

(C) the names and addresses of organizations that conducted such projects;

(D) a description of the methods and success of such projects in recruiting older individuals as employees and as volunteers to participate in the projects;

(E) a description of the success of the projects in retaining older individuals participating in such projects as employees and as volunteers;

(F) the rate of turnover of older individuals who are employees or volunteers in such projects;

(G) a strategy for disseminating the findings resulting from such projects; and

(H) any policy change recommendations relating to such projects.

(h) Definitions

As used in this section:

(1) Multigenerational activity

The term "multigenerational activity" means an activity that provides an opportunity for interaction between 2 or more individuals of different generations, including activities connecting older individuals and youth in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, a before- or after-school program, a library program, or a family support program.

(2) Multigenerational coordinator

The term "multigenerational coordinator" means a person who—

(A) builds the capacity of public and nonprofit organizations to develop meaningful roles and assignments, that use the time, skill, and experience of older individuals to serve those organizations; and

(B) nurtures productive, sustainable working relationships between—

(i) older individuals; and

(ii) individuals in younger generations.

(Pub. L. 89–73, title IV, §417, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2261; amended Pub. L. 109–365, title IV, §406, Oct. 17, 2006, 120 Stat. 2555; Pub. L. 114–144, §5(e), Apr. 19, 2016, 130 Stat. 342; Pub. L. 116–131, title III, §306, Mar. 25, 2020, 134 Stat. 264.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–131, §306(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to grants and contracts.

Subsec. (b). Pub. L. 116–131, §306(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116–131, §306(3), (5), redesignated subsec. (b) as (c) and amended it generally. Prior to amendment, subsec. related to use of funds. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 116–131, §306(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 116–131, §306(6)(A), inserted ", intent to carry out, or intent to partner with local organizations or multiservice organizations to carry out," after "record of carrying out".

Subsec. (d)(5). Pub. L. 116–131, §306(6)(B)–(D), added par. (5).

Subsec. (e). Pub. L. 116–131, §306(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 116–131, §306(3), (7), redesignated subsec. (e) as (f) and amended it generally. Prior to amendment, subsec. related to eligible organizations. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 116–131, §306(3), (7), redesignated subsec. (f) as (g) and amended it generally. Prior to amendment, subsec. related to local evaluation and report. Former subsec. (g) struck out.

Pub. L. 116–131, §306(2), struck out subsec. (g) which related to report to Congress.

Subsec. (h)(2)(B)(i). Pub. L. 116–131, §306(8), substituted "older individuals" for "individuals from the generations with older individuals".

2016—Subsec. (a)(1)(A). Pub. L. 114–144 substituted "older relative caregivers (as defined in section 3030s of this title)" for "grandparents and other older individuals who are relative caregivers".

2006—Pub. L. 109–365 amended section generally, substituting provisions relating to demonstration, support, and research projects for multigenerational and civic engagement activities for provisions relating to demonstration projects for multigenerational activities.

§3032g. Native American programs

(a) Establishment

(1) In general

The Assistant Secretary shall make grants or enter into contracts with not fewer than two and not more than four eligible entities to establish and operate Resource Centers on Native American Elders (referred to in this section as "Resource Centers"). The Assistant Secretary shall make such grants or enter into such contracts for periods of not less than 3 years.

(2) Functions

(A) In general

Each Resource Center that receives funds under this section shall—

(i) gather information;

(ii) perform research;

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

(iv) provide technical assistance and training to entities that provide services to Native

Americans who are older individuals.

(B) Areas of concern

In conducting the functions described in subparagraph (A), a Resource Center shall focus on priority areas of concern for the Resource Centers regarding Native Americans who are older individuals, which areas shall be—

(i) health (including mental health) problems;

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

(iii) elder abuse; and

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

(3) Preference

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

(4) Consultation

In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Assistant Secretary shall consult with the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

(5) Eligible entities

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

(6) Report to Congress

The Assistant Secretary, with assistance from each Resource Center, shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the status and needs, including the priority areas of concern, of Native Americans who are older individuals.

(b) Training grants

The Assistant Secretary shall make grants and enter into contracts to provide in-service training opportunities and courses of instruction on aging to Indian tribes through public or nonprofit Indian aging organizations and to provide annually national trainings for directors of programs under this subchapter.

(Pub. L. 89–73, title IV, §418, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2263; amended Pub. L. 109–365, title IV, §407, Oct. 17, 2006, 120 Stat. 2557; Pub. L. 114–144, §5(b), Apr. 19, 2016, 130 Stat. 341.)

EDITORIAL NOTES

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–144 substituted "national trainings for" for "a national meeting to train".
2006—Subsec. (a)(2)(B)(i). Pub. L. 109–365 inserted "(including mental health)" after "health".

§3032h. Repealed. Pub. L. 114–144, §5(d), Apr. 19, 2016, 130 Stat. 342

Section, Pub. L. 89–73, title IV, §419, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2264; amended Pub. L. 109–365, title IV, §408, Oct. 17, 2006, 120 Stat. 2557, related to grants for multidisciplinary centers and multidisciplinary systems.

§3032i. Demonstration and support projects for legal assistance for older individuals

(a) Program authorized

The Assistant Secretary shall make grants and enter into contracts, in order to—

(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

(A) case consultations;

(B) training;

(C) provision of substantive legal advice and assistance; and

(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

(b) Assurances

Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 3027(a)(11) of this title are met.

(c) Assistance

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

(Pub. L. 89–73, title IV, §420, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2265; amended Pub. L. 114–144, §5(c), Apr. 19, 2016, 130 Stat. 342.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 420 of Pub. L. 89–73 was classified to section 3034 of this title, prior to the general amendment of this subchapter by Pub. L. 106–501.

AMENDMENTS

2016—Subsec. (c). Pub. L. 114–144 struck out "national" before "nonprofit organizations".

§3032j. Repealed. Pub. L. 114–144, §5(d), Apr. 19, 2016, 130 Stat. 342

Section, Pub. L. 89–73, title IV, §421, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2265, related to grants for ombudsman and advocacy demonstration projects.

A prior section 421 of Pub. L. 89–73 was classified to section 3035 of this title, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 421 of Pub. L. 89–73 was classified to section 3035b of this title, prior to the general amendment of this subchapter by Pub. L. 97–115.

§3032k. Community innovations for aging in place

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity"—

(A) means a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging or other local government agency, a tribal organization, or another entity that—

(i) the Assistant Secretary determines to be appropriate to carry out a project under this part; and

(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals; and

(B) does not include an entity providing housing under the congregate housing services program carried out under section 8011 of this title or the multifamily service coordinator program carried out under section 1701q(g) of title 12.

(2) Naturally Occurring Retirement Community

The term "Naturally Occurring Retirement Community" means a community with a concentrated population of older individuals, which may include a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood composed of age-integrated housing—

(A) where—

(i) 40 percent of the heads of households are older individuals; or

(ii) a critical mass of older individuals exists, based on local factors that, taken in total, allow an organization to achieve efficiencies in the provision of health and social services to older individuals living in the community; and

(B) that is not an institutional care or assisted living setting.

(b) Grants

(1) In general

The Assistant Secretary shall make grants, on a competitive basis, to eligible entities to develop and carry out model aging in place projects. The projects shall promote aging in place for older individuals (including such individuals who reside in Naturally Occurring Retirement Communities), in order to sustain the independence of older individuals. A recipient of a grant under this subsection shall identify innovative strategies for providing, and linking older individuals to programs and services that provide, comprehensive and coordinated health and social services to sustain the quality of life of older individuals and support aging in place.

(2) Grant periods

The Assistant Secretary shall make the grants for periods of 3 years.

(c) Applications

(1) In general

To be eligible to receive a grant under subsection (b) for a project, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

(2) Contents

The application shall include—

(A) a detailed description of the entity's experience in providing services to older individuals in age-integrated settings;

(B) a definition of the contiguous service area and a description of the project area in which the older individuals reside or carry out activities to sustain their well-being;

(C) the results of a needs assessment that identifies—

(i) existing (as of the date of the assessment) community-based health and social services available to individuals residing in the project area;

(ii) the strengths and gaps of such existing services in the project area;

(iii) the needs of older individuals who reside in the project area; and

(iv) services not being delivered that would promote aging in place and contribute to the well-being of older individuals residing in the project area;

(D) a plan for the development and implementation of an innovative model for service coordination and delivery within the project area;

(E) a description of how the plan described in subparagraph (D) will enhance existing services described in subparagraph (C)(i) and support the goal of this section to promote aging in place;

(F) a description of proposed actions by the entity to prevent the duplication of services funded under a provision of this chapter, other than this section, and a description of how the entity will cooperate, and coordinate planning and services (including any formal agreements), with agencies and organizations that provide publicly supported services for older individuals in the project area, including the State agency and area agencies on aging with planning and service areas in the project area;

(G) an assurance that the entity will seek to establish cooperative relationships with interested local entities, including private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

(H) a description of the entity's protocol for referral of residents who may require long-term care services, including coordination with local agencies, including area agencies on aging and Aging and Disability Resource Centers that serve as single points of entry to public services;

(I) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

(J) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require; and

(K) a plan for long-term sustainability of the project.

(d) Use of funds

(1) In general

An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to—

(A) ensure access by older individuals in the project area to community-based health and social services consisting of—

(i) case management, case assistance, and social work services;

(ii) health care management and health care assistance, including disease prevention and health promotion services;

(iii) education, socialization, and recreational activities; and

(iv) volunteer opportunities for project participants;

(B) conduct outreach to older individuals within the project area; and

(C) develop and implement innovative, comprehensive, and cost-effective approaches for the delivery and coordination of community-based health and social services, including those identified in subparagraph (A)(iv), which may include mental health services, for eligible older individuals.

(2) Coordination

An eligible entity receiving a grant under subsection (b) for a project shall coordinate activities with organizations providing services funded under subchapter III to support such services for or facilitate the delivery of such services to eligible older individuals served by the project.

(3) Preference

In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve

a community of low-income individuals and operate or locate the project and services in or in close proximity to a location where a large concentration of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

(4) Supplement not supplant

Funds made available to an eligible entity under subsection (b) shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

(e) Competitive grants for technical assistance

(1) Grants

The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to)—

(A) provide technical assistance to recipients of grants under subsection (b); and

(B) carry out other duties, as determined by the Assistant Secretary.

(2) Eligible organization

To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization (including a partnership of nonprofit organizations), that—

(A) has experience and expertise in providing technical assistance to a range of entities serving older individuals and experience evaluating and reporting on programs; and

(B) has demonstrated knowledge of and expertise in community-based health and social services.

(3) Application

To be eligible to receive a grant under this subsection, an organization (including a partnership of nonprofit organizations) shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the organization will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

(f) Report

The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

(1) the findings resulting from the evaluations of the model projects conducted under this section;

(2) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

(3) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.

(Pub. L. 89–73, title IV, §422, as added Pub. L. 109–365, title IV, §409, Oct. 17, 2006, 120 Stat. 2559.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 422 of Pub. L. 89–73 was classified to section 3035a of this title prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 422 of Pub. L. 89–73 was classified to section 3035c of this title prior to the general amendment of this subchapter by Pub. L. 97–115.

PART B—GENERAL PROVISIONS

§3033. Payment of grants

(a) Contributions

To the extent the Assistant Secretary determines a contribution to be appropriate, the Assistant Secretary shall require the recipient of any grant or contract under this subchapter to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Payments

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Assistant Secretary may determine.

(c) Consultation

The Assistant Secretary shall make no grant or contract under this subchapter in any State that has established or designated a State agency for purposes of subchapter III unless the Assistant Secretary—

(1) consults with the State agency prior to issuing the grant or contract; and

(2) informs the State agency of the purposes of the grant or contract when the grant or contract is issued.

(Pub. L. 89–73, title IV, §431, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2265.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3033, Pub. L. 89–73, title IV, §403, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 46; amended Pub. L. 94–135, title I, §109, Nov. 28, 1975, 89 Stat. 717; Pub. L. 95–478, title I, §104(a)(3), Oct. 18, 1978, 92 Stat. 1537, related to task of attracting qualified persons to field of aging, prior to the general amendment of this subchapter by Pub. L. 97–115.

A prior section 431 of Pub. L. 89–73 was classified to section 3037 of this title, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 431 of Pub. L. 89–73 was classified to section 3035g of this title, prior to the general amendment of this subchapter by Pub. L. 97–115.

Another prior section 431 of Pub. L. 89–73 was renumbered section 451, and was classified to section 3037 of this title, prior to the general amendment of this subchapter by Pub. L. 97–115.

§3033a. Responsibilities of Assistant Secretary

(a) In general

The Assistant Secretary shall be responsible for the administration, implementation, and making of grants and contracts under this subchapter and shall not delegate authority under this subchapter to any other individual, agency, or organization.

(b) Report

(1) In general

Not later than January 1 following each fiscal year, the Assistant Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for such fiscal year that describes each project and each program—

(A) for which funds were provided under this subchapter; and

(B) that was completed in the fiscal year for which such report is prepared.

(2) Contents

Such report shall contain—

(A) the name or descriptive title of each project or program;

(B) the name and address of the individual or governmental entity that conducted such project or program;

(C) a specification of the period throughout which such project or program was conducted;

(D) the identity of each source of funds expended to carry out such project or program and the amount of funds provided by each such source;

(E) an abstract describing the nature and operation of such project or program; and

(F) a bibliography identifying all published information relating to such project or program.

(c) Evaluations

(1) In general

The Assistant Secretary shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this subchapter.

(2) Results

The Assistant Secretary shall—

(A) make available to the public the results of each evaluation carried out under paragraph (1); and

(B) use such evaluation to improve services delivered, or the operation of projects and programs carried out, under this chapter, including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in such services, projects, and programs and in the strategic plan of the Administration.

(Pub. L. 89–73, title IV, §432, as added Pub. L. 106–501, title IV, §401, Nov. 13, 2000, 114 Stat. 2266; amended Pub. L. 109–365, title IV, §410, Oct. 17, 2006, 120 Stat. 2563.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 432 of Pub. L. 89–73 was classified to section 3035h of this title, prior to the general amendment of this subchapter by Pub. L. 97–115.

Prior sections 3034 to 3037b were omitted in the general amendment of this subchapter by Pub. L. 106–501.

Section 3034, Pub. L. 89–73, title IV, §420, as added Pub. L. 98–459, title IV, §405, Oct. 9, 1984, 98 Stat. 1783, related to purpose of former part B of this subchapter.

Another prior section 3034, Pub. L. 89–73, title IV, §404, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 46; amended Pub. L. 94–135, title I, §110, Nov. 28, 1975, 89 Stat. 718; Pub. L. 95–478, title I, §104(a)(4), title V, §503(c), Oct. 18, 1978, 92 Stat. 1538, 1559, provided for grants for training programs for personnel in field of aging, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035, Pub. L. 89–73, title IV, §421, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1601; amended Pub. L. 98–459, title IV, §406, Oct. 9, 1984, 98 Stat. 1783; Pub. L. 102–375, title IX, §904(a)(18), Sept. 30, 1992, 106 Stat. 1308; Pub. L. 103–171, §§2(16), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990, related to research and development projects.

Another prior section 3035, Pub. L. 89–73, title IV, §411, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 47; amended Pub. L. 95–478, title I, §104(b)(1), (2), title V, §503(c)(3), Oct. 18, 1978, 92 Stat. 1538, 1559, related to grants and contracts for research and development projects, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035a, Pub. L. 89–73, title IV, §422, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1602; amended Pub. L. 98–459, title IV, §407, Oct. 9, 1984, 98 Stat. 1784; Pub. L. 100–175, title I, §§152, 153, 156(c), 182(o), Nov. 29, 1987, 101 Stat. 951, 954, 967; Pub. L. 100–628, title VII, §705(8), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(b)(4), title IV, §406, title IX, §904(a)(19), Sept. 30, 1992, 106 Stat. 1201, 1245, 1308; Pub. L. 103–82, title IV, §405(g)(3), Sept. 21, 1993, 107 Stat. 921; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to demonstration projects.

Another prior section 3035a, Pub. L. 89–73, title IV, §412, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 47, related to special comprehensive study and demonstration projects on transportation

problems of older Americans, prior to repeal by Pub. L. 95–478, title I, §104(b)(3), Oct. 18, 1978, 92 Stat. 1539.

Section 3035b, Pub. L. 89–73, title IV, §423, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1603; amended Pub. L. 98–459, title IV, §408, Oct. 9, 1984, 98 Stat. 1784; Pub. L. 100–175, title I, §§105(f), 134(c)(5), 154, 156(d), Nov. 29, 1987, 101 Stat. 930, 941, 951, 955; Pub. L. 102–375, title IV, §407(a), Sept. 30, 1992, 106 Stat. 1246; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to special projects in comprehensive long-term care.

Another prior section 3035b, Pub. L. 89–73, title IV, §421, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1539, authorized demonstration projects showing methods of improving or expanding social services or nutrition services or otherwise promoting the well-being of older individuals, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035c, Pub. L. 89–73, title IV, §424, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1604; amended Pub. L. 98–459, title IV, §409, Oct. 9, 1984, 98 Stat. 1784; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to special demonstration and support projects for legal assistance for older individuals.

Another prior section 3035c, Pub. L. 89–73, title IV, §422, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1541, related to special projects in comprehensive long-term care, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035d, Pub. L. 89–73, title IV, §425, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1605; amended Pub. L. 98–459, title IV, §410(a), Oct. 9, 1984, 98 Stat. 1785; Pub. L. 100–175, title I, §134(c)(6), Nov. 29, 1987, 101 Stat. 941; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to national impact activities.

Another prior section 3035d, Pub. L. 89–73, title IV, §423, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1542, related to special demonstration projects on legal services for older Americans, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035e, Pub. L. 89–73, title IV, §426, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1605; amended Pub. L. 98–459, title IV, §410(b), Oct. 9, 1984, 98 Stat. 1785; Pub. L. 102–375, title I, §102(b)(9)(D), Sept. 30, 1992, 106 Stat. 1202, related to utility and home heating cost demonstration projects.

Another prior section 3035e, Pub. L. 89–73, title IV, §424, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1543, provided for national impact demonstrations, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035f, Pub. L. 89–73, title IV, §427, as added Pub. L. 100–175, title I, §156(e)(1), Nov. 29, 1987, 101 Stat. 955; amended Pub. L. 102–375, title IV, §408, Sept. 30, 1992, 106 Stat. 1249; Pub. L. 103–171, §3(a)(7), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–402, title IV, §401(b)(9)(B), Oct. 30, 2000, 114 Stat. 1739, related to ombudsman, legal assistance, and advocacy demonstration projects.

Another prior section 3035f, Pub. L. 89–73, title IV, §425, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1543, provided for utility and home heating cost demonstration projects, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035g, Pub. L. 89–73, title IV, §428, as added Pub. L. 100–175, title I, §157(a), Nov. 29, 1987, 101 Stat. 955; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to consumer protection demonstration projects for services provided in the home.

Another prior section 3035g, Pub. L. 89–73, title IV, §431, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1543, related to mortgage insurance grants for multipurpose senior centers, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035h, Pub. L. 89–73, title IV, §429, as added Pub. L. 102–375, title IV, §409, Sept. 30, 1992, 106 Stat. 1249; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to demonstration projects for multigenerational activities.

Another prior section 3035h, Pub. L. 89–73, title IV, §432, as added Pub. L. 95–478, title I, §104(c)(1)(C), Oct. 18, 1978, 92 Stat. 1545, related to mortgage interest grants for multipurpose senior centers, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3035i, Pub. L. 89–73, title IV, §429A, as added Pub. L. 102–375, title IV, §410, Sept. 30, 1992, 106 Stat. 1251; amended Pub. L. 103–171, §3(a)(11), (13), Dec. 2, 1993, 107 Stat. 1990, related to supportive services in the federally assisted housing demonstration program.

Section 3035j, Pub. L. 89–73, title IV, §429B, as added Pub. L. 102–375, title IV, §411, Sept. 30, 1992, 106 Stat. 1252; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to the neighborhood senior care program.

Section 3035k, Pub. L. 89–73, title IV, §429C, as added Pub. L. 102–375, title IV, §412, Sept. 30, 1992, 106 Stat. 1253; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to information and

assistance systems development projects.

Section 3035l, Pub. L. 89–73, title IV, §429D, as added Pub. L. 102–375, title IV, §413, Sept. 30, 1992, 106 Stat. 1254; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to senior transportation demonstration program grants.

Section 3035m, Pub. L. 89–73, title IV, §429E, as added Pub. L. 102–375, title IV, §414, Sept. 30, 1992, 106 Stat. 1256; amended Pub. L. 103–171, §3(a)(4), Dec. 2, 1993, 107 Stat. 1990, related to Resource Centers on Native American Elders.

Section 3035n, Pub. L. 89–73, title IV, §429F, as added Pub. L. 102–375, title IV, §415, Sept. 30, 1992, 106 Stat. 1257; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–402, title IV, §401(b)(9)(C), Oct. 30, 2000, 114 Stat. 1739, related to demonstration programs for older individuals with developmental disabilities.

Section 3035o, Pub. L. 89–73, title IV, §429G, as added Pub. L. 102–375, title IV, §416, Sept. 30, 1992, 106 Stat. 1257; amended Pub. L. 103–171, §§2(17), 3(a)(11), (13), Dec. 2, 1993, 107 Stat. 1989, 1990, related to housing demonstration programs.

Section 3035p, Pub. L. 89–73, title IV, §429H, as added Pub. L. 102–375, title IV, §417, Sept. 30, 1992, 106 Stat. 1260; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to private resource enhancement projects.

Section 3035q, Pub. L. 89–73, title IV, §429I, as added Pub. L. 102–375, title IV, §418, Sept. 30, 1992, 106 Stat. 1261; amended Pub. L. 103–171, §§2(18), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990, related to career preparation for the field of aging.

Section 3035r, Pub. L. 89–73, title IV, §429J, as added Pub. L. 102–375, title IV, §419, Sept. 30, 1992, 106 Stat. 1261; amended Pub. L. 103–171, §§2(19), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990, related to pension rights demonstration projects.

A prior section 3036, Pub. L. 89–73, title IV, §441, formerly §421, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 48; renumbered and amended Pub. L. 95–478, title I, §104(c)(1)(B), (d), Oct. 18, 1978, 92 Stat. 1539, 1546, related to applications for grants for establishment or support of multidisciplinary centers of gerontology and gerontology centers of special emphasis, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3037, Pub. L. 89–73, title IV, §431, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1605; amended Pub. L. 98–459, title IV, §411, Oct. 9, 1984, 98 Stat. 1785; Pub. L. 100–175, title I, §§156(e)(2), 157(b)–159, Nov. 29, 1987, 101 Stat. 955, 956; Pub. L. 102–375, title IV, §420, Sept. 30, 1992, 106 Stat. 1264; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, authorized appropriations.

Another prior section 3037, Pub. L. 89–73, title IV, §451, formerly §431, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 49; amended Pub. L. 94–135, title I, §112(d), Nov. 28, 1975, 89 Stat. 720; renumbered §451 and amended Pub. L. 95–478, title I, §104(c)(1)(B), (e)(1), Oct. 18, 1978, 92 Stat. 1539, 1546, authorized appropriation of funds for fiscal years ending prior to Oct. 1, 1981, and prohibited transfer of funds to offices not directly responsible to Commissioner or for research programs or activities not specifically authorized by this subchapter, prior to the general amendment of this subchapter by Pub. L. 97–115.

Section 3037a, Pub. L. 89–73, title IV, §432, as added Pub. L. 97–115, §11(a), Dec. 29, 1981, 95 Stat. 1605; amended Pub. L. 98–459, title IV, §412, Oct. 9, 1984, 98 Stat. 1785; Pub. L. 102–375, title IV, §421, Sept. 30, 1992, 106 Stat. 1264; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to payments of grants.

Another prior section 3037a, Pub. L. 89–73, title IV, §452, formerly §432, as added Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 49; amended Pub. L. 94–135, title I, §114(f), Nov. 28, 1975, 89 Stat. 725; renumbered §452 and amended Pub. L. 95–478, title I, §104(c)(1)(B), (e)(2), Oct. 18, 1978, 92 Stat. 1539, 1547, related to payments of grants, prior to the general revision of this subchapter by Pub. L. 97–115.

Section 3037b, Pub. L. 89–73, title IV, §433, as added Pub. L. 98–459, title IV, §413, Oct. 9, 1984, 98 Stat. 1785; amended Pub. L. 102–375, title IV, §422, Sept. 30, 1992, 106 Stat. 1265; Pub. L. 103–171, §3(a)(12), (13), Dec. 2, 1993, 107 Stat. 1990, related to responsibilities of the Assistant Secretary.

AMENDMENTS

2006—Subsec. (c)(2)(B). Pub. L. 109–365 inserted before period at end ", including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in such services, projects, and programs and in the strategic plan of the Administration".

SUBCHAPTER V—MULTIPURPOSE SENIOR CENTERS

PART A—ACQUISITION, ALTERATION, OR RENOVATION OF MULTIPURPOSE SENIOR CENTERS

§§3041 to 3041f. Repealed. Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558

Section 3041, Pub. L. 89–73, title V, §501, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 50, related to provisions for grants or contracts. See sections 3028 and 3030d(b)(1) of this title.

A prior section 3041, Pub. L. 89–73, title V, §501, July 14, 1965, 79 Stat. 224; Pub. L. 91–69, §8, Sept. 17, 1969, 83 Stat. 111, which related to training project grants and contracts, training programs, studies, preparation and dissemination of materials, and conferences, was repealed by Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45.

Section 3041a, Pub. L. 89–73, title V, §502, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 50, related to requirements for approval of applications, preferred areas, and agency cooperation.

Section 3041b, Pub. L. 89–73, title V §503, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 51, provided for payments, reservation from appropriations amount of grant or contract, amendments, advances, reimbursement, and installments.

Section 3041c, Pub. L. 89–73, title V, §504, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 51, provided for recapture of payments. See section 3030b of this title.

Section 3041d, Pub. L. 89–73, title V, §505, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 51; amended Pub. L. 94–135, title I, §112(e), Nov. 28, 1975, 89 Stat. 720, provided for authorization of appropriations. See section 3023 of this title.

Section 3041e, Pub. L. 89–73, title V, §506, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 51, related to mortgage insurance for Multipurpose Senior Centers.

Section 3041f, Pub. L. 89–73, title V, §507, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 54; amended Pub. L. 94–135, title I, §114(g), Nov. 28, 1975, 89 Stat. 725, related to annual interest grants.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558, provided that the repeal by that section is effective at the close of Sept. 30, 1978.

PART B—INITIAL STAFFING OF MULTIPURPOSE SENIOR CENTERS

§3042. Repealed. Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558

Section, Pub. L. 89–73, title V, §511, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 54, related to personnel staffing grant program. See section 3030d(b)(2) of this title.

A prior section 3042, Pub. L. 89–73, title V, §502, July 14, 1965, 79 Stat. 225, related to payments of training project grants, providing in subsec. (a) for contribution by recipients; subsec. (b) adjustments, advances or reimbursement, installments, and conditions; and subsec. (c) consultation of Secretary with State agency prior to making grants or contracts, prior to repeal by Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45.

A prior section 3043, Pub. L. 89–73, title V, §503, as added Pub. L. 90–42, §6, July 1, 1967, 81 Stat. 108, related to study of need for trained personnel; and consultations with other government and private agencies and organizations, prior to repeal by Pub. L. 93–29, title IV, §401, May 3, 1973, 87 Stat. 45.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558, provided that the repeal by that section is effective at the close of Sept. 30, 1978.

SUBCHAPTER VI—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

§§3044 to 3044e. Repealed. Pub. L. 93–113, title VI, §604(a), Oct. 1, 1973, 87 Stat. 417

Section 3044, Pub. L. 89–73, title VI, §601, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 111; amended Pub. L. 93–29, title VI, §601, May 3, 1973, 87 Stat. 55, related to grants and contracts for volunteer service projects, providing in: subsec. (a) for approval of programs and rules and regulations; subsec. (b) for method of payment; subsec. (c) for conditions upon award of grant or contract, and subsec. (d) for exclusion as income of compensation to individual volunteers.

Section 3044a, Pub. L. 89–73, title VI, §603, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 112; amended Pub. L. 93–29, title VI, §602, May 3, 1973, 87 Stat. 55, related to authorization of appropriations.

Section 3044b, Pub. L. 89–73, title VI, §611, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 112; amended Pub. L. 92–424, §29(a), Sept. 19, 1972, 86 Stat. 705; Pub. L. 93–29, title VI, §603(b), May 3, 1973, 87 Stat. 55, related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers.

Section 3044c, Pub. L. 89–73, title VI, §612, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 113, related to conditions upon award of grantor contract and defined "community action agency".

Section 3044d, Pub. L. 89–73, title VI, §613, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 113; amended Pub. L. 93–29, title VI, §603(c), May 3, 1973, 87 Stat. 55, related to interagency cooperation.

Section 3044e, Pub. L. 89–73, title VI, §614, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 114; amended Pub. L. 93–29, title VI, §604, May 3, 1973, 87 Stat. 55, related to authorization of appropriations.

SUBCHAPTER VII—NUTRITION PROGRAM FOR THE ELDERLY

§§3045 to 3045i. Repealed. Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558

Section 3045, Pub. L. 89–73, title VII, §701, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 88, stated Congressional findings and declaration of policy.

Section 3045a, Pub. L. 89–73, title VII, §702, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 89; amended Pub. L. 93–29, title VII, §704(c), May 3, 1973, 87 Stat. 57; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310, related to administration of program. See section 3021(b) of this title.

Section 3045b, Pub. L. 89–73, title VII, §703, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 90; amended Pub. L. 93–29, title VII, §704(c), May 3, 1973, 87 Stat. 57; Pub. L. 94–135, title I, §114(i), (j), Nov. 28, 1975, 89 Stat. 726, related to allotment of funds. See section 3024 of this title.

Section 3045c, Pub. L. 89–73, title VII, §704, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 91; amended Pub. L. 93–29, title VII, §704(c), May 3, 1973, 87 Stat. 57, related to payment of grants. See section 3029(a) of this title.

Section 3045d, Pub. L. 89–73, title VII, §705, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 91; amended Pub. L. 93–29, title VII, §§702–704, May 3, 1973, 87 Stat. 56, 57; Pub. L. 94–135, title I, §114(k)–(n), Nov. 28, 1975, 89 Stat. 726, related to provisions for State plans. See section 3027 of this title.

Section 3045e, Pub. L. 89–73, title VII, §706, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 93;

amended Pub. L. 93–29, title VII, §704(c), May 3, 1973, 87 Stat. 57; Pub. L. 94–135, title I, §114(o), (p), Nov. 28, 1975, 89 Stat. 726, related to nutrition and other program requirements.

Section 3045f, Pub. L. 89–73, title VII, §707, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 94; amended Pub. L. 93–29, title VII, §701, May 3, 1973, 87 Stat. 56; Pub. L. 93–351, §5, July 12, 1974, 88 Stat. 358; Pub. L. 94–135, title I, §111(a)–(d), (f), Nov. 28, 1975, 89 Stat. 718, 719; Pub. L. 95–65, §2, July 11, 1977, 91 Stat. 269, related to surplus commodities. See section 3030a of this title.

Section 3045g, Pub. L. 89–73, title VII, §708, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 94; amended Pub. L. 93–351, §1, July 12, 1974, 88 Stat. 357; Pub. L. 94–135, title I, §§111(e), 112(f), Nov. 28, 1975, 89 Stat. 719, 720, provided for authorization of appropriations. See section 3023 of this title.

Section 3045h, Pub. L. 89–73, title VII, §709, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 95, concerned with relationship to other laws. See section 3020a(b) of this title.

Section 3045i, Pub. L. 89–73, title VII, §710, as added Pub. L. 92–258, §2, Mar. 22, 1972, 86 Stat. 95, related to agreements with profitmaking organizations. See section 3020c of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558, provided that the repeal by that section is effective at the close of Sept. 30, 1978.

NUTRITION PROJECTS FOR ELDERLY UNDER PRIOR PROVISIONS, QUALIFIED UNDER SUCCESSOR PROVISIONS, ELIGIBLE FOR FUNDS UNDER SUCH PROVISIONS; COMPETITIVE BIDDING; DISCONTINUANCE OF PAYMENTS FOR INEFFECTIVE ACTIVITIES

Pub. L. 95–478, title V, §501(b), Oct. 18, 1978, 92 Stat. 1558, as amended by Pub. L. 97–115, §14(a), Dec. 29, 1981, 95 Stat. 1608; Pub. L. 98–459, title VIII, §801(b), Oct. 9, 1984, 98 Stat. 1792, provided that: "No contract awarded after September 30, 1982, shall be entered into for the provision of nutrition services unless such contract has been awarded through a competitive process. Such process shall include evaluation of each bidder's experience in providing services to older individuals. Whenever there is no evidence of improved quality of service and cost effectiveness on the part of another bidder, a provider of services who received funds under title VII of the Older Americans Act of 1965 [former sections 3045 to 3045i of this title] as in effect on September 29, 1978, shall be given preference."

SUBCHAPTER VIII—GENERAL PROVISIONS

§§3051 to 3055. Repealed. Pub. L. 93–29, title II, §202, May 3, 1973, 87 Stat. 36

Section 3051, Pub. L. 89–73, title VIII, §801, formerly title VI, §601, July 14, 1965, 79 Stat. 225; Pub. L. 90–42, §5(c), (d), July 1, 1967, 81 Stat. 107; renumbered title VII, §701, Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, §801, Pub. L. 92–258, §1, Mar. 22, 1972, 86 Stat. 88, related to advisory committees in general, providing in: subsec. (a) for establishment of Advisory Committee on Older Americans, its membership, and term of office; subsec. (b) for appointment of technical advisory committees; subsec. (c) for compensation and travel expenses; and subsec. (d) for technical and clerical assistance for Advisory Committee. See section 3015 of this title.

Section 3052, Pub. L. 89–73, title VIII, §802, formerly title VI, §602, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, §5(e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered title VII, §702, Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, §802, Pub. L. 92–258, §1, Mar. 22, 1972, 86 Stat. 88, related to administration. See section 3016(a), (b) of this title.

Section 3053, Pub. L. 89–73, title VIII, §803, formerly title VI, §603, July 14, 1965, 79 Stat. 226; Pub. L. 90–42, §4, July 1, 1967, 81 Stat. 107; renumbered title VII, §703 and amended Pub. L. 91–69, §§2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111; renumbered title VIII, §803, Pub. L. 92–258, §1, Mar. 22, 1972, 86 Stat. 88, related to authorization of appropriations.

Section 3054, Pub. L. 89–73, title VIII, §804, formerly title VII, §704, as added Pub. L. 91–69, §12, Sept. 17, 1969, 83 Stat. 114; renumbered title VIII, §804, Pub. L. 92–258, §1, Mar. 22, 1972, 86 Stat. 88, related to evaluation of programs. See section 3017 of this title.

Section 3055, Pub. L. 89–73, title VIII, §805, formerly title VII, §705, as added Pub. L. 91–69, §13, Sept. 17, 1969, 83 Stat. 114; renumbered title VIII, §805, Pub. L. 92–258, §1, Mar. 22, 1972, 86 Stat. 88, related to joint funding of projects. See section 3019 of this title.

SUBCHAPTER IX—COMMUNITY SERVICE SENIOR OPPORTUNITIES

EDITORIAL NOTES

CODIFICATION

Title V of the Older Americans Act of 1965, comprising this subchapter, was originally enacted as title IX of Pub. L. 89–73 by Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 720, and was renumbered title V and amended by Pub. L. 95–478, title I, §105, title V, §503(d), Oct. 18, 1978, 92 Stat. 1547, 1559; Pub. L. 97–115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 98–459, Oct. 9, 1984, 98 Stat. 1767; Pub. L. 100–175, Nov. 29, 1987, 101 Stat. 926; Pub. L. 100–628, Nov. 7, 1988, 102 Stat. 3224; Pub. L. 102–375, Sept. 30, 1992, 106 Stat. 1195; Pub. L. 103–171, Dec. 2, 1993, 107 Stat. 1988; Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936; Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681; Pub. L. 105–332, Oct. 31, 1998, 112 Stat. 3076; Pub. L. 106–501, Nov. 13, 2000, 114 Stat. 2226; Pub. L. 109–270, Aug. 12, 2006, 120 Stat. 683. Title V is shown herein, however, as having been added by Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2563, without reference to intervening amendments because of the extensive revision of the title's provisions by Pub. L. 109–365.

§3056. Older American community service employment program

(a) In general

(1) Establishment of program

To foster individual economic self-sufficiency and promote useful opportunities in community service activities (which shall include community service employment) for unemployed low-income persons who are age 55 or older, particularly persons who have poor employment prospects, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (referred to in this subchapter as the "Secretary") may establish an older American community service employment program.

(2) Use of appropriated amounts

Amounts appropriated to carry out this subchapter shall be used only to carry out the provisions contained in this subchapter.

(b) Grant authority

(1) Projects

To carry out this subchapter, the Secretary may make grants to public and nonprofit private agencies and organizations, agencies of a State, and tribal organizations to carry out the program established under subsection (a). Such grants may provide for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make such program effective or to supplement such program. The Secretary shall make the grants from allotments made under section 3056d of this title, and in accordance with section 3056l of this title. No payment shall be made by the Secretary toward the cost of any project established or administered by such an organization or agency unless the Secretary determines that such project—

(A) will provide community service employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, and such personnel will, to the fullest extent possible, be recruited from among eligible individuals;

(B)(i) will provide community service employment and other authorized activities for eligible individuals in the community in which such individuals reside, or in nearby communities; or

(ii) if such project is carried out by a tribal organization that receives a grant under this subsection or receives assistance from a State that receives a grant under this subsection, will provide community service employment and other authorized activities for such individuals, including those who are Indians residing on an Indian reservation, as defined in section 3501 of title 25;

(C) will comply with an average participation cap for eligible individuals (in the aggregate) of—

(i) 27 months; or

(ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project area for such grantee, up to a period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 3056k(a)(2)(E) of this title that justify such an extended period for the program year involved;

(D) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by nonprofit organizations (excluding political parties exempt from taxation under section 501(c)(3) of title 26), but excluding projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(E) will contribute to the general welfare of the community, which may include support for children, youth, and families;

(F) will provide community service employment and other authorized activities for eligible individuals;

(G)(i) will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program;

(ii) will not displace currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits);

(iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(iv) will not employ or continue to employ any eligible individual to perform the same work or substantially the same work as that performed by any other individual who is on layoff;

(H) will coordinate activities with training and other services provided under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], including utilizing the one-stop delivery system of the local workforce development areas involved to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training (such as work experience, on-the-job training, and classroom training) as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance equivalent to the wage described in subparagraph (J);

(J) will ensure that safe and healthy employment conditions will be provided, and will ensure that participants employed in community service and other jobs assisted under this subchapter will be paid wages that shall not be lower than whichever is the highest of—

(i) the minimum wage that would be applicable to such a participant under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)) applied to the participant and if the participant were not exempt under section 13 of such Act (29 U.S.C. 213);

(ii) the State or local minimum wage for the most nearly comparable covered employment; or

(iii) the prevailing rates of pay for individuals employed in similar public occupations by

the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which community service employment or other authorized activities are being provided, and of persons who are knowledgeable about the needs of older individuals;

(L) will authorize payment for necessary supportive services costs (including transportation costs) of eligible individuals that may be incurred in training in any project funded under this subchapter, in accordance with rules issued by the Secretary;

(M) will ensure that, to the extent feasible, such project will serve the needs of minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

(N)(i) will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

(ii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

(O) will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce development areas involved as established under section 121(e) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151(e)], and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce development board in accordance with section 121(c) of such Act [29 U.S.C. 3151(c)];

(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

(i) clarifying the law with respect to political activities allowable and unallowable under chapter 15 of title 5 applicable to the project and to each category of individuals associated with such project; and

(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

(Q) will provide to the Secretary the description and information described in—

(i) clauses (ii) and (viii) of paragraph (2)(B), relating to coordination with other Federal programs, of section 102(b) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3112(b)]; and

(ii) paragraph (2)(C)(i), relating to implementation of one-stop delivery systems, of section 102(b) of the Workforce Innovation and Opportunity Act; and

(R) will ensure that entities that carry out activities under the project (including State agencies, local entities, subgrantees, and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient.

(2) Regulations

The Secretary may establish, issue, and amend such regulations as may be necessary to

effectively carry out this subchapter.

(3) Assessment and service strategies

(A) Prepared under this chapter

An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151 et seq.], in order to determine whether such eligible individual also qualifies for career or training services described in section 134(c) of such Act [29 U.S.C. 3174(c)].

(B) Prepared under Workforce Innovation and Opportunity Act

An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151 et seq.] for an eligible individual may be used to comply with the requirement specified in subparagraph (A).

(c) Federal share and use of funds

(1) Federal share

The Secretary may pay a Federal share not to exceed 90 percent of the cost of any project for which a grant is made under subsection (b), except that the Secretary may pay all of such cost if such project is—

(A) an emergency or disaster project; or

(B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

(2) Non-Federal share

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

(3) Use of funds for administrative costs

Of the grant amount to be paid under this subsection by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the administrative costs of such project, except that—

(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount if the Secretary determines, based on information submitted by the grantee under subsection (b), that such increase is necessary to carry out such project; and

(B) if the grantee under subsection (b) demonstrates to the Secretary that—

(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and costs associated with other operation requirements imposed by the Secretary;

(ii) the number of community service employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available to pay the administrative costs is not increased; or

(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the administrative costs to an amount not to exceed 15 percent of the grant amount.

(4) Administrative costs

For purposes of this subchapter, administrative costs are the costs, both personnel-related and nonpersonnel-related and both direct and indirect, associated with the following:

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

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

(ii) procurement and purchasing;

(iii) property management;

(iv) personnel management;

(v) payroll functions;

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

(vii) audits;

(viii) general legal services;

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

(x) preparing administrative reports; and

(xi) other activities necessary for the general administration of government funds and associated programs.

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

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

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

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

(F) The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

(5) Non-Federal share of administrative costs

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

(6) Use of funds for wages and benefits and programmatic activity costs

(A) In general

Amounts made available for a project under this subchapter that are not used to pay for the administrative costs shall be used to pay for the costs of programmatic activities, including the costs of—

(i) participant wages, such benefits as are required by law (such as workers' compensation or unemployment compensation), the costs of physical examinations, compensation for scheduled work hours during which an employer's business is closed for a Federal holiday, and necessary sick leave that is not part of an accumulated sick leave program, except that no amounts provided under this subchapter may be used to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses;

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

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

(iv) participant supportive services to enable a participant to successfully participate in a project under this subchapter, which may include the payment of reasonable costs of

transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and

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

(B) Use of funds for wages and benefits

From the funds made available through a grant made under subsection (b), a grantee under this subchapter—

(i) except as provided in clause (ii), shall use not less than 75 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this subchapter; or

(ii) that obtains approval for a request described in subparagraph (C) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

(C) Request to use additional funds for programmatic activity costs

(i) In general

A grantee may submit to the Secretary a request for approval—

(I) to use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i);

(II) to use the percentage of grant funds described in paragraph (3) to pay for administrative costs, as specified in that paragraph;

(III) to use not more than 10 percent of the grant funds for individual participants to provide activities described in clauses (ii) and (iv) of subparagraph (A), in which case the grantee shall provide (from the funds described in this subclause) the subsistence allowance described in subsection (b)(1)(I) for those individual participants who are receiving training described in that subsection from the funds described in this subclause, but may not use the funds described in this subclause to pay for any administrative costs; and

(IV) to use the remaining grant funds to provide activities described in clauses (ii) through (v) of subparagraph (A).

(ii) Contents

In submitting the request the grantee shall include in the request—

(I) a description of the activities for which the grantee will spend the grant funds described in subclauses (III) and (IV) of clause (i), consistent with those subclauses;

(II) an explanation documenting how the provision of such activities will improve the effectiveness of the project, including an explanation concerning whether any displacement of eligible individuals or elimination of positions for such individuals will occur, information on the number of such individuals to be displaced and of such positions to be eliminated, and an explanation concerning how the activities will improve employment outcomes for individuals served, based on the assessment conducted under subsection (b)(1)(N); and

(III) a proposed budget and work plan for the activities, including a detailed description of the funds to be spent on the activities described in subclauses (III) and (IV) of clause (i).

(iii) Submission

The grantee shall submit a request described in clause (i) not later than 90 days before the proposed date of implementation contained in the request. Not later than 30 days before the proposed date of implementation, the Secretary shall approve, approve as modified, or reject the request, on the basis of the information included in the request as described in clause (ii).

(D) Report

Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantee's use of funds for activities described in clauses (i) through (v) of

subparagraph (A).

(d) Project description

Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and the local workforce development board and shall submit to the State agency, the local workforce development board, and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this subchapter.

(e) Pilot, demonstration, and evaluation projects

(1) In general

The Secretary, in addition to exercising any other authority contained in this subchapter, shall use funds reserved under section 3056d(a)(1) of this title to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of the techniques and approaches, in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project, for the appropriate area agency on aging to submit comments on such a project in order to ensure coordination of activities under this subchapter.

(2) Projects

Such projects may include—

(A) activities linking businesses and eligible individuals, including activities providing assistance to participants transitioning from subsidized activities to private sector employment;

(B) demonstration projects and pilot projects designed to—

(i) attract more eligible individuals into the labor force;

(ii) improve the provision of services to eligible individuals under one-stop delivery systems established under section 121(e) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151(e)];

(iii) enhance the technological skills of eligible individuals; and

(iv) provide incentives to grantees under this subchapter for exemplary performance and incentives to businesses to promote their participation in the program under this subchapter;

(C) demonstration projects and pilot projects, as described in subparagraph (B), for workers who are older individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;

(D) provision of training and technical assistance to support any project funded under this subchapter;

(E) dissemination of best practices relating to employment of eligible individuals; and

(F) evaluation of the activities authorized under this subchapter.

(3) Consultation

To the extent practicable, entities carrying out projects under this subsection shall consult with appropriate area agencies on aging, with the State workforce development board and local workforce development board, and with other appropriate agencies and entities to promote coordination of activities under this subchapter.

(Pub. L. 89–73, title V, §502, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2563; amended Pub. L. 113–128, title V, §512(w)(3), July 22, 2014, 128 Stat. 1713; Pub. L. 114–144, §6(a), Apr. 19, 2016, 130 Stat. 342.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(1)(H), (N)(i), (3), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. Subtitle B of title I of the Act is classified generally to part B (§3151 et seq.) of subchapter I of chapter 32 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(1)(J)(i), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(1)(N)(i), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (b)(1)(N)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 3056, Pub. L. 89–73, title V, §502, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2267; amended Pub. L. 109–270, §2(k)(1), Aug. 12, 2006, 120 Stat. 748, related to the older American community service employment program, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056, Pub. L. 89–73, title V, §502, formerly title IX, §902, as added Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 720; renumbered title V, §502, and amended Pub. L. 95–478, title I, §105(a), (b), Oct. 18, 1978, 92 Stat. 1547; Pub. L. 97–115, §12(a)(1), (2), (b)(1), (c), Dec. 29, 1981, 95 Stat. 1606; Pub. L. 98–459, title V, §501, Oct. 9, 1984, 98 Stat. 1786; Pub. L. 100–175, title I, §§161, 162(a), Nov. 29, 1987, 101 Stat. 957; Pub. L. 102–375, title V, §§501, 504(c)(1), (2), title IX, §904(b)(1), Sept. 30, 1992, 106 Stat. 1265, 1269, 1309; Pub. L. 105–220, title III, §323, Aug. 7, 1998, 112 Stat. 1087; Pub. L. 105–277, div. A, §101(f) [title VIII, §§403(b), 405(d)(33)(B), (f)(25)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416, 2681–426, 2681–433; Pub. L. 105–332, §3(i)(1), Oct. 31, 1998, 112 Stat. 3126, related to the older American community service employment program, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 502 of Pub. L. 89–73, title V, as added Pub. L. 93–29, title V, §501, May 3, 1973, 87 Stat. 50, related to requirements for approval of applications, preferred areas, and agency application and was classified to section 3041a of this title, prior to repeal by Pub. L. 95–478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558.

AMENDMENTS

2016—Subsec. (b)(1)(C)(ii). Pub. L. 114–144, §6(a)(1)(A), substituted "3056k(a)(2)(E)" for "3056k(a)(2)(D)".

Subsec. (b)(1)(N)(i). Pub. L. 114–144, §6(a)(1)(B), substituted "Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.)" for "Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

Subsec. (d). Pub. L. 114–144, §6(a)(2)(B), substituted ", the local workforce development board, and" for "and".

Pub. L. 114–144, §6(a)(2)(A), which directed amendment of subsec. (d) by inserting "and the local workforce development board" after "service area", was executed by making the insertion after "service area" the second place appearing to reflect the probable intent of Congress.

Subsec. (e)(3). Pub. L. 114–144, §6(a)(3), inserted ", with the State workforce development board and local workforce development board," after "aging".

2014—Subsec. (b)(1)(H). Pub. L. 113–128, §512(w)(3)(A)(i)(I), substituted "will coordinate activities with training and other services provided under title I of the Workforce Innovation and Opportunity Act, including utilizing the one-stop delivery system of the local workforce development areas involved" for "will coordinate activities with training and other services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including utilizing the one-stop delivery system of the local workforce investment areas involved".

Subsec. (b)(1)(O). Pub. L. 113–128, §512(w)(3)(A)(i)(II), substituted "through the one-stop delivery system of the local workforce development areas involved as established under section 121(e) of the Workforce Innovation and Opportunity Act, and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce development board in accordance with section 121(c) of such Act" for "through the one-stop delivery system of the local workforce investment areas involved as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c))".

Subsec. (b)(1)(Q)(i). Pub. L. 113–128, §512(w)(3)(A)(i)(III)(aa), substituted "clauses (ii) and (viii) of paragraph (2)(B), relating to coordination with other Federal programs, of section 102(b) of the Workforce Innovation and Opportunity Act" for "paragraph (8), relating to coordination with other Federal programs, of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b))".

Subsec. (b)(1)(Q)(ii). Pub. L. 113–128, §512(w)(3)(A)(i)(III)(bb), substituted "paragraph (2)(C)(i), relating to implementation of one-stop delivery systems, of section 102(b) of the Workforce Innovation and Opportunity Act" for "paragraph (14), relating to implementation of one-stop delivery systems, of section 112(b) of the Workforce Investment Act of 1998".

Subsec. (b)(3)(A). Pub. L. 113–128, §512(w)(3)(A)(ii)(I), substituted "An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Innovation and Opportunity Act, in order to determine whether such eligible individual also qualifies for career or training services described in section 134(c) of such Act." for "An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such eligible individual also qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 2864(d))."

Subsec. (b)(3)(B). Pub. L. 113–128, §512(w)(3)(A)(ii)(II), substituted "Workforce Innovation and Opportunity Act" for "Workforce Investment Act of 1998" in heading and "An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Innovation and Opportunity Act" for "An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.)" in text.

Subsec. (e)(2)(B)(ii). Pub. L. 113–128, §512(w)(3)(B), substituted "one-stop delivery systems established under section 121(e) of the Workforce Innovation and Opportunity Act" for "one-stop delivery systems established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE

Pub. L. 109–365, title V, §502, Oct. 17, 2006, 120 Stat. 2590, provided that:

"(a) IN GENERAL.—Title V of the Older Americans Act of 1965 [42 U.S.C. 3056 et seq.] (as amended by section 501) takes effect July 1, 2007.

"(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.—

"(1) REGULATIONS.—Effective on the date of enactment of this Act [Oct. 17, 2006], the Secretary of Labor may issue rules and regulations authorized in such title V.

"(2) EXPECTED LEVELS OF PERFORMANCE.—Prior to July 1, 2007, the Secretary of Labor may carry out the activities authorized in section 513(a)(2) of the Older Americans Act of 1965 [42 U.S.C. 3056k(a)(2)] (as so amended), in preparation for program year 2007."

SHORT TITLE

For short title of this subchapter as the "Community Service Senior Opportunities Act", see section 501 of Pub. L. 89–73, set out as a note under section 3001 of this title.

CONTINUITY OF SERVICE AND OPPORTUNITIES FOR PARTICIPANTS IN COMMUNITY SERVICE ACTIVITIES UNDER TITLE V OF THE OLDER AMERICANS ACT OF 1965

Pub. L. 116–136, div. A, title III, §3223, Mar. 27, 2020, 134 Stat. 380, provided that: "To ensure continuity of service and opportunities for participants in community service activities under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.), the Secretary of Labor—

"(1)(A) may allow individuals participating in projects under such title as of March 1, 2020, to extend their participation for a period that exceeds the period described in section 518(a)(3)(B)(i) of such Act (42 U.S.C. 3056p(a)(3)(B)(i)) if the Secretary determines such extension is appropriate due to the effects of the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d); and

"(B) may increase the average participation cap for eligible individuals applicable to grantees as described in section 502(b)(1)(C) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)(C)) to a cap the Secretary determines is appropriate due to the effects of the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d); and

"(2) may increase the amount available to pay the authorized administrative costs for a project, described in section 502(c)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056(c)(3)) to an amount not to exceed 20 percent of the grant amount if the Secretary determines that such increase is necessary to adequately respond to the additional administrative needs to respond to the COVID–19 public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d)."

§3056a. Administration

(a) State plan

(1) Governor

For a State to be eligible to receive an allotment under section 3056d of this title, the Governor of the State shall submit to the Secretary for consideration and approval, a single State plan (referred to in this subchapter as the "State plan") that outlines a 4-year strategy for the statewide provision of community service employment and other authorized activities for eligible individuals under this subchapter. The plan shall contain such provisions as the Secretary may require, consistent with this subchapter, including a description of the process used to ensure the participation of individuals described in paragraph (2). Not less often than every 2 years, the Governor shall review the State plan and submit an update to the State plan to the Secretary for consideration and approval.

(2) Recommendations

In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

(A) individuals representing the State agency and the area agencies on aging in the State, and the State and local workforce development boards established under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.];

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

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

(3) Comments

Any State plan submitted by the Governor in accordance with paragraph (1) shall be accompanied by copies of public comments relating to the plan received pursuant to paragraph (8), and a summary of the comments.

(4) Plan provisions

The State plan shall identify and address—

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

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

(C) the relative distribution of—

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

(ii) eligible individuals who are minority individuals;

(iii) eligible individuals who are limited English proficient;

(iv) eligible individuals who are individuals with greatest social need; and

(v) eligible individuals who have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years;

(D) the current and projected employment opportunities in the State (such as by providing information available under section 49l–2 of title 29 by occupation), and the type of skills possessed by local eligible individuals;

(E) the localities and populations for which projects of the type authorized by this subchapter are most needed; and

(F) how the activities of grantees in the State under this subchapter will be coordinated with activities carried out in the State under title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111 et seq.) and other related programs (referred to in this subparagraph as "WIOA and related activities"), and how the State will reduce unnecessary duplication between the activities carried out under this subchapter and the WIOA and related activities.

(5) Governor's recommendations

Before a proposal for a grant under this subchapter for any fiscal year is submitted to the Secretary, the Governor of the State in which projects are proposed to be conducted under such grant shall be afforded a reasonable opportunity to submit to the Secretary—

(A) recommendations regarding the anticipated effect of each such proposal upon the overall distribution of enrollment positions under this subchapter in the State (including such distribution among urban and rural areas), taking into account the total number of positions to be provided by all grantees in the State;

(B) any recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and

(C) in the case of any increase in funding that may be available for use in the State under this subchapter for the fiscal year, any recommendations for distribution of newly available positions in excess of those available during the preceding year to underserved areas.

(6) Combined State plan

In lieu of the plan described in paragraph (1), a State may develop and submit a combined State plan in accordance with section 103 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3113). For a State that obtains approval of such a combined State plan, that section 103 shall apply in lieu of this subsection and a reference in any other provision of this subchapter (other than this subsection) to a State plan shall be considered to be a reference to that combined State plan.

(7) Disruptions

In developing a plan or considering a recommendation under this subsection, the Governor shall avoid disruptions in the provision of services for participants to the greatest possible extent.

(8) Determination; review

(A) Determination

In order to effectively carry out this subchapter, each State shall make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

(B) Review

The Secretary may review, on the Secretary's own initiative or at the request of any public or private agency or organization or of any agency of the State, the distribution of projects and services under this subchapter in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of projects or services in a State, the Secretary shall give notice and opportunity for public comment.

(9) Exemption

The grantees that serve eligible individuals who are older Indians or Pacific Island and Asian Americans with funds reserved under section 3056d(a)(3) of this title may not be required to participate in the State planning processes described in this section but shall collaborate with the Secretary to develop a plan for projects and services to eligible individuals who are Indians or Pacific Island and Asian Americans, respectively.

(b) Coordination with other Federal programs

(1) In general

The Secretary and the Assistant Secretary shall coordinate the program carried out under this subchapter with programs carried out under other subchapters of this chapter, to increase employment opportunities available to older individuals.

(2) Programs

(A) In general

The Secretary shall coordinate programs carried out under this subchapter with the program carried out under the Workforce Innovation and Opportunity Act, the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.). The Secretary shall coordinate the administration of this subchapter with the administration of other subchapters of this chapter by the Assistant Secretary to increase the likelihood that eligible individuals for whom employment opportunities under this subchapter are available and who need services under such subchapters receive such services.

(B) Use of funds

(i) Prohibition

Funds appropriated to carry out this subchapter may not be used to carry out any program under the Workforce Innovation and Opportunity Act, the Community Services Block Grant Act, the Rehabilitation Act of 1973, the Carl D. Perkins Career and Technical Education Act of 2006, the National and Community Service Act of 1990, or the Domestic Volunteer Service Act of 1973.

(ii) Joint activities

Clause (i) shall not be construed to prohibit carrying out projects under this subchapter jointly with programs, projects, or activities under any Act specified in clause (i), or from carrying out section 3056i of this title.

(3) Informational materials on age discrimination

The Secretary shall distribute to grantees under this subchapter, for distribution to program participants, and at no cost to grantees or participants, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies that the Secretary determines are designed to help participants identify age discrimination and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(c) Use of services, equipment, personnel, and facilities

In carrying out this subchapter, the Secretary may use the services, equipment, personnel, and

facilities of Federal and other agencies, with their consent, with or without reimbursement, and on a similar basis cooperate with other public and nonprofit private agencies and organizations in the use of services, equipment, and facilities.

(d) Payments

Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) No delegation of functions

The Secretary shall not delegate any function of the Secretary under this subchapter to any other Federal officer or entity.

(f) Compliance

(1) Monitoring

The Secretary shall monitor projects for which grants are made under this subchapter to determine whether the grantees are complying with rules and regulations issued to carry out this subchapter (including the statewide planning, consultation, and coordination requirements of this subchapter).

(2) Compliance with uniform cost principles and administrative requirements

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

(3) Reports

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

(4) Records

Each grantee described in paragraph (2) shall keep records that—

(A) are sufficient to permit the preparation of reports required by this subchapter;

(B) are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully; and

(C) contain any other information that the Secretary determines to be appropriate.

(g) Evaluations

The Secretary shall establish by rule and implement a process to evaluate, in accordance with section 3056k of this title, the performance of projects carried out and services provided under this subchapter. The Secretary shall report to Congress, and make available to the public, the results of each such evaluation and shall use such evaluation to improve services delivered by, or the operation of, projects carried out under this subchapter.

(Pub. L. 89–73, title V, §503, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2571; amended Pub. L. 113–128, title V, §512(w)(4), July 22, 2014, 128 Stat. 1715; Pub. L. 114–144, §6(b), Apr. 19, 2016, 130 Stat. 342; Pub. L. 116–131, title IV, §401(a)(1), Mar. 25, 2020, 134 Stat. 266.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsecs. (a)(2)(A), (4)(F) and (b)(2)(A), (B)(i), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education,

and made amendments to numerous other sections and notes in the Code. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(2)(A), (B)(i), is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Age Discrimination in Employment Act of 1967, referred to in subsec. (b)(3), is Pub. L. 90–202, Dec. 15, 1967, 81 Stat. 602, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 3056a, Pub. L. 89–73, title V, §503, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2272; amended Pub. L. 109–270, §2(k)(2), Aug. 12, 2006, 120 Stat. 748, related to administration of community service projects, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056a, Pub. L. 89–73, title V, §503, formerly title IX, §903, as added Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 722; renumbered title V, §503, and amended Pub. L. 95–478, title I, §105(a), (c)(1), (3), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97–115, §12(d), Dec. 29, 1981, 95 Stat. 1607; Pub. L. 98–459, title V, §502, Oct. 9, 1984, 98 Stat. 1786; Pub. L. 100–175, title I, §163, Nov. 29, 1987, 101 Stat. 958; Pub. L. 102–375, title I, §102(b)(1)(B), (9)(E), title V, §502, Sept. 30, 1992, 106 Stat. 1201, 1202, 1266; Pub. L. 103–171, §§3(a)(8), 4(a)(3), Dec. 2, 1993, 107 Stat. 1990, 1991; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(33)(C), (f)(25)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–426, 2681–433, related to administration of community service projects, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 503 of Pub. L. 89–73 was classified to section 3041b of this title, prior to repeal by Pub. L. 95–478.

AMENDMENTS

2020—Subsec. (a)(4)(C)(v). Pub. L. 116–131 added cl. (v).

2016—Subsec. (a)(3). Pub. L. 114–144, §6(b)(1)(B), substituted "paragraph (8)" for "paragraph (7)".

Subsec. (a)(4)(F). Pub. L. 114–144, §6(b)(1)(C), added subpar. (F) and struck out former subpar. (F) which read as follows: "plans for facilitating the coordination of activities of grantees in the State under this subchapter with activities carried out in the State under title I of the Workforce Innovation and Opportunity Act."

Subsec. (a)(6). Pub. L. 114–144, §6(b)(1)(D), added par. (6). Former par. (6) redesignated (7).

Subsec. (a)(7) to (9). Pub. L. 114–144, §6(b)(1)(A), redesignated pars. (6) to (8) as (7) to (9), respectively.

Subsec. (b)(2)(B)(i). Pub. L. 114–144, §6(b)(2), substituted "Workforce Innovation and Opportunity Act" for "Workforce Investment Act of 1998".

2014—Subsec. (a)(2)(A). Pub. L. 113–128, §512(w)(4)(A)(i), substituted "the State and local workforce development boards established under title I of the Workforce Innovation and Opportunity Act" for "the State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

Subsec. (a)(4)(F). Pub. L. 113–128, §512(w)(4)(A)(ii), substituted "plans for facilitating the coordination of activities of grantees in the State under this subchapter with activities carried out in the State under title I of the Workforce Innovation and Opportunity Act" for "plans for facilitating the coordination of activities of grantees in the State under this subchapter with activities carried out in the State under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

Subsec. (b)(2)(A). Pub. L. 113–128, §512(w)(4)(B), substituted "with the program carried out under the Workforce Innovation and Opportunity Act" for "with the program carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–131, title IV, §401(b), Mar. 25, 2020, 134 Stat. 267, provided that: "This section [amending this section and sections 3056l and 3056p of this title] shall take effect 1 year after the date of enactment of this Act [Mar. 25, 2020]."

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§3056b. Participants not Federal employees

(a) Inapplicability of certain provisions covering Federal employees

Eligible individuals who are participants in any project funded under this subchapter shall not be considered to be Federal employees as a result of such participation and shall not be subject to part III of title 5.

(b) Workers' compensation

No grant or subgrant shall be made and no contract or subcontract shall be entered into under this subchapter with an entity who is, or whose employees are, under State law, exempted from operation of the State workers' compensation law, generally applicable to employees, unless the entity shall undertake to provide either through insurance by a recognized carrier or by self-insurance, as authorized by State law, that the persons employed under the grant, subgrant, contract, or subcontract shall enjoy workers' compensation coverage equal to that provided by law for covered employment.

(Pub. L. 89–73, title V, §504, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2575.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056b, Pub. L. 89–73, title V, §504, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2276, related to participants not having status as Federal employees and contractual requirement of workmen's compensation, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056b, Pub. L. 89–73, title V, §504, formerly title IX, §904, as added Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 723; renumbered title V, §504, and amended Pub. L. 95–478, title I, §105(a), title V, §503(d), Oct. 18, 1978, 92 Stat. 1547, 1559, related to participants not having status as Federal employees and contractual requirement of workmen's compensation, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 504 of Pub. L. 89–73 was classified to section 3041c of this title, prior to repeal by Pub. L. 95–478.

§3056c. Interagency cooperation

(a) Consultation with the Assistant Secretary

The Secretary shall consult with and obtain the written views of the Assistant Secretary before issuing rules and before establishing general policy in the administration of this subchapter.

(b) Consultation with heads of other agencies

The Secretary shall consult and cooperate with the Secretary of Health and Human Services (acting through officers including the Director of the Office of Community Services), and the heads of other Federal agencies that carry out programs related to the program carried out under this subchapter, in order to achieve optimal coordination of the program carried out under this subchapter with such related programs. Each head of a Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this subchapter and in promoting the identification and interests of individuals eligible for employment in projects assisted under this subchapter.

(c) Coordination

(1) In general

The Secretary shall promote and coordinate efforts to carry out projects under this subchapter jointly with programs, projects, or activities carried out under other Acts, especially activities provided under the Workforce Innovation and Opportunity Act, including activities provided through one-stop delivery systems established under section 121(e) of such Act [29 U.S.C. 3151(e)], that provide training and employment opportunities to eligible individuals.

(2) Coordination with certain activities

The Secretary shall consult with the Secretary of Education to promote and coordinate efforts to carry out projects under this subchapter jointly with activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(Pub. L. 89–73, title V, §505, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2575; amended Pub. L. 113–128, title V, §512(w)(5), July 22, 2014, 128 Stat. 1715.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (c)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, which enacted chapter 32 (§3101 et seq.) of Title 29, Labor, repealed chapter 30 (§2801 et seq.) of Title 29 and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (c)(2), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 3056c, Pub. L. 89–73, title V, §505, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2276; amended Pub. L. 109–270, §2(k)(3), Aug. 12, 2006, 120 Stat. 749, related to interagency cooperation, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056c, Pub. L. 89–73, title V, §505, formerly title IX, §905, as added Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 723; renumbered title V, §505, and amended Pub. L. 95–478, title I, §105(a), (d), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97–115, §12(b)(2), Dec. 29, 1981, 95 Stat. 1606; Pub. L. 102–375, title V, §503, Sept. 30, 1992, 106 Stat. 1267; Pub. L. 103–171, §3(a)(8), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 105–332, §3(i)(2), Oct. 31, 1998, 112 Stat. 3126, related to interagency cooperation, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 505 of Pub. L. 89–73 was classified to section 3041d of this title, prior to repeal by Pub. L. 95–478.

AMENDMENTS

2014—Subsec. (c)(1). Pub. L. 113–128 substituted "activities carried out under other Acts, especially activities provided under the Workforce Innovation and Opportunity Act, including activities provided through one-stop delivery systems established under section 121(e) of such Act," for "activities carried out under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c)) of such Act (29 U.S.C. 2864(c)),".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§3056d. Distribution of assistance

(a) Reservations

(1) Reservation for pilot demonstration and evaluation projects

Of the funds appropriated to carry out this subchapter for each fiscal year, the Secretary may first reserve not more than 1.5 percent to carry out demonstration projects, pilot projects, and evaluation projects under section 3056(e) of this title.

(2) Reservation for territories

Of the funds appropriated to carry out this subchapter for each fiscal year, the Secretary shall reserve 0.75 percent, of which—

(A) Guam, American Samoa, and the United States Virgin Islands shall each receive 30 percent of the funds so reserved; and

(B) the Commonwealth of the Northern Mariana Islands shall receive 10 percent of the funds so reserved.

(3) Reservation for organizations

Of the funds appropriated to carry out this subchapter for each fiscal year, the Secretary shall reserve such amount as may be necessary to make national grants to public or nonprofit national Indian aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Indians and to national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Pacific Island and Asian Americans.

(b) State allotments

The allotment for each State shall be the sum of the amounts allotted for national grants in such State under subsection (d) and for the grant to such State under subsection (e).

(c) Division between national grants and grants to States

The funds appropriated to carry out this subchapter for any fiscal year that remain after amounts are reserved under paragraphs (1), (2), and (3) of subsection (a) shall be divided by the Secretary between national grants and grants to States as follows:

(1) Reservation of funds for fiscal year 2000 level of activities

(A) In general

The Secretary shall reserve the amount of funds necessary to maintain the fiscal year 2000 level of activities supported by grantees that operate under this subchapter under national grants from the Secretary, and the fiscal year 2000 level of activities supported by State grantees under

this subchapter, in proportion to their respective fiscal year 2000 levels of activities.

(B) Insufficient appropriations

If in any fiscal year the funds appropriated to carry out this subchapter are insufficient to satisfy the requirement specified in subparagraph (A), then the amount described in subparagraph (A) shall be reduced proportionally.

(2) Funding in excess of fiscal year 2000 level of activities

(A) Up to $35,000,000

The amount of funds remaining (if any) after the application of paragraph (1), but not to exceed $35,000,000, shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be provided to grantees that operate under this subchapter under national grants from the Secretary.

(B) Over $35,000,000

The amount of funds remaining (if any) after the application of subparagraph (A) shall be divided so that 50 percent shall be provided to State grantees and 50 percent shall be provided to grantees that operate under this subchapter under national grants from the Secretary.

(d) Allotments for national grants

From funds available under subsection (c) for national grants, the Secretary shall allot for public and nonprofit private agency and organization grantees that operate under this subchapter under national grants from the Secretary in each State, an amount that bears the same ratio to such funds as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

(1) Minimum allotment

No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for public and nonprofit private agency and organization grantees that operate under this subchapter under national grants from the Secretary in all of the States.

(2) Hold harmless

If such amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for grantees that operate under this subchapter under national grants from the Secretary in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for grantees that operate under this subchapter under national grants from the Secretary in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this subchapter under national grants from the Secretary in all of the States.

(3) Reduction

Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

(e) Allotments for grants to States

From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount that bears the same ratio to such amount as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

(1) Minimum allotment

No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

(2) Hold harmless

If such amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in all of the States.

(3) Reduction

Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

(f) Allotment percentage

For purposes of subsections (d) and (e) and this subsection—

(1) the allotment percentage of each State shall be 100 percent less that percentage that bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that—

(A) the allotment percentage shall be not more than 75 percent and not less than 33 percent; and

(B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent;

(2) the number of individuals age 55 or older in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

(3) for the purpose of determining the allotment percentage, the term "United States" means the 50 States,[1] and the District of Columbia.

(g) Definitions

In this section:

(1) Cost per authorized position

The term "cost per authorized position" means the sum of—

(A) the hourly minimum wage rate specified in section 206(a)(1) of title 29, multiplied by the number of hours equal to the product of 21 hours and 52 weeks;

(B) an amount equal to 11 percent of the amount specified under subparagraph (A), for the purpose of covering Federal payments for fringe benefits; and

(C) an amount determined by the Secretary, for the purpose of covering Federal payments for the remainder of all other program and administrative costs.

(2) Fiscal year 2000 level of activities

The term "fiscal year 2000 level of activities" means—

(A) with respect to public and nonprofit private agency and organization grantees that operate under this subchapter under national grants from the Secretary, their level of activities for fiscal year 2000; and

(B) with respect to State grantees, their level of activities for fiscal year 2000.

(3) Grants to States

The term "grants to States" means grants made under this subchapter by the Secretary to the States.

(4) Level of activities

The term "level of activities" means the number of authorized positions multiplied by the cost per authorized position.

(5) National grants

The term "national grants" means grants made under this subchapter by the Secretary to public and nonprofit private agency and organization grantees that operate under this subchapter.

(6) State

The term "State" does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(Pub. L. 89–73, title V, §506, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2576.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056d, Pub. L. 89–73, title V, §506, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2276, related to distribution of assistance, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056d, Pub. L. 89–73, title V, §506, formerly title IX, §906, as added Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 723; renumbered title V, §506, and amended Pub. L. 95–478, title I, §105(a), (e), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97–115, §12(e), Dec. 29, 1981, 95 Stat. 1607; Pub. L. 98–459, title V, §503(a), (b), Oct. 9, 1984, 98 Stat. 1787; Pub. L. 100–175, title I, §§162(b), 182(b)(3), Nov. 29, 1987, 101 Stat. 957, 964; Pub. L. 102–375, title V, §504(a)–(c)(1), (3), title IX, §904(b)(2), Sept. 30, 1992, 106 Stat. 1267–1269, 1309, related to national grants or contracts and State allotments for projects, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 506 of Pub. L. 89–73 was classified to section 3041e of this title, prior to repeal by Pub. L. 95–478.

[1] So in original. The comma probably should not appear.

§3056e. Equitable distribution

(a) Interstate allocation

In making grants under section 3056(b) of this title from allotments made under section 3056d of this title, the Secretary shall ensure, to the extent feasible, an equitable distribution of activities under such grants, in the aggregate, among the States, taking into account the needs of underserved States.

(b) Intrastate allocation

The amount allocated for projects within each State under section 3056d of this title shall be allocated among areas in the State in an equitable manner, taking into consideration the State priorities set out in the State plan in effect under section 3056a(a) of this title.

(Pub. L. 89–73, title V, §507, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2579.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056e, Pub. L. 89–73, title V, §507, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to equitable distribution of activities and projects, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056e, Pub. L. 89–73, title V, §507, formerly title IX, §907, as added Pub. L. 94–135,

title I, §113(a), Nov. 28, 1975, 89 Stat. 724; renumbered title V, §507, and amended Pub. L. 95–478, title I, §105(a), (f), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97–115, §12(a)(3), (f), Dec. 29, 1981, 95 Stat. 1606, 1607; Pub. L. 98–459, title V, §503(c), Oct. 9, 1984, 98 Stat. 1787; Pub. L. 100–175, title I, §§164, 182(b)(4), (p), Nov. 29, 1987, 101 Stat. 958, 964, 967; Pub. L. 100–628, title VII, §705(9), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102–375, title I, §102(b)(8), title V, §504(c)(1), Sept. 30, 1992, 106 Stat. 1201, 1269, related to definitions, prior to the general amendment of this subchapter by Pub. L. 106–501.

Another prior section 507 of Pub. L. 89–73 was classified to section 3041f of this title, prior to repeal by Pub. L. 95–478.

§3056f. Report

To carry out the Secretary's responsibilities for reporting in section 3056a(g) of this title, the Secretary shall require the State agency for each State that receives funds under this subchapter to prepare and submit a report at the beginning of each fiscal year on such State's compliance with section 3056e(b) of this title. Such report shall include the names and geographic location of all projects assisted under this subchapter and carried out in the State and the amount allocated to each such project under section 3056d of this title.

(Pub. L. 89–73, title V, §508, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2579.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056f, Pub. L. 89–73, title V, §508, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, required annual report on State's compliance with section 3056e(b) of this title, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056f, Pub. L. 89–73, title V, §508, formerly title IX, §908, as added Pub. L. 94–135, title I, §113(a), Nov. 28, 1975, 89 Stat. 725; renumbered title V, §508, and amended Pub. L. 95–478, title I, §105(a), (g), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97–115, §12(g), Dec. 29, 1981, 95 Stat. 1607; Pub. L. 98–459, title V, §504, Oct. 9, 1984, 98 Stat. 1787; Pub. L. 100–175, title I, §165, Nov. 29, 1987, 101 Stat. 958; Pub. L. 102–375, title V, §505, Sept. 30, 1992, 106 Stat. 1269, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 106–501.

§3056g. Employment assistance and Federal housing and supplemental nutrition assistance programs

Funds received by eligible individuals from projects carried out under the program established under this subchapter shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other individuals, to participate in any housing program for which Federal funds may be available or for any income determination under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(Pub. L. 89–73, title V, §509, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2579; amended Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(BB), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(BB), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 113–79, title IV, §4030(s), Feb. 7, 2014, 128 Stat. 815.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in text, is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 3056g, Pub. L. 89–73, title V, §509, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to employment assistance and Federal housing and food stamp programs, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056g, Pub. L. 89–73, title V, §509, as added Pub. L. 100–175, title I, §166, Nov. 29, 1987, 101 Stat. 958, related to employment assistance and Federal housing and food stamp programs, prior to the general amendment of this subchapter by Pub. L. 106–501.

AMENDMENTS

2014—Pub. L. 113–79 substituted "supplemental nutrition assistance programs" for "food stamp programs" in section catchline.

2008—Pub. L. 110–246, §4002(b)(1)(B), (2)(BB), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(BB) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

§3056h. Eligibility for workforce investment activities

Eligible individuals under this subchapter may be considered by local workforce development boards and one-stop operators established under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] to satisfy the requirements for receiving services under such title that are applicable to adults.

(Pub. L. 89–73, title V, §510, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2580; amended Pub. L. 113–128, title V, §512(w)(6), July 22, 2014, 128 Stat. 1715.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in text, is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 3056h, Pub. L. 89–73, title V, §510, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to eligibility for workforce investment activities, prior to the general amendment of this subchapter by Pub. L. 109–365.

Another prior section 3056h, Pub. L. 89–73, title V, §510, as added Pub. L. 102–375, title V, §506, Sept. 30, 1992, 106 Stat. 1269; amended Pub. L. 103–171, §2(20), Dec. 2, 1993, 107 Stat. 1989; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(33)(D), (f)(25)(D)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–426, 2681–433, related to dual eligibility, prior to the general amendment of this subchapter by Pub. L. 106–501.

AMENDMENTS

2014—Pub. L. 113–128 substituted "by local workforce development boards and one-stop operators established under title I of the Workforce Innovation and Opportunity Act" for "by local workforce investment

boards and one-stop operators established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)" and "such title" for "such title I".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§3056i. Coordination with the Workforce Innovation and Opportunity Act

(a) Partners

Grantees under this subchapter shall be one-stop partners as described in subparagraphs (A) and (B)(v) of section 121(b)(1) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151(b)(1)] in the one-stop delivery system established under section 121(e) of such Act [29 U.S.C. 3151(e)] for the appropriate local workforce development areas, and shall carry out the responsibilities relating to such partners.

(b) Coordination

In local workforce investment areas where more than 1 grantee under this subchapter provides services, the grantees shall—

(1) coordinate their activities related to the one-stop delivery systems; and

(2) be signatories of the memorandum of understanding established under section 121(c) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151(c)].

(Pub. L. 89–73, title V, §511, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2580; amended Pub. L. 113–128, title V, §512(w)(7), July 22, 2014, 128 Stat. 1716; Pub. L. 114–144, §6(c), Apr. 19, 2016, 130 Stat. 343.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056i, Pub. L. 89–73, title V, §511, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, provided that assistance under this subchapter was not financial assistance described in section 1255a(h)(1)(A) of title 8, prior to the general amendment of this subchapter by Pub. L. 109–365. See section 3056j of this title.

Another prior section 3056i, Pub. L. 89–73, title V, §511, as added Pub. L. 102–375, title V, §507, Sept. 30, 1992, 106 Stat. 1269, related to treatment of assistance, prior to the general amendment of this subchapter by Pub. L. 106–501.

AMENDMENTS

2016—Pub. L. 114–144 substituted "Workforce Innovation and Opportunity Act" for "Workforce Investment Act of 1998" in section catchline.

2014—Subsec. (a). Pub. L. 113–128, §512(w)(7)(A), substituted "Grantees under this subchapter shall be one-stop partners as described in subparagraphs (A) and (B)(v) of section 121(b)(1) of the Workforce Innovation and Opportunity Act in the one-stop delivery system established under section 121(e) of such Act for the appropriate local workforce development areas" for "Grantees under this subchapter shall be one-stop partners as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)) for the appropriate local workforce investment areas".

Subsec. (b)(2). Pub. L. 113–128, §512(w)(7)(B), substituted "be signatories of the memorandum of understanding established under section 121(c) of the Workforce Innovation and Opportunity Act" for "be signatories of the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c))".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

§3056j. Treatment of assistance

Assistance provided under this subchapter shall not be considered to be financial assistance described in section 1255a(h)(1)(A) of title 8.

(Pub. L. 89–73, title V, §512, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056j, Pub. L. 89–73, title V, §512, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to coordination with the Workforce Investment Act of 1998, prior to the general amendment of this subchapter by Pub. L. 109–365. See section 3056i of this title.

§3056k. Performance

(a) Measures

(1) Establishment and implementation of measures

The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this subchapter, States, older individuals, area agencies on aging, and other organizations serving older individuals, core measures of performance for each grantee for projects and services carried out under this subchapter. The core measures of performance shall be applicable to each grantee under this subchapter without regard to whether such grantee operates the program directly or through subcontracts, subgrants, or agreements with other entities.

(2) Content

(A) Composition of measures

The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

(B) Expected levels of performance

The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance specified in subparagraph (A). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning the levels with all grantees, the Secretary shall make available for public review the final negotiated expected levels of performance for each grantee, including any comments submitted by the grantee regarding the grantee's satisfaction with the negotiated levels.

(C) Agreement on expected levels of performance

(i) First 2 years

Each grantee shall reach agreement with the Secretary on levels of performance for each

measure described in subparagraph (A)(i),[1] for each of the first 2 program years covered by the grant agreement. In reaching the agreement, the grantee and the Secretary shall take into account the expected levels proposed by the grantee and the factors described in subparagraph (D). The levels agreed to shall be considered to be the expected levels of performance for the grantee for such program years.

(ii) Third and fourth year

Each grantee shall reach agreement with the Secretary, prior to the third program year covered by the grant agreement, on levels of performance for each measure described in subparagraph (A), for each of the third and fourth program years so covered. In reaching the agreement, the grantee and the Secretary shall take into account the expected levels proposed by the grantee and the factors described in subparagraph (D). The levels agreed to shall be considered to be the expected levels of performance for the grantee for such program years.

(D) Factors

In reaching the agreements described in subparagraph (B), each grantee and the Secretary shall—

(i) take into account how the levels involved compare with the expected levels of performance established for other grantees;

(ii) ensure that the levels involved are adjusted, using an objective statistical model based on the model established by the Secretary in accordance with section 3141(a)(3)(A)(viii) [2] of title 29; [3] and

(iii) take into account the extent to which the levels involved promote continuous improvement in performance accountability on the core measures and ensure optimal return on the investment of Federal funds.

(E) Adjustments based on economic conditions and individuals served during the program year

The Secretary shall, in accordance with the objective statistical model developed pursuant to subparagraph (D)(ii), adjust the expected levels of performance for a program year for grantees, to reflect the actual economic conditions and characteristics of participants in the corresponding projects during such program year.

(3) Limitation

An agreement to be evaluated on the core measures of performance shall be a requirement for application for, and a condition of, all grants authorized by this subchapter.

(b) Indicators of performance

(1) Core indicators

The core indicators of performance described in subsection (a)(2)(A) shall consist of—

(A) hours (in the aggregate) of community service employment;

(B) the percentage of project participants who are in unsubsidized employment during the second quarter after exit from the project;

(C) the percentage of project participants who are in unsubsidized employment during the fourth quarter after exit from the project;

(D) the median earnings of project participants who are in unsubsidized employment during the second quarter after exit from the project;

(E) indicators of effectiveness in serving employers, host agencies, and project participants; and

(F) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) Definitions of indicators

The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the

indicators of performance described in paragraph (1).

(c) Evaluation

The Secretary shall annually evaluate, and publish and make available for public review information on, the actual performance of each grantee with respect to the levels achieved for each of the core indicators of performance, compared to the expected levels of performance established under subsection (a)(2)(B) (including any adjustments to such levels made in accordance with subsection (a)(2)(E)).

(d) Technical assistance and corrective efforts

(1) Initial determinations

(A) In general

As soon as practicable after July 1, 2016, the Secretary shall determine if a grantee under this subchapter has, for program year 2016, met the expected levels of performance established under subsection (a)(2)(B) (including any adjustments to such levels made in accordance with subsection (a)(2)(E)) for the core indicators of performance.

(B) Technical assistance

If the Secretary determines that the grantee, for program year 2016, failed to meet the expected levels of performance described in subparagraph (A), the Secretary shall provide technical assistance to assist the grantee to meet the expected levels of performance.

(2) National grantees

(A) In general

Not later than 120 days after the end of each program year, the Secretary shall determine if a national grantee awarded a grant under section 3056(b) of this title in accordance with section 3056l of this title has met the expected levels of performance established under subsection (a)(2)(B) (including any adjustments to such levels made in accordance with subsection (a)(2)(E)) for the core indicators of performance described in subsection (b)(1).

(B) Technical assistance and corrective action plan

(i) In general

If the Secretary determines that a national grantee fails to meet the expected levels of performance described in subparagraph (A), the Secretary after each year of such failure, shall provide technical assistance and require such grantee to submit a corrective action plan not later than 160 days after the end of the program year.

(ii) Content

The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

(iii) Recompetition

Any grantee who has failed to meet the expected levels of performance for 4 consecutive years shall not be allowed to compete in the subsequent grant competition under section 3056l of this title following the fourth consecutive year of failure but may compete in the next such grant competition after that subsequent competition.

(iv) Use of core indicators

For purposes of assessing grantee performance under this subparagraph before program year 2017, the Secretary shall use the core indicators of performance in effect at the time of the award and the most recent corresponding expected levels of performance.

(3) State grantees

(A) In general

Not later than 120 days after the end of each program year, the Secretary shall determine if a

State grantee allotted funds under section 3056d(e) of this title has met the expected levels of performance established under subsection (a)(2)(B) (including any adjustments to such levels made in accordance with subsection (a)(2)(E)) for the core indicators of performance described in subsection (b)(1).

(B) Technical assistance and corrective action plan

(i) In general

If the Secretary determines that a State fails to meet the expected levels of performance described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

(ii) Content

The plan submitted under clause (i) shall detail the steps the State will take to meet the expected levels of performance in the next program year.

(iii) Competition

If the Secretary determines that the State fails to meet the expected levels of performance described in subparagraph (A) for 3 consecutive program years, the Secretary shall provide for the conduct by the State of a competition to award the funds allotted to the State under section 3056d(e) of this title for the first full program year following the Secretary's determination.

(4) Special rule for implementation

The Secretary shall implement the core measures of performance described in this section not later than December 31, 2017.

(e) Impact on grant competition

Effective on January 1, 2018, the Secretary may not publish a notice announcing a grant competition under this subchapter, or solicit proposals for grants, until the day on which the Secretary implements the core measures of performance.

(Pub. L. 89–73, title V, §513, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2580; amended Pub. L. 114–144, §6(d), Apr. 19, 2016, 130 Stat. 343.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3141 of title 29, referred to in subsec. (a)(2)(D)(ii), was in the original a reference to section 116 of the Workforce Investment and Opportunity Act and was translated as meaning section 116 of the Workforce Innovation and Opportunity Act, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3056k, Pub. L. 89–73, title V, §513, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2281, related to performance measures, prior to the general amendment of this subchapter by Pub. L. 109–365.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–144, §6(d)(1)(A), struck out "and indicators" after "Measures" in heading.

Subsec. (a)(1). Pub. L. 114–144, §6(d)(1)(B), struck out "and indicators" after "measures" in heading and "and additional indicators of performance" after "measures of performance" in two places in text.

Subsec. (a)(2)(A). Pub. L. 114–144, §6(d)(1)(C)(i), substituted "Composition of measures" for "Composition of measures and indicators" in heading, struck out cl. (i) designation and heading, and struck out cl. (ii). Prior to amendment, text of cl. (ii) read as follows: "The additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be the additional indicators of performance specified in subsection (b)(2)."

Subsec. (a)(2)(B). Pub. L. 114–144, §6(d)(1)(C)(iii), redesignated subpar. (C) as (B), substituted

"subparagraph (A)" for "subparagraph (A)(i)", and struck out "The agreement shall take into account the requirement of subparagraph (B) and the factors described in subparagraph (D), and other appropriate factors as determined by the Secretary, and shall be consistent with the requirements of subparagraph (E)." before "Funds may". Former subpar. (B) struck out.

Pub. L. 114–144, §6(d)(1)(C)(ii), struck out subpar. (B). Text read as follows: "The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance."

Subsec. (a)(2)(C) to (E). Pub. L. 114–144, §6(d)(1)(C)(iv), added subpars. (C) to (E) and struck out former subpars. (D) and (E) which related to adjustment of expected levels of performance and placement into unsubsidized employment, respectively. Former subpar. (C) redesignated (B).

Subsec. (a)(3). Pub. L. 114–144, §6(d)(1)(D), struck out "and to report information on the additional indicators of performance" after "measures of performance".

Subsec. (b)(1). Pub. L. 114–144, §6(d)(2)(A)(i), substituted "subsection (a)(2)(A)" for "subsection (a)(2)(A)(i)" in introductory provisions.

Subsec. (b)(1)(B) to (F). Pub. L. 114–144, §6(d)(2)(A)(ii), added subpars. (B) to (F) and struck out former subpars. (B) to (E) which read as follows:

"(B) entry into unsubsidized employment;

"(C) retention in unsubsidized employment for 6 months;

"(D) earnings; and

"(E) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of the title."

Subsec. (b)(2), (3). Pub. L. 114–144, §6(d)(2)(B)–(D), redesignated par. (3) as (2), substituted "paragraph (1)" for "paragraphs (1) and (2)", and struck out former par. (2) which related to additional indicators of performance.

Subsec. (c). Pub. L. 114–144, §6(d)(3), substituted "shall" for "shall—", struck out par. (1) designation before "annually evaluate", substituted "subsection (a)(2)(B)" for "subsection (a)(2)(C)" and "subsection (a)(2)(E))." for "subsection (a)(2)(D)); and", and struck out par. (2) which read as follows: "annually publish and make available for public review information on the actual performance of each grantee with respect to the levels achieved for each of the additional indicators of performance."

Subsec. (d)(1)(A). Pub. L. 114–144, §6(d)(4)(A)(i), substituted "July 1, 2016" for "July 1, 2007" and "year 2016," for "year 2006—"; struck out cl. (i) designation before "met"; substituted "subsection (a)(2)(B)" for "subsection (a)(2)(C)", "subsection (a)(2)(E)" for "subsection (a)(2)(D)", and "indicators of performance." for "indicators of performance described in subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and"; and struck out cl. (ii) which read as follows: "achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B)."

Subsec. (d)(1)(B). Pub. L. 114–144, §6(d)(4)(A)(ii), substituted "year 2016," for "year 2006—" and "subparagraph (A)," for "subparagraph (A)(i); or" and struck out cl. (i) designation before "failed", "and achieve the applicable percentage" before period at end, and "(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii)," before "the Secretary shall provide".

Subsec. (d)(2)(A). Pub. L. 114–144, §6(d)(4)(B)(i), substituted "(a)(2)(B)" for "(a)(2)(C)" and "(a)(2)(E)" for "(a)(2)(D)".

Subsec. (d)(2)(B)(iii). Pub. L. 114–144, §6(d)(4)(B)(ii)(I), struck out "(beginning with program year 2007)" after "4 consecutive years".

Subsec. (d)(2)(B)(iv). Pub. L. 114–144, §6(d)(4)(B)(ii)(II), added cl. (iv).

Subsec. (d)(3)(A). Pub. L. 114–144, §6(d)(4)(C)(i), substituted "(a)(2)(B)" for "(a)(2)(C)" and "(a)(2)(E)" for "(a)(2)(D)".

Subsec. (d)(3)(B)(iii). Pub. L. 114–144, §6(d)(4)(C)(ii), struck out "(beginning with program year 2007)" after "3 consecutive program years".

Subsec. (d)(4). Pub. L. 114–144, §6(d)(4)(D), amended par. (4) generally. Prior to amendment, text read as follows: "The Secretary shall establish and implement the core measures of performance and additional indicators of performance described in this section, including all required indicators described in subsection (b), not later than July 1, 2007."

Subsec. (e). Pub. L. 114–144, §6(d)(5), amended subsec. (e) generally. Prior to amendment, text read as follows: "The Secretary may not publish a notice announcing a grant competition under this subchapter, and solicit proposals for grants, until the day that is the later of—

"(1) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and

"(2) January 1, 2010."

[1] *So in original. Subparagraph (A) does not contain clauses.*

[2] *So in original. Probably should be "3141(b)(3)(A)(viii)".*

[3] *See References in Text note below.*

§3056*l*. Competitive requirements relating to grant awards

(a) Program authorized

(1) Initial approval of grant applications

From the funds available for national grants under section 3056d(d) of this title, the Secretary shall award grants under section 3056(b) of this title to eligible applicants, through a competitive process that emphasizes meeting performance requirements, to carry out projects under this subchapter for a period of 4 years, except as provided in paragraph (2). The Secretary may not conduct a grant competition under this subchapter until the day described in section 3056k(e) of this title.

(2) Continuation of approval based on performance

If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in section 3056k(d)(2)(A) of this title for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 3056(b) of this title to such recipient to continue such project beyond such 4-year period for 1 additional year without regard to such process.

(b) Eligible applicants

An applicant shall be eligible to receive a grant under section 3056(b) of this title in accordance with subsections (a), (c), and (d).

(c) Criteria

For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

(1) The applicant's ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) The applicant's ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

(3) The applicant's ability to administer a project that moves eligible individuals into unsubsidized employment.

(4) The applicant's prior performance, if any, in meeting core measures of performance under this subchapter and the applicant's ability to address core indicators of performance under this subchapter and under other Federal or State programs in the case of an applicant that has not previously received a grant under this subchapter.

(5) The applicant's ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title, into unsubsidized employment.

(6) The applicant's ability to coordinate activities with other organizations at the State and local level.

(7) The applicant's plan for fiscal management of the project to be administered with funds received in accordance with this section.

(8) The applicant's ability to administer a project that provides community service.

(9) The applicant's ability to minimize disruption in services for participants and in community services provided.

(10) Any additional criteria that the Secretary considers to be appropriate in order to minimize disruption in services for participants.

(d) Responsibility tests

(1) In general

Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

(2) Review

As part of the review described in paragraph (1), the Secretary may consider any information, including the applicant's history with regard to the management of other grants.

(3) Failure to satisfy test

The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

(4) Test

The responsibility tests include review of the following factors:

(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

(B) Established fraud or criminal activity of a significant nature within the organization or agency involved.

(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

(D) Willful obstruction of the audit process.

(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

(H) Failure to submit required reports.

(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A–133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

(L) Failure to audit a subrecipient within the required period.

(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious.

(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

(5) Determination

Applicants that are determined to be not responsible shall not be selected as grantees.

(6) Disallowed costs

Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement

Act of 1996, including the amendments made by that Act.

(e) Grantees serving individuals with barriers to employment

(1) Definition

In this subsection, the term "individuals with barriers to employment" means minority individuals, Indian individuals, individuals with greatest economic need, eligible individuals who have been incarcerated or are under supervision following release from prison or jail, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) Special consideration

In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

(f) Minority-serving grantees

The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.

(Pub. L. 89–73, title V, §514, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2584; amended Pub. L. 114–144, §6(e), Apr. 19, 2016, 130 Stat. 346; Pub. L. 116–131, title IV, §401(a)(2), Mar. 25, 2020, 134 Stat. 266.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Debt Collection Improvement Act of 1996, referred to in subsec. (d)(6), is section 31001 of title III of Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321–358. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 3701 of Title 31, Money and Finance, and Tables.

PRIOR PROVISIONS

A prior section 3056l, Pub. L. 89–73, title V, §514, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2282, related to competitive requirements relating to grant awards, prior to the general amendment of this subchapter by Pub. L. 109–365.

AMENDMENTS

2020—Subsec. (e)(1). Pub. L. 116–131 inserted "eligible individuals who have been incarcerated or are under supervision following release from prison or jail," after "need,".

2016—Subsec. (c)(4). Pub. L. 114–144 struck out "and addressing additional indicators of performance" after "measures of performance" and "and additional indicators of performance" after "core indicators of performance".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–131 effective 1 year after Mar. 25, 2020, see section 401(b) of Pub. L. 116–131, set out as a note under section 3056a of this title.

§3056m. Report on service to minority individuals

(a) In general

The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this subchapter.

(b) Contents

(1) Organization and data

Such report shall present information on the levels of participation and the outcomes achieved by such minority individuals with respect to each grantee under this subchapter, by service area, and in the aggregate, beginning with data that applies to program year 2005.

(2) Efforts

The report shall also include a description of each grantee's efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

(3) Related matters

The report shall also include—

(A) an assessment of individual grantees based on the criteria established under subsection (c);

(B) an analysis of whether any changes in grantees have affected participation rates of such minority individuals;

(C) information on factors affecting participation rates among such minority individuals; and

(D) recommendations for increasing participation of minority individuals in the program.

(c) Criteria

The Secretary shall establish criteria for determining the effectiveness of grantees in serving minority individuals in accordance with the goals set forth in section 3056(a)(1) of title.

(d) Submission

The Secretary shall annually submit such a report to the appropriate committees of Congress.

(Pub. L. 89–73, title V, §515, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2587.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056m, Pub. L. 89–73, title V, §515, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2286, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 109–365. See section 3056o of this title.

§3056n. Sense of Congress

It is the sense of Congress that—

(1) the older American community service employment program described in this subchapter was established with the intent of placing older individuals in community service positions and providing job training; and

(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations.

(Pub. L. 89–73, title V, §516, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2587.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3056n, Pub. L. 89–73, title V, §516, as added Pub. L. 106–501, title V, §501, Nov. 13, 2000, 114 Stat. 2287, related to definitions, prior to the general amendment of this subchapter by Pub. L. 109–365. See section 3056p(a) of this title.

§3056*o*. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter $428,000,000 for fiscal year 2020, $453,680,000 for fiscal year 2021, $480,900,800 for fiscal year 2022, $509,754,848 for fiscal year 2023, and $540,340,139 for fiscal year 2024.

(b) Obligation

Amounts appropriated under this section for any fiscal year shall be available for Federal obligation during the annual period that begins on April 1 of the calendar year immediately following the beginning of such fiscal year and that ends on June 30 of the following calendar year. Such amounts obligated to grantees shall be available for obligation and expenditure by grantees during the program year that begins on July 1 of the calendar year immediately following the beginning of the fiscal year in which the amounts are appropriated and that ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency that receives funds under this subchapter if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency.

(c) Recapturing funds

At the end of the program year, the Secretary may recapture any unexpended funds for the program year, and reobligate such funds within the 2 succeeding program years for—

(1) incentive grants to entities that are State grantees or national grantees under section 3056(b) of this title;

(2) technical assistance; or

(3) grants or contracts for any other activity under this subchapter.

(Pub. L. 89–73, title V, §517, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2587; amended Pub. L. 114–144, §6(f), Apr. 19, 2016, 130 Stat. 346; Pub. L. 116–131, title IV, §402, Mar. 25, 2020, 134 Stat. 267.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–131 amended subsec. (a) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this subchapter $445,189,405 for fiscal year 2017, $454,499,494 for fiscal year 2018, and $463,809,605 for fiscal year 2019."

2016—Subsec. (a). Pub. L. 114–144, §6(f)(1), substituted "$445,189,405 for fiscal year 2017, $454,499,494 for fiscal year 2018, and $463,809,605 for fiscal year 2019." for "such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011."

Subsec. (b). Pub. L. 114–144, §6(f)(2), substituted "April 1" for "July 1" and inserted "Federal" before "obligation during" and "Such amounts obligated to grantees shall be available for obligation and expenditure by grantees during the program year that begins on July 1 of the calendar year immediately following the beginning of the fiscal year in which the amounts are appropriated and that ends on June 30 of the following calendar year." before "The Secretary may extend".

§3056p. Definitions and rule

(a) Definitions

For purposes of this subchapter:

(1) Community service

The term "community service" means—

(A) social, health, welfare, and educational services (including literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;

(B) conservation, maintenance, or restoration of natural resources;

(C) community betterment or beautification;

(D) antipollution and environmental quality efforts;

(E) weatherization activities;

(F) economic development; and

(G) such other services essential and necessary to the community as the Secretary determines by rule to be appropriate.

(2) Community service employment

The term "community service employment" means part-time, temporary employment paid with grant funds in projects described in section 3056(b)(1)(D) of this title, through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

(3) Eligible individual

(A) In general

The term "eligible individual" means an individual who is age 55 or older and who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), excluding any income that is unemployment compensation, a benefit received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), a payment made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs, or 25 percent of a benefit received under title II of the Social Security Act (42 U.S.C. 401 et seq.), subject to subsection (b).

(B) Participation

(i) Exclusion

Notwithstanding any other provision of this paragraph, the term "eligible individual" does not include an individual who has participated in projects under this subchapter for a period of 48 months in the aggregate (whether or not consecutive) after July 1, 2007, unless the period was increased as described in clause (ii).

(ii) Increased periods of participation

The Secretary shall authorize a grantee for a project to increase the period of participation described in clause (i), pursuant to a request submitted by the grantee, for individuals who—

(I) have a severe disability;

(II) are frail or are age 75 or older;

(III) meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(IV) live in an area with persistent unemployment and are individuals with severely limited employment prospects;

(V) have limited English proficiency or low literacy skills; or

(VI) have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.

(4) Income

In this section, the term "income" means income received during the 12-month period (or, at the option of the grantee involved, the annualized income for the 6-month period) ending on the date an eligible individual submits an application to participate in a project carried out under this subchapter by such grantee.

(5) Local workforce development board; state workforce development board

The terms "local workforce development board" and "State workforce development board" have

the meanings given the terms "local board" and "State board", respectively, in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(6) Pacific Island and Asian Americans

The term "Pacific Island and Asian Americans" means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(7) Program

The term "program" means the older American community service employment program established under this subchapter.

(8) Supportive services

The term "supportive services" means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this subchapter, consistent with the provisions of this subchapter.

(9) Unemployed

The term "unemployed", used with respect to a person or individual, means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income.

(b) Rule

Pursuant to regulations prescribed by the Secretary, an eligible individual shall have priority for the community service employment and other authorized activities provided under this subchapter if the individual—

(1) is 65 years of age or older; or

(2)(A) has a disability;

(B) has limited English proficiency or low literacy skills;

(C) resides in a rural area;

(D) is a veteran;

(E) has low employment prospects;

(F) has failed to find employment after utilizing services provided under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.];

(G) is homeless or at risk for homelessness; or

(H) has been incarcerated within the last 5 years or is under supervision following release from prison or jail within the last 5 years.

(Pub. L. 89–73, title V, §518, as added Pub. L. 109–365, title V, §501, Oct. 17, 2006, 120 Stat. 2588; amended Pub. L. 113–128, title V, §512(w)(8), July 22, 2014, 128 Stat. 1716; Pub. L. 114–144, §6(g), Apr. 19, 2016, 130 Stat. 346; Pub. L. 116–131, title IV, §401(a)(3), Mar. 25, 2020, 134 Stat. 266.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3)(A), (B)(ii)(III), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles II and XVI of the Act are classified generally to subchapters II (§401 et seq.) and XVI (§1381 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(2)(F), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

AMENDMENTS

2020—Subsec. (a)(3)(B)(ii)(VI). Pub. L. 116–131, §401(a)(3)(A), added subcl. (VI).

Subsec. (b)(2)(H). Pub. L. 116–131, §401(a)(3)(B), added subpar. (H).

2016—Subsec. (a)(5) to (9). Pub. L. 114–144 added par. (5) and redesignated former pars. (5) to (8) as (6) to (9), respectively.

2014—Subsec. (b)(2)(F). Pub. L. 113–128 substituted "has failed to find employment after utilizing services provided under title I of the Workforce Innovation and Opportunity Act" for "has failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–131 effective 1 year after Mar. 25, 2020, see section 401(b) of Pub. L. 116–131, set out as a note under section 3056a of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

SUBCHAPTER X—GRANTS FOR NATIVE AMERICANS

§3057. Statement of purpose

It is the purpose of this subchapter to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under subchapter III.

(Pub. L. 89–73, title VI, §601, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 959.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057, Pub. L. 89–73, title VI, §601, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1548; amended Pub. L. 97–115, §3(d), Dec. 29, 1981, 95 Stat. 1597, related to statement of purpose for grants to Indian tribes, prior to the general amendment of this subchapter by Pub. L. 100–175.

A prior section 601 of Pub. L. 89–73, title VI, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 111; amended Pub. L. 93–29, title VI, §601, May 3, 1973, 87 Stat. 55, related to grants and contracts for volunteer service projects and was classified to section 3044 of this title, prior to repeal by Pub. L. 93–113, title VI, §604(a), Oct. 1, 1973, 87 Stat. 417.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057a. Sense of Congress

It is the sense of the Congress that older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

(Pub. L. 89–73, title VI, §602, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 959; amended Pub. L. 102–375, title IX, §904(a)(20), Sept. 30, 1992, 106 Stat. 1309.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057a, Pub. L. 89–73, title VI, §602, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1549; amended Pub. L. 97–115, §3(d), Dec. 29, 1981, 95 Stat. 1597; Pub. L. 98–459, title VI, §601, Oct. 9, 1984, 98 Stat. 1787, related to eligibility of an Indian tribe for assistance and definitions, prior to the general amendment of this subchapter by Pub. L. 100–175. See section 3057c of this title.

AMENDMENTS

1992—Pub. L. 102–375 substituted "older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians" for "older Indians, older Alaskan Natives, and older Native Hawaiians".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

PART A—INDIAN PROGRAM

§3057b. Findings

The Congress finds that the older individuals who are Indians of the United States—

(1) are a rapidly increasing population;

(2) suffer from high unemployment;

(3) live in poverty at a rate estimated to be as high as 61 percent;

(4) have a life expectancy between 3 and 4 years less than the general population;

(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

(6) lack sufficient Indian area agencies on aging;

(7) frequently live in substandard and over-crowded housing;

(8) receive less than adequate health care;

(9) are served under this subchapter at a rate of less than 19 percent of the total national population of older individuals who are Indians living on Indian reservations; and

(10) are served under subchapter III at a rate of less than 1 percent of the total participants under that subchapter.

(Pub. L. 89–73, title VI, §611, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 959; amended Pub. L. 102–375, title IX, §904(a)(21), Sept. 30, 1992, 106 Stat. 1309; Pub. L. 116–131, title VII, §701(10), Mar. 25, 2020, 134 Stat. 271.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057b, Pub. L. 89–73, title VI, §603, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1549; amended Pub. L. 97–115, §§3(d), 13(a), Dec. 29, 1981, 95 Stat. 1597, 1608, related to authority of Commissioner to make grants to pay all costs for delivery of supportive services and nutritional services for

older Indians, prior to the general revision of this subchapter by Pub. L. 100–175. See section 3057d of this title.

A prior section 603 of Pub. L. 89–73, title VI, as added Pub. L. 91–69, §9, Sept. 17, 1969, 83 Stat. 112; amended Pub. L. 93–29, title VI, §602, May 3, 1973, 87 Stat. 55, related to authorization of appropriations and was classified to section 3044a of this title, prior to repeal by Pub. L. 93–113, title VI, §604(a), Oct. 1, 1973, 87 Stat. 417.

AMENDMENTS

2020—Pub. L. 116–131 struck out "(a)" before "The Congress" in introductory provisions.

1992—Subsec. (a). Pub. L. 102–375, §904(a)(21)(A), inserted "individuals who are" after "older" in introductory provisions.

Subsec. (a)(9). Pub. L. 102–375, §904(a)(21)(B), substituted "population of older individuals who are Indians" for "Indian elderly population".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

TASK FORCE

Pub. L. 100–175, title I, §134(d), Nov. 29, 1987, 101 Stat. 941, provided that:

"(1) The Commissioner on Aging [now Assistant Secretary for Aging] shall establish a permanent interagency task force that is representative of departments and agencies of the Federal Government with an interest in older Indians and their welfare, and is designed to make recommendations with respect to facilitating the coordination of services and the improvement of services to older Indians.

"(2) The task force shall be chaired by the Associate Commissioner on [now Director of the Office for] American Indian, Alaskan Native, and Native Hawaiian Aging and shall submit its findings and recommendations to the Commissioner at 6-month intervals beginning after the date of the enactment of this Act [Nov. 29, 1987]. Such findings and recommendations shall be included in the annual report required by section 207(a) of the Older Americans Act of 1965 [42 U.S.C. 3018(a)] to be submitted by the Commissioner."

SPECIAL REPORT ON SERVICES FOR OLDER INDIANS

Pub. L. 100–175, title I, §134(e), Nov. 29, 1987, 101 Stat. 942, directed Commissioner on Aging to enter into a contract with a public agency or nonprofit private organization to conduct a thorough study of availability and quality of services under the Older Americans Act of 1965, 42 U.S.C. 3001 et seq., to older Indians and, not later than Dec. 31, 1988, submit to Congress a report and recommendations based on the study.

§3057c. Eligibility

(a) Criteria

A tribal organization of an Indian tribe is eligible for assistance under this part only if—

(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

(b) Limitation

An Indian tribe represented by an organization specified in subsection (a) shall be eligible for only one grant under this part for any fiscal year. Nothing in this subsection shall preclude an Indian tribe represented by an organization specified in subsection (a) from receiving a grant under section 3057k–11 of this title.

(c) "Indian tribe" and "tribal organization" defined

For the purposes of this part the terms "Indian tribe" and "tribal organization" have the same meaning as in section 5304 of title 25.

(Pub. L. 89–73, title VI, §612, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 959; amended Pub. L. 106–501, title VI, §601, Nov. 13, 2000, 114 Stat. 2287.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057c, Pub. L. 89–73, title VI, §604, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1549; amended Pub. L. 97–115, §13(b), Dec. 29, 1981, 95 Stat. 1608; Pub. L. 98–459, title VI, §602, Oct. 9, 1984, 98 Stat. 1788, related to applications for assistance, prior to the general amendment of this subchapter by Pub. L. 100–175. See section 3057e of this title.

AMENDMENTS

2000—Subsecs. (b), (c). Pub. L. 106–501 added subsec. (b) and redesignated former subsec. (b) as (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057d. Grants authorized

The Assistant Secretary may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older individuals who are Indians.

(Pub. L. 89–73, title VI, §613, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 960; amended Pub. L. 102–375, title IX, §904(a)(22), Sept. 30, 1992, 106 Stat. 1309; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057d, Pub. L. 89–73, title VI, §605, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1551; amended Pub. L. 97–115, §13(c), Dec. 29, 1981, 95 Stat. 1608, provided that in establishing administrative regulations the Commissioner consult with the Secretary of the Interior, prior to the general amendment of this subchapter by Pub. L. 100–175. See section 3057l of this title.

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

1992—Pub. L. 102–375 inserted "individuals who are" after "older".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057e. Applications

(a) Approval criteria; provisions and assurances

No grant may be made under this part unless the eligible tribal organization submits an application to the Assistant Secretary which meets such criteria as the Assistant Secretary may by regulation prescribe. Each such application shall—

(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older individuals who are Indians to be represented by the tribal organization;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide that the tribal organization will make such reports in such form and containing such information, as the Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary may impose to assure the correctness of such reports;

(4) provide for periodic evaluation of activities and projects carried out under the application;

(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) provide for establishing and maintaining information and assistance services to assure that older individuals who are Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(7) provide a preference for older individuals who are Indians for full or part-time staff positions wherever feasible;

(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older individuals who are Indians represented by the tribal organization substantially in compliance with the provisions of part C of subchapter III, except that in any case in which the need for nutritional services for older individuals who are Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this paragraph for supportive services;

(9) provide that any legal or ombudsman services made available to older individuals who are Indians represented by the tribal organization will be substantially in compliance with the provisions of subchapter III relating to the furnishing of similar services;

(10) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract; and

(11) contain assurances that the tribal organization will coordinate services provided under this part with services provided under subchapter III in the same geographical area.

(b) Population statistics development

For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with approval from the Bureau of Indian Affairs, in order to establish eligibility.

(c) Approval by Assistant Secretary

(1) The Assistant Secretary shall approve any application which complies with the provisions of subsection (a).

(2) The Assistant Secretary shall provide waivers and exemptions of the reporting requirements of subsection (a)(3) for applicants that serve Indian populations in geographically isolated areas, or applicants that serve small Indian populations, where the small scale of the project, the nature of the applicant, or other factors make the reporting requirements unreasonable under the circumstances. The Assistant Secretary shall consult with such applicants in establishing appropriate waivers and exemptions.

(3) The Assistant Secretary shall approve any application that complies with the provisions of subsection (a), except that in determining whether an application complies with the requirements of subsection (a)(8), the Assistant Secretary shall provide maximum flexibility to an applicant that seeks to take into account subsistence needs, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the Indian populations to be served.

(4) In determining whether an application complies with the requirements of subsection (a)(11), the Assistant Secretary shall require only that an applicant provide an appropriate narrative description of the geographic area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients.

(d) Disapproval by Assistant Secretary

Whenever the Assistant Secretary determines not to approve an application submitted under subsection (a) the Assistant Secretary shall—

(1) state objections in writing to the tribal organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

(3) provide the tribal organization with a hearing, under such rules and regulations as the Assistant Secretary may prescribe.

(e) Funds per year

Whenever the Assistant Secretary approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

(Pub. L. 89–73, title VI, §614, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 960; amended Pub. L. 102–375, title I, §102(b)(4), title VI, §601, title IX, §904(a)(23), Sept. 30, 1992, 106 Stat. 1201, 1269, 1309; Pub. L. 103–171, §§2(21), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990; Pub. L. 106–501, title VI, §602, title VIII, §801(d), Nov. 13, 2000, 114 Stat. 2287, 2292; Pub. L. 116–131, title VII, §701(11), Mar. 25, 2020, 134 Stat. 271.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057e, Pub. L. 89–73, title VI, §606, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1551; amended Pub. L. 97–115, §3(d), Dec. 29, 1981, 95 Stat. 1597, related to surplus educational facilities, prior to the general amendment of this subchapter by Pub. L. 100–175. See section 3057f of this title.

AMENDMENTS

2020—Subsec. (c)(4). Pub. L. 116–131 substituted "(a)(11)" for "(a)(12)".

2000—Subsec. (a)(9) to (12). Pub. L. 106–501, §801(d), redesignated pars. (10) to (12) as (9) to (11), respectively, and struck out former par. (9) which read as follows: "contain assurances that the provisions of sections 3027(a)(14)(A)(i) and (iii), 3027(a)(14)(B), and 3027(a)(14)(C) of this title will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;".

Subsec. (b). Pub. L. 106–501, §602(1), substituted "approval" for "certification".

Subsec. (c). Pub. L. 106–501, §602(2), designated existing provisions as par. (1) and added pars. (2) to (4).

1993—Subsec. (a). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner" wherever appearing in introductory provisions and in par. (3).

Subsec. (c). Pub. L. 103–171, §2(21), substituted "Assistant Secretary" for "Commission".

Subsec. (d). Pub. L. 103–171, §§2(21), 3(a)(13), in introductory provisions, substituted "Assistant Secretary determines" for "Commissioner determines" and "Assistant Secretary shall" for "Commission shall" and, in par. (3), substituted "Assistant Secretary" for "Commissioner".

Subsec. (e). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner".

1992—Subsec. (a)(1). Pub. L. 102–375, §904(a)(23)(C), inserted "individuals who are" after "older".

Subsec. (a)(6). Pub. L. 102–375, §§102(b)(4), 904(a)(23)(C), substituted "information and assistance" for "information and referral" and inserted "individuals who are" after "older".

Subsec. (a)(7). Pub. L. 102–375, §904(a)(23)(A), substituted "older individuals who are Indians" for "Indians aged 60 and older".

Subsec. (a)(8). Pub. L. 102–375, §904(a)(23)(B), (C), inserted "individuals who are" after "older" in two places and substituted "paragraph" for "clause".

Subsec. (a)(10). Pub. L. 102–375, §904(a)(23)(C), inserted "individuals who are" after "older".

Subsec. (a)(12). Pub. L. 102–375, §601, added par. (12).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 601 of Pub. L. 102–375 inapplicable to fiscal year 1992, see section 905(b)(5) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057e–1. Distribution of funds among tribal organizations

(a) Maintenance of 1991 amounts

Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to a tribal organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the tribal organization for fiscal year 1991.

(b) Use of additional amounts appropriated

If the funds appropriated to carry out this part in a fiscal year subsequent to fiscal year 1991 exceed the funds appropriated to carry out this part in fiscal year 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be—

(1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for fiscal year 1980; or

(2) an amount the Assistant Secretary considers to be sufficient if the tribal organization did not receive a grant under this part for either fiscal year 1980 or fiscal year 1991.

(c) Clarification

(1) Definition

In this subsection, the term "covered year" means fiscal year 2006 or a subsequent fiscal year.

(2) Consortia of tribal organizations

If a tribal organization received a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of subsections (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each covered year for which the tribal organization submits an application under this part, even if the tribal organization submits—

(A) a separate application from the remaining members of the consortium; or

(B) an application as 1 of the remaining members of the consortium.

(Pub. L. 89–73, title VI, §614A, as added Pub. L. 102–375, title VI, §602, Sept. 30, 1992, 106 Stat. 1270; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 109–365, title VI, §601(a), Oct. 17, 2006, 120 Stat. 2590.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–365 added subsec. (c).

1993—Subsec. (b). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" in pars. (1) and (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–365, title VI, §601(b), Oct. 17, 2006, 120 Stat. 2590, provided that: "The amendment made by subsection (a) [amending this section] shall apply to grants awarded under part A of title VI of the Older Americans Act of 1965 (42 U.S.C. 3057b et seq.) during the grant period beginning April 1, 2008, and all subsequent grant periods."

§3057f. Surplus educational facilities

(a) Multipurpose senior centers

Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

(b) Applications; submission; contents

Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

(Pub. L. 89–73, title VI, §615, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 961.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057f, Pub. L. 89–73, title VI, §607, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1551, related to payments, prior to the general amendment of this subchapter by Pub. L. 100–175. See section 3057m of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

PART B—NATIVE HAWAIIAN PROGRAM

§3057g. Findings

The Congress finds the older Native Hawaiians—

(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

(2) rank lowest on 9 of 11 standard health indicies [1] for all ethnic groups in Hawaii;

(3) are often unaware of social services and do not know how to go about seeking such assistance; and

(4) live in poverty at a rate of 34 percent.

(Pub. L. 89–73, title VI, §621, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 961.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3057g, Pub. L. 89–73, title VI, §608, as added Pub. L. 95–478, title I, §106, Oct. 18, 1978, 92 Stat. 1551; amended Pub. L. 97–115, §13(d), Dec. 29, 1981, 95 Stat. 1608; Pub. L. 98–459, title VI, §603, Oct. 9, 1984, 98 Stat. 1788, authorized appropriations for grants for Indian tribes, prior to the general amendment of this subchapter by Pub. L. 100–175. See section 3057n of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

[1] So in original. Probably should be "indices".

§3057h. Eligibility

A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if—

(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

(Pub. L. 89–73, title VI, §622, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 961.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057i. Grants authorized

The Assistant Secretary may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Native Hawaiians.

(Pub. L. 89–73, title VI, §623, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 962; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057j. Application

(a) Approval criteria; provisions and assurances

No grant may be made under this part unless the public or nonprofit private organization submits an application to the Assistant Secretary which meets such criteria as the Assistant Secretary may by regulation prescribe. Each such application shall—

(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide assurances that the organization will coordinate its activities with the State agency on aging and with the activities carried out under subchapter III in the same geographical area;

(4) provide that the organization will make such reports in such form and containing such information as the Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary may impose to ensure the correctness of such reports;

(5) provide for periodic evaluation of activities and projects carried out under the application;

(6) establish objectives, consistent with the purpose of this subchapter, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

(7) provide for establishing and maintaining information and assistance services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of subchapter III relating to the furnishing and similar services; and

(10) provide satisfactory assurances that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

(b) Approval by Assistant Secretary

The Assistant Secretary shall approve any application which complies with the provisions of subsection (a).

(c) Disapproval by Assistant Secretary

Whenever the Assistant Secretary determines not to approve an application submitted under subsection (a) the Assistant Secretary shall—

(1) state objections in writing to the nonprofit private organization within 60 days after such

decision;

(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

(3) provide the organization with a hearing under such rules and regulations as the Assistant Secretary may prescribe.

(d) Funds per year

Whenever the Assistant Secretary approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

(Pub. L. 89–73, title VI, §624, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 962; amended Pub. L. 102–375, title I, §102(b)(4), title VI, §603, Sept. 30, 1992, 106 Stat. 1201, 1270; Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

1992—Subsec. (a)(3). Pub. L. 102–375, §603, inserted before semicolon at end "and with the activities carried out under subchapter III in the same geographical area".

Subsec. (a)(7). Pub. L. 102–375, §102(b)(4), substituted "information and assistance" for "information and referral".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 603 of Pub. L. 102–375 inapplicable to fiscal year 1992, see section 905(b)(5) of Pub. L. 102–375, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057j–1. Distribution of funds among organizations

Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to an organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the organization for fiscal year 1991.

(Pub. L. 89–73, title VI, §624A, as added Pub. L. 102–375, title VI, §604, Sept. 30, 1992, 106 Stat. 1270.)

§3057k. "Native Hawaiian" defined

For the purpose of this part, the term "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(Pub. L. 89–73, title VI, §625, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 963.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal

year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

PART C—NATIVE AMERICAN CAREGIVER SUPPORT PROGRAM

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part C, consisting of sections 3057l to 3057n of this title, was redesignated part D of this subchapter.

§3057k–11. Program

(a) In general

The Assistant Secretary shall carry out a program for making grants to tribal organizations with applications approved under parts A and B, to pay for the Federal share of carrying out tribal programs, to enable the tribal organizations to provide multifaceted systems of the support services described in section 3030s–1 of this title for caregivers described in section 3030s–1 of this title.

(b) Requirements

In providing services under subsection (a), a tribal organization shall meet the requirements specified for an area agency on aging and for a State in the provisions of subsections (c), (d), and (f) of section 3030s–1 of this title and of section 3030s–2 of this title. For purposes of this subsection, references in such provisions to a State program shall be considered to be references to a tribal program under this part.

(Pub. L. 89–73, title VI, §631, as added Pub. L. 106–501, title VI, §604(3), Nov. 13, 2000, 114 Stat. 2288; amended Pub. L. 116–131, title II, §217(d), Mar. 25, 2020, 134 Stat. 262.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 631 of Pub. L. 89–73 was renumbered section 641 and is classified to section 3057l of this title.

AMENDMENTS

2020—Subsec. (b). Pub. L. 116–131 substituted "(c), (d), and (f)" for "(c), (d), and (e)".

PART D—SUPPORTIVE SERVICES FOR HEALTHY AGING AND INDEPENDENCE

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part D, consisting of sections 3057l to 3057o of this title, was redesignated part E of this subchapter.

§3057k–21. Program

(a) In general

The Assistant Secretary may carry out a competitive demonstration program for making grants to tribal organizations or organizations serving Native Hawaiians with applications approved under parts A and B, to pay for the Federal share of carrying out programs, to enable the organizations described in this subsection to build their capacity to provide a wider range of in-home and community supportive services to enable older individuals to maintain their health and independence and to avoid long-term care facility placement.

(b) Supportive services

(1) In general

Subject to paragraph (2), supportive services described in subsection (a) may include any of the activities described in section 3030d(a) of this title.

(2) Priority

The Assistant Secretary, in making grants under this section, shall give priority to organizations that will use the grant funds for supportive services described in subsection (a) that are for in-home assistance, transportation, information and referral, case management, health and wellness programs, legal services, family caregiver support services, and other services that directly support the independence of the older individuals served.

(3) Rule of construction

Nothing in this section shall be construed or interpreted to prohibit the provision of supportive services under part A or B.

(Pub. L. 89–73, title VI, §636, as added Pub. L. 116–131, title V, §501(3), Mar. 25, 2020, 134 Stat. 268.)

PART E—GENERAL PROVISIONS

EDITORIAL NOTES

CODIFICATION

Pub. L. 116–131, title V, §501(2), Mar. 25, 2020, 134 Stat. 267, redesignated part D of this subchapter as part E.

§3057*l*. Administration

In establishing regulations for the purpose of part A the Assistant Secretary shall consult with the Secretary of the Interior.

(Pub. L. 89–73, title VI, §641, formerly §631, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 963; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; renumbered §641, Pub. L. 106–501, title VI, §604(2), Nov. 13, 2000, 114 Stat. 2288.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal

year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057m. Payments

Payments may be made under this subchapter (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Assistant Secretary may determine.

(Pub. L. 89–73, title VI, §642, formerly §632, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 963; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; renumbered §642, Pub. L. 106–501, title VI, §604(2), Nov. 13, 2000, 114 Stat. 2288.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057n. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter—

(1) for parts A and B, $37,102,560 for fiscal year 2020, $39,298,714 for fiscal year 2021, $41,626,636 for fiscal year 2022, $44,094,235 for fiscal year 2023, and $46,709,889 for fiscal year 2024; and

(2) for part C, $10,759,920 for fiscal year 2020, $11,405,515 for fiscal year 2021, $12,089,846 for fiscal year 2022, $12,815,237 for fiscal year 2023, and $13,584,151 for fiscal year 2024.

(Pub. L. 89–73, title VI, §643, formerly §633, as added Pub. L. 100–175, title I, §171, Nov. 29, 1987, 101 Stat. 963; amended Pub. L. 102–375, title VI, §605, Sept. 30, 1992, 106 Stat. 1270; renumbered §643 and amended Pub. L. 106–501, title VI, §§603, 604(2), Nov. 13, 2000, 114 Stat. 2288; Pub. L. 109–365, title VI, §602, Oct. 17, 2006, 120 Stat. 2590; Pub. L. 114–144, §7, Apr. 19, 2016, 130 Stat. 346; Pub. L. 116–131, title V, §501(1)(A), Mar. 25, 2020, 134 Stat. 267.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–131 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 2017 to 2019.

2016—Par. (1). Pub. L. 114–144, §7(1), which directed substitution of "$31,934,018 for fiscal year 2017, $32,601,843 for fiscal year 2018, and $33,269,670 for fiscal year 2019;" for "such sums" and all that followed through the semicolon, was executed by making the substitution for "such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years;" to reflect the probable intent of Congress.

Par. (2). Pub. L. 114–144, §7(2), which directed amendment of par. (2) by substituting "$7,718,566 for fiscal year 2017, $7,879,982 for fiscal year 2018, and $8,041,398 for fiscal year 2019." for "such sums" and

all that followed through the period at the end, was executed by making the substitution for "$6,500,000 for fiscal year 2007, $6,800,000 for fiscal year 2008, $7,200,000 for fiscal year 2009, $7,500,000 for fiscal year 2010, and $7,900,000 for fiscal year 2011." to reflect the probable intent of Congress. The words "such sums" did not appear in text following the amendment by Pub. L. 109–365, §602(2).

2006—Par. (1). Pub. L. 109–365, §602(1), substituted "2007" for "2001".

Par. (2). Pub. L. 109–365, §602(2), substituted "$6,500,000 for fiscal year 2007, $6,800,000 for fiscal year 2008, $7,200,000 for fiscal year 2009, $7,500,000 for fiscal year 2010, and $7,900,000 for fiscal year 2011" for "$5,000,000 for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years".

2000—Pub. L. 106–501, §603, amended section catchline and text generally, substituting provisions authorizing appropriations for fiscal year 2001 and subsequent years for provisions authorizing appropriations for fiscal years 1992 through 1995.

1992—Pub. L. 102–375 amended section generally, substituting provisions authorizing appropriations of $30,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, and designating 90 percent of such appropriations to carry out part A of this subchapter and 10 percent of such appropriations to carry out part B of this subchapter for provisions authorizing appropriations of $13,400,000 for fiscal year 1988, $16,265,000 for fiscal year 1989, $19,133,000 for fiscal year 1990, and $22,105,000 for fiscal year 1991, designating over 90 percent of such appropriations to carry out part A of this subchapter and less than 10 percent of such appropriations to carry out part B of this subchapter, along with provisions providing a preference for funding of such part A if actual amounts of appropriations fall below 1987 levels and a preference for funding of such part B if the actual amounts of appropriations exceed 1987 levels.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100–175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§3057*o*. Funding set aside

Of the funds appropriated under section 3057n(1) for a fiscal year, not more than 5 percent shall be made available to carry out part D for such fiscal year, provided that for such fiscal year—

(1) the funds appropriated for parts A and B are greater than the funds appropriated for fiscal year 2019; and

(2) the Assistant Secretary makes available for parts A and B no less than the amount of resources made available for fiscal year 2019.

(Pub. L. 89–73, title VI, §644, as added Pub. L. 116–131, title V, §501(1)(B), Mar. 25, 2020, 134 Stat. 267.)

SUBCHAPTER XI—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

PART A—STATE PROVISIONS

SUBPART I—GENERAL STATE PROVISIONS

§3058. Establishment

The Assistant Secretary, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

(Pub. L. 89–73, title VII, §701, as added Pub. L. 102–375, title VII, §701, Sept. 30, 1992, 106 Stat. 1271; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3058, Pub. L. 89–73, title VII, §702, as added Pub. L. 98–459, title VII, §701, Oct. 9, 1984, 98 Stat. 1788, related to Congressional declaration of findings, prior to repeal by Pub. L. 100–175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 701 of title VII of Pub. L. 89–73, as added by Pub. L. 98–459, title VII, §701, Oct. 9, 1984, 98 Stat. 1788, provided that this subchapter be cited as the "Older Americans Personal Health Education and Training Act", prior to repeal by Pub. L. 100–175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

Another prior section 701 of Pub. L. 89–73 was classified to section 3045 of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058a. Authorization of appropriations

(a) Ombudsman program

There are authorized to be appropriated to carry out subpart II, $18,066,950 for fiscal year 2020, $19,150,967 for fiscal year 2021, $20,300,025 for fiscal year 2022, $21,518,027 for fiscal year 2023, and $22,809,108 for fiscal year 2024.

(b) Other programs

There are authorized to be appropriated to carry out subparts III and IV, $5,107,110 for fiscal year 2020, $5,413,537 for fiscal year 2021, $5,738,349 for fiscal year 2022, $6,082,650 for fiscal year 2023, and $6,447,609 for fiscal year 2024.

(Pub. L. 89–73, title VII, §702, as added Pub. L. 102–375, title VII, §701, Sept. 30, 1992, 106 Stat. 1271; amended Pub. L. 106–501, title VII, §701, Nov. 13, 2000, 114 Stat. 2289; Pub. L. 109–365, title VII, §701, Oct. 17, 2006, 120 Stat. 2591; Pub. L. 114–144, §8(a), Apr. 19, 2016, 130 Stat. 346; Pub. L. 116–131, title VI, §601, Mar. 25, 2020, 134 Stat. 268.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3058a, Pub. L. 89–73, title VII, §703, as added Pub. L. 98–459, title VII, §701, Oct. 9, 1984, 98 Stat. 1789, related to statement of purposes, prior to repeal by Pub. L. 100–175, title I, §181, title VIII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 702 of Pub. L. 89–73 was classified to section 3045a of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2020—Pub. L. 116–131 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to authorization of appropriations to carry out subparts II to IV of this part for fiscal years 2017 to 2019.

2016—Subsec. (a). Pub. L. 114–144, §8(a)(1), which directed substitution of "$16,280,630 for fiscal year 2017, $16,621,101 for fiscal year 2018, and $16,961,573 for fiscal year 2019." for "such sums" and all that followed through the period at the end, was executed by making the substitution for "such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years." to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 114–144, §8(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out subpart III of this part, such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years."

Subsec. (c). Pub. L. 114–144, §8(a)(3), struck out subsec. (c). Text read as follows: "There are authorized to be appropriated to carry out subpart IV of this part, such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years."

2006—Pub. L. 109–365 substituted "2007" for "2001" in subsecs. (a) to (c).

2000—Pub. L. 106–501 amended section catchline and text generally, substituting provisions authorizing appropriations for subparts II, III, and IV of this part for fiscal year 2001 and subsequent fiscal years for provisions authorizing appropriations for subparts II, III, IV, and V of this part for fiscal years 1992 through 1995.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subchapter inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058b. Allotment

(a) In general

(1) Population

In carrying out the program described in section 3058 of this title, the Assistant Secretary shall initially allot to each State, from the funds appropriated under section 3058a of this title for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

(2) Minimum allotments

(A) In general

After making the initial allotments described in paragraph (1), the Assistant Secretary shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

(B) General minimum allotments

(i) Minimum allotment for States

No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 3058a of this title for the fiscal year for which the determination is made.

(ii) Minimum allotment for territories

Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 3058a of this title for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than

one-sixteenth of 1 percent of the sum appropriated under section 3058a of this title for the fiscal year for which the determination is made.

(C) Minimum allotments for ombudsman and elder abuse programs

(i) Ombudsman program

No State shall be allotted for a fiscal year, from the funds appropriated under section 3058a of this title and made available to carry out subpart II of this part, less than the amount allotted to the State under section 3024 of this title in fiscal year 2000 to carry out the State Long-Term Care Ombudsman program under subchapter III.

(ii) Elder abuse programs

No State shall be allotted for a fiscal year, from the funds appropriated under section 3058a of this title and made available to carry out subpart III of this part, less than the amount allotted to the State under section 3024 of this title in fiscal year 2000 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under subchapter III.

(D) "State" defined

For the purposes of this paragraph, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) Reallotment

(1) In general

If the Assistant Secretary determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make the amount available to a State that the Assistant Secretary determines will be able to use the amount for carrying out the purpose.

(2) Availability

Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this part, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

(c) Withholding

If the Assistant Secretary finds that any State has failed to carry out this subchapter in accordance with the assurances made and description provided under section 3058d of this title, the Assistant Secretary shall withhold the allotment of funds to the State. The Assistant Secretary shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

(Pub. L. 89–73, title VII, §703, as added Pub. L. 102–375, title VII, §701, Sept. 30, 1992, 106 Stat. 1271; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title VII, §702, title VIII, §801(e)(1), Nov. 13, 2000, 114 Stat. 2289, 2293.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3058b, Pub. L. 89–73, title VII, §704, as added Pub. L. 98–459, title VII, §701, Oct. 9, 1984, 98 Stat. 1789, related to older Americans personal health education and training program, prior to repeal by Pub. L. 100–175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 703 of Pub. L. 89–73 was classified to section 3045b of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2000—Subsec. (a)(2)(C)(i). Pub. L. 106–501, §§702, 801(e)(1)(A), substituted "section 3058a of this title and made available to carry out subpart II of this part" for "section 3058a(a) of this title" and "2000" for "1991".

Subsec. (a)(2)(C)(ii). Pub. L. 106–501, §§702, 801(e)(1)(B), substituted "section 3058a of this title and made available to carry out subpart III of this part" for "section 3058a(b) of this title" and "2000" for "1991".

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§3058c. Organization

In order for a State to be eligible to receive allotments under this part—

(1) the State shall demonstrate eligibility under section 3025 of this title;

(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 3025 of this title; and

(3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 3025 of this title.

(Pub. L. 89–73, title VII, §704, as added Pub. L. 102–375, title VII, §701, Sept. 30, 1992, 106 Stat. 1273.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3058c, Pub. L. 89–73, title VII, §705, as added Pub. L. 98–459, title VII, §701, Oct. 9, 1984, 98 Stat. 1791, related to administration of program, prior to repeal by Pub. L. 100–175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 704 of Pub. L. 89–73 was classified to section 3045c of this title prior to repeal by Pub. L. 95–478.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058d. Additional State plan requirements

(a) Eligibility

In order to be eligible to receive an allotment under this part, a State shall include in the State plan submitted under section 3027 of this title—

(1) an assurance that the State, in carrying out any subpart of this part for which the State receives funding under this part, will establish programs in accordance with the requirements of the subpart and this subpart;

(2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under subchapter X, and other interested persons and entities regarding programs carried out under this part;

(3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;

(4) an assurance that the State will use funds made available under this part for a subpart in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before September 30, 1992, to carry out each of the vulnerable elder rights protection activities described in the subpart;

(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 3058g(a)(5)(C) of this title, on the eligibility of entities for designation as local Ombudsman entities under section 3058g(a)(5) of this title;

(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under subpart III of this part—

(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent elder abuse;

(ii) receipt of reports of elder abuse;

(iii) active participation of older individuals participating in programs under this chapter through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

(iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

(i) if all parties to such complaint consent in writing to the release of such information;

(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(iii) upon court order; and

(7) a description of the manner in which the State agency will carry out this subchapter in accordance with the assurances described in paragraphs (1) through (6).

(b) Privilege

Neither a State, nor a State agency, may require any provider of legal assistance under this part to reveal any information that is protected by the attorney-client privilege.

(Pub. L. 89–73, title VII, §705, as added Pub. L. 102–375, title VII, §701, Sept. 30, 1992, 106 Stat. 1273; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title VII, §703, Nov. 13, 2000, 114 Stat. 2289.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3058d, Pub. L. 89–73, title VII, §706, as added Pub. L. 98–459, title VII, §701, Oct. 9, 1984, 98 Stat. 1791, authorized appropriations for fiscal years 1985, 1986, and 1987, prior to repeal by Pub. L. 100–175, title I, §181, title VII, §701(a), (b), Nov. 29, 1987, 101 Stat. 964, 983, effective Oct. 1, 1987, with certain exceptions.

A prior section 705 of Pub. L. 89–73 was classified to section 3045d of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2000—Subsec. (a)(4). Pub. L. 106–501, §703(1), inserted "each of" after "carry out".

Subsec. (a)(6)(C)(iii). Pub. L. 106–501, §703(2), inserted "and" at end.

Subsec. (a)(7), (8). Pub. L. 106–501, §703(3) to (5), redesignated par. (8) as (7), substituted "paragraphs (1) through (6)" for "paragraphs (1) through (7)", and struck out former par. (7) which required inclusion in the State plan of assurances that the State agency would make funds available to carry out subpart V, giving priority to area agencies on aging based on greatest need for funds, would require certain conditions of eligibility, would distribute eligibility information to area agencies on aging, and would submit certain reports.

1993—Subsec. (a)(7)(D). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058e. Demonstration projects

(a) Establishment

From amounts made available under section 3024(d)(1)(C) of this title after September 30, 1992, each State may provide for the establishment of at least one demonstration project, to be conducted by one or more area agencies on aging within the State, for outreach to older individuals with greatest economic need with respect to—

(1) benefits available under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State program established in accordance with such title);

(2) medical assistance available under title XIX of such Act (42 U.S.C. 1396 et seq.); and

(3) benefits available under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(b) Benefits

Each outreach project carried out under subsection (a) shall—

(1) provide to older individuals with greatest economic need information and assistance regarding their eligibility to receive the benefits and assistance described in paragraphs (1) through (3) of subsection (a);

(2) be carried out in a planning and service area that has a high proportion of older individuals with greatest economic need, relative to the aggregate number of older individuals in such area; and

(3) be coordinated with State and local entities that administer benefits under such titles.

(Pub. L. 89–73, title VII, §706, as added Pub. L. 102–375, title VII, §701, Sept. 30, 1992, 106 Stat. 1275; amended Pub. L. 110–234, title IV, §4002(b)(1)(B), (2)(BB), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (2)(BB), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1), (2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI and XIX of the Act are classified generally to subchapters XVI (§1381 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (a)(3), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 706 of Pub. L. 89–73 was classified to section 3045e of this title prior to repeal by Pub. L. 95–478.

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–246, §4002(b)(1)(B), (2)(BB), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(BB) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

SUBPART II—OMBUDSMAN PROGRAMS

§3058f. Definitions

As used in this subpart:

(1) Office

The term "Office" means the office established in section 3058g(a)(1)(A) of this title.

(2) Ombudsman

The term "Ombudsman" means the individual described in section 3058g(a)(2) of this title.

(3) Local Ombudsman entity

The term "local Ombudsman entity" means an entity designated under section 3058g(a)(5)(A) of this title to carry out the duties described in section 3058g(a)(5)(B) of this title with respect to a planning and service area or other substate area.

(4) Program

The term "program" means the State Long-Term Care Ombudsman program established in section 3058g(a)(1)(B) of this title.

(5) Representative

The term "representative" includes an employee or volunteer who represents an entity designated under section 3058g(a)(5)(A) of this title and who is individually designated by the Ombudsman.

(6) Resident

The term "resident" means an individual of any age who resides in a long-term care facility.

(Pub. L. 89–73, title VII, §711, as added Pub. L. 102–375, title VII, §702, Sept. 30, 1992, 106 Stat. 1275; amended Pub. L. 114–144, §8(b), Apr. 19, 2016, 130 Stat. 347; Pub. L. 116–131, title II, §202(2), Mar. 25, 2020, 134 Stat. 254.)

EDITORIAL NOTES

AMENDMENTS

2020—Par. (6). Pub. L. 116–131 inserted "of any age" after "individual".
2016—Par. (6). Pub. L. 114–144 struck out "older" before "individual".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058g. State Long-Term Care Ombudsman program

(a) Establishment

(1) In general

In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a of this title and made available to carry out this subpart, a State agency shall, in accordance with this section—

(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

(B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) Ombudsman

The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy. The Ombudsman shall be responsible for the management, including the fiscal management, of the Office.

(3) Functions

The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents, including residents with limited or no decisionmaking capacity and who have no known legal representative, and if such a resident is unable to communicate consent for an Ombudsman to work on a complaint directly involving the resident, the Ombudsman shall seek evidence to indicate what outcome the resident would have communicated (and, in the absence of evidence to the contrary, shall assume that the resident wishes to have the resident's health, safety, welfare, and rights protected) and shall work to accomplish that outcome; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or
(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular, timely, private, and unimpeded access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H)(i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for, actively encourage, and assist in the development of resident and family councils to protect the well-being and rights of residents;

(I) when feasible, continue to carry out the functions described in this section on behalf of residents transitioning from a long-term care facility to a home care setting; and

(J) carry out such other activities as the Assistant Secretary determines to be appropriate.

(4) Contracts and arrangements

(A) In general

Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations

The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(5) Designation of local Ombudsman entities and representatives

(A) Designation

In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

(B) Duties

An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

(i) provide services to protect the health, safety, welfare [1] and rights of residents;

(ii) ensure that residents in the service area of the entity have regular, timely access to

representatives of the program and timely responses to complaints and requests for assistance;

(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(vi) support, actively encourage, and assist in the development of resident and family councils;

(vii) identify, investigate, and resolve complaints described in clause (iii) that are made by or on behalf of residents with limited or no decisionmaking capacity and who have no known legal representative, and if such a resident is unable to communicate consent for an Ombudsman to work on a complaint directly involving the resident, the Ombudsman shall seek evidence to indicate what outcome the resident would have communicated (and, in the absence of evidence to the contrary, shall assume that the resident wishes to have the resident's health, safety, welfare, and rights protected) and shall work to accomplish that outcome; and

(viii) carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation

Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

(i) have demonstrated capability to carry out the responsibilities of the Office;

(ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;

(iii) in the case of the entities, be public or nonprofit private entities; and

(iv) meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures

(i) In general

The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) Policies

In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

(iii) Confidentiality and disclosure

The State agency shall develop the policies and procedures in accordance with all provisions of this part regarding confidentiality and conflict of interest.

(E) Rule of construction for volunteer Ombudsman representatives

Nothing in this paragraph shall be construed as prohibiting the program from providing and financially supporting recognition for an individual designated under subparagraph (A) as a volunteer to represent the Ombudsman program, or from reimbursing or otherwise providing financial support to such an individual for any costs, such as transportation costs, incurred by the individual in serving as such volunteer.

(b) Procedures for access

(1) In general

The State shall ensure that representatives of the Office shall have—

(A) private and unimpeded access to long-term care facilities and residents;

(B)(i) appropriate access to review all files, records, and other information concerning a resident, if—

(I) the representative has the permission of the resident, or the legal representative of the resident; or

(II) the resident is unable to communicate consent to the review and has no legal representative; or

(ii) access to the files, records, and information as is necessary to investigate a complaint if—

(I) a legal guardian of the resident refuses to give the permission;

(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III) the representative obtains the approval of the Ombudsman;

(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) Procedures

The State agency shall establish procedures to ensure the access described in paragraph (1).

(3) Health oversight agency

For purposes of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (including regulations issued under that section) (42 U.S.C. 1320d–2 note), the Ombudsman and a representative of the Office shall be considered a "health oversight agency," so that release of residents' individually identifiable health information to the Ombudsman or representative is not precluded in cases in which the requirements of clause (i) or (ii) of paragraph (1)(B), or the requirements of paragraph (1)(D), are otherwise met.

(c) Reporting system

The State agency shall establish a statewide uniform reporting system to—

(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

(2) submit the data, on a regular basis, to—

(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

(B) other State and Federal entities that the Ombudsman determines to be appropriate;

(C) the Assistant Secretary; and

(D) the National Ombudsman Resource Center established in section 3012(a)(18) of this title.

(d) Disclosure

(1) In general

The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files, records, and other information maintained by the program, including records described in subsection (b)(1) or (c).

(2) Identity of complainant or resident

The procedures described in paragraph (1) shall—

(A) provide that, subject to subparagraph (B), the files, records, and other information described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the

person designated by the Ombudsman to disclose the files, records, and other information);

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files, records, or other information unless—

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)(I) the complainant or resident gives consent orally; and

(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

(iii) the disclosure is required by court order; and

(C) notwithstanding subparagraph (B), ensure that the Ombudsman may disclose information as needed in order to best serve residents with limited or no decisionmaking capacity who have no known legal representative and are unable to communicate consent, in order for the Ombudsman to carry out the functions and duties described in paragraphs (3)(A) and (5)(B) of subsection (a).

(e) Consultation

In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

(f) Conflict of interest

(1) Individual conflict of interest

The State agency shall—

(A) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

(B) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest; and

(C) ensure that the Ombudsman—

(i) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(ii) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(iii) is not employed by, or participating in the management of, a long-term care facility or a related organization, and has not been employed by such a facility or organization within 1 year before the date of the determination involved;

(iv) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility;

(v) does not have management responsibility for, or operate under the supervision of an individual with management responsibility for, adult protective services; and

(vi) does not serve as a guardian or in another fiduciary capacity for residents of long-term care facilities in an official capacity (as opposed to serving as a guardian or fiduciary for a family member, in a personal capacity).

(2) Organizational conflict of interest

(A) In general

The State agency shall comply with subparagraph (B)(i) in a case in which the Office poses an organizational conflict of interest, including a situation in which the Office is placed in an organization that—

(i) is responsible for licensing, certifying, or surveying long-term care services in the State;

(ii) is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals;

(iii) provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) or under subsection (b) or (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n), or under a Medicaid State plan amendment under subsection (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396n);

(iv) provides long-term care case management;

(v) sets rates for long-term care services;

(vi) provides adult protective services;

(vii) is responsible for eligibility determinations for the Medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(viii) conducts preadmission screening for placements in facilities described in clause (ii); or

(ix) makes decisions regarding admission or discharge of individuals to or from such facilities.

(B) Identifying, removing, and remedying organizational conflict

(i) In general

The State agency may not operate the Office or carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization, in a case in which there is an organizational conflict of interest (within the meaning of subparagraph (A)) unless such conflict of interest has been—

(I) identified by the State agency;

(II) disclosed by the State agency to the Assistant Secretary in writing; and

(III) remedied in accordance with this subparagraph.

(ii) Action by Assistant Secretary

In a case in which a potential or actual organizational conflict of interest (within the meaning of subparagraph (A)) involving the Office is disclosed or reported to the Assistant Secretary by any person or entity, the Assistant Secretary shall require that the State agency, in accordance with the policies and procedures established by the State agency under subsection (a)(5)(D)(iii)—

(I) remove the conflict; or

(II) submit, and obtain the approval of the Assistant Secretary for, an adequate remedial plan that indicates how the Ombudsman will be unencumbered in fulfilling all of the functions specified in subsection (a)(3).

(g) Legal counsel

The State agency shall ensure that—

(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to—

(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) Administration

The State agency shall require the Office to—

(1) prepare an annual report—

(A) describing the activities carried out by the Office in the year for which the report is

prepared;

(B) containing and analyzing the data collected under subsection (c);

(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(D) containing recommendations for—

(i) improving quality of the care and life of the residents; and

(ii) protecting the health, safety, welfare, and rights of the residents;

(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

(ii) identifying barriers that prevent the optimal operation of the program; and

(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

(i) the problems and concerns of individuals residing in long-term care facilities; and

(ii) recommendations related to the problems and concerns; and

(B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(4) ensure that the Ombudsman or a designee participates in training provided by the National Ombudsman Resource Center established in section 3012(a)(18) of this title;

(5) strengthen and update procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

(A) specify a minimum number of hours of initial training;

(B) specify the content of the training, including training relating to—

(i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

(ii) investigative techniques; and

(iii) such other matters as the State determines to be appropriate; and

(C) specify an annual number of hours of in-service training for all designated representatives;

(6) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

(A) has received the training required under paragraph (5); and

(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(7) coordinate ombudsman services with the protection and advocacy systems for individuals

with developmental disabilities and mental illnesses established under—

(A) subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.]; and

(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [2] (42 U.S.C. 10801 et seq.);

(8) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 3026(a)(2)(C) of this title, through adoption of memoranda of understanding and other means;

(9) coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and

(10) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (7), or (8).

(i) Liability

The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference

The State shall—

(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

(Pub. L. 89–73, title VII, §712, as added Pub. L. 102–375, title VII, §702, Sept. 30, 1992, 106 Stat. 1276; amended Pub. L. 103–171, §3(a)(9), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–402, title IV, §401(b)(9)(D), Oct. 30, 2000, 114 Stat. 1739; Pub. L. 106–501, title VII, §704, title VIII, §801(e)(2), Nov. 13, 2000, 114 Stat. 2289, 2293; Pub. L. 114–144, §8(c), Apr. 19, 2016, 130 Stat. 347; Pub. L. 116–131, title VI, §602, Mar. 25, 2020, 134 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 264(c) of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b)(3), is section 264(c) of Pub. L. 104–191, which is set out as a note under section 1320d–2 of this title.

The Social Security Act, referred to in subsec. (f)(2)(A)(vii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (h)(7)(A), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsec. (h)(7)(B), was Pub. L. 99–319, May 23, 1986, 100 Stat. 478. Pub. L. 99–319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106–310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

AMENDMENTS

2020—Subsec. (a)(5)(E). Pub. L. 116–131 added subpar. (E).

2016—Subsec. (a)(2). Pub. L. 114–144, §8(c)(1)(A), inserted at end "The Ombudsman shall be responsible for the management, including the fiscal management, of the Office."

Subsec. (a)(3)(A)(i). Pub. L. 114–144, §8(c)(1)(B)(i), added cl. (i) and struck out former cl. (i) which read

as follows: "are made by, or on behalf of, residents; and".

Subsec. (a)(3)(D). Pub. L. 114–144, §8(c)(1)(B)(ii), substituted "regular, timely, private, and unimpeded" for "regular and timely".

Subsec. (a)(3)(H)(iii). Pub. L. 114–144, §8(c)(1)(B)(iii), inserted ", actively encourage, and assist in" after "provide technical support for" and struck out "and" after semicolon at end.

Subsec. (a)(3)(I), (J). Pub. L. 114–144, §8(c)(1)(B)(iv), (v), added subpar. (I) and redesignated former subpar. (I) as (J).

Subsec. (a)(5)(B)(vi). Pub. L. 114–144, §8(c)(1)(C)(i), inserted ", actively encourage, and assist in" after "support" and struck out "and" after semicolon at end.

Subsec. (a)(5)(B)(vii), (viii). Pub. L. 114–144, §8(c)(1)(C)(ii), (iii), added cl. (vii) and redesignated former cl. (vii) as (viii).

Subsec. (b)(1)(A). Pub. L. 114–144, §8(c)(2)(A)(i), substituted "private and unimpeded access" for "access".

Subsec. (b)(1)(B)(i). Pub. L. 114–144, §8(c)(2)(A)(ii)(I)(aa), substituted "all files, records, and other information concerning" for "the medical and social records of" in introductory provisions.

Subsec. (b)(1)(B)(i)(II). Pub. L. 114–144, §8(c)(2)(A)(ii)(I)(bb), substituted "to communicate consent" for "to consent".

Subsec. (b)(1)(B)(ii). Pub. L. 114–144, §8(c)(2)(A)(ii)(II), substituted "the files, records, and information" for "the records" in introductory provisions.

Subsec. (b)(3). Pub. L. 114–144, §8(c)(2)(B), added par. (3).

Subsec. (c)(2)(D). Pub. L. 114–144, §8(c)(3), substituted "3012(a)(18)" for "3012(a)(21)".

Subsec. (d)(1). Pub. L. 114–144, §8(c)(4)(A), substituted "files, records, and other information" for "files".

Subsec. (d)(2)(A). Pub. L. 114–144, §8(c)(4)(B)(i), substituted "files, records, and other information" for "files and records" in two places and struck out "and" after semicolon at end.

Subsec. (d)(2)(B). Pub. L. 114–144, §8(c)(4)(B)(ii)(I), substituted "files, records, or other information" for "files or records" in introductory provisions.

Subsec. (d)(2)(C). Pub. L. 114–144, §8(c)(4)(B)(ii)(II), (iii), added subpar. (C).

Subsec. (f). Pub. L. 114–144, §8(c)(5), added subsec. (f) and struck out former subsec. (f) which related to conflict of interest.

Subsec. (h)(3)(A)(i). Pub. L. 114–144, §8(c)(6)(A), struck out "older" before "individuals".

Subsec. (h)(4). Pub. L. 114–144, §8(c)(6)(D), added par. (4). Former par. (4) redesignated (5).

Pub. L. 114–144, §8(c)(6)(B), substituted "(4) strengthen and update" for text that had been amended by Pub. L. 106–501, §704(2)(A), which was executed to read "(4) strengthen and update". See 2000 Amendment note below.

Subsec. (h)(5), (6). Pub. L. 114–144, §8(c)(6)(C), redesignated pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (7).

Subsec. (h)(6)(A). Pub. L. 114–144, §8(c)(6)(E), substituted "paragraph (5)" for "paragraph (4)".

Subsec. (h)(7). Pub. L. 114–144, §8(c)(6)(C), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (h)(7)(A). Pub. L. 114–144, §8(c)(6)(F), substituted "subtitle C of title I of the" for "subtitle C of the".

Subsec. (h)(8), (9). Pub. L. 114–144, §8(c)(6)(C), redesignated pars. (7) and (8) as (8) and (9), respectively. Former par. (9) redesignated (10).

Subsec. (h)(10). Pub. L. 114–144, §8(c)(6)(G), substituted "(7), or (8)" for "(6), or (7)".

Pub. L. 114–144, §8(c)(6)(C), redesignated par. (9) as (10).

2000—Subsec. (a)(1). Pub. L. 106–501, §801(e)(2), substituted "section 3058a of this title and made available to carry out this subpart" for "section 3058a(a) of this title" in introductory provisions.

Subsec. (a)(5)(C)(ii). Pub. L. 106–501, §704(1), inserted "and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves" after "interest".

Subsec. (h)(4). Pub. L. 106–501, §704(2)(A), substituted "strengthen and update" for "(A) not later than 1 year after September 30, 1992, establish" in introductory provisions, redesignated cls. (i) and (ii) of former subpar. (A) as subpars. (A) and (B), respectively, redesignated subcls. (I) to (III) of former subpar. (A)(ii) as cls. (i) to (iii), respectively, of subpar. (B), redesignated cl. (iii) of former subpar. (A) as subpar. (C) and struck out "and" at end, and struck out former subpar. (B) which read as follows: "require implementation of the procedures not later than 21 months after September 30, 1992;". Amendment was executed to reflect the probable intent of Congress notwithstanding error in directory language misquoting original text to be struck out, which had been translated as reference to September 30, 1992.

Subsec. (h)(6)(A). Pub. L. 106–402 substituted "subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000" for "part A of the Developmental Disabilities Assistance and Bill of Rights Act

(42 U.S.C. 6001 et seq.)".

Subsec. (h)(8), (9). Pub. L. 106–501, §704(2)(B)–(D), added par. (8) and redesignated former par. (8) as (9).

1993—Subsecs. (a)(3)(I), (c)(2)(C), (h)(3)(B). Pub. L. 103–171, §3(a)(9)(B), substituted "Assistant Secretary" for "Commissioner".

Subsec. (h)(4)(A). Pub. L. 103–171, §3(a)(9)(A), substituted "Director of the Office of Long-Term Care Ombudsman Programs" for "Associate Commissioner for Ombudsman Programs".

Subsec. (j)(1). Pub. L. 103–171, §3(a)(9)(B), substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

[1] So in original. Probably should be followed by a comma.

[2] See References in Text note below.

§3058h. Regulations

The Assistant Secretary shall issue and periodically update regulations respecting—

(1) conflicts of interest by persons described in subparagraphs (A) and (B) of section 3058g(f)(1) of this title; and

(2) the relationships described in clauses (i) through (vi) of section 3058g(f)(1)(C) of this title.

(Pub. L. 89–73, title VII, §713, as added Pub. L. 102–375, title VII, §702, Sept. 30, 1992, 106 Stat. 1282; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 114–144, §8(d), Apr. 19, 2016, 130 Stat. 351.)

EDITORIAL NOTES

AMENDMENTS

2016—Par. (1). Pub. L. 114–144, §8(d)(1), substituted "subparagraphs (A) and (B) of section 3058g(f)(1)" for "paragraphs (1) and (2) of section 3058g(f)".

Par. (2). Pub. L. 114–144, §8(d)(2), substituted "clauses (i) through (vi) of section 3058g(f)(1)(C)" for "subparagraphs (A) through (D) of section 3058g(f)(3)".

1993—Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

SUBPART III—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION

§3058i. Prevention of elder abuse, neglect, and exploitation

(a) Establishment

In order to be eligible to receive an allotment under section 3058b of this title from funds appropriated under section 3058a of this title and made available to carry out this subpart, a State agency shall, in accordance with this section, and in consultation with area agencies on aging, develop and enhance programs to address elder abuse, neglect, and exploitation.

(b) Use of allotments

The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation, including—

(1) providing for public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

(2) providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals;

(3) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program, State and local law enforcement systems, and courts of competent jurisdiction;

(4) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

(5) promoting the submission of data on elder abuse, neglect, and exploitation for the appropriate database of the Administration or another database specified by the Assistant Secretary;

(6) conducting analyses of State information concerning elder abuse, neglect, and exploitation and identifying unmet service, enforcement, or intervention needs;

(7) conducting training for individuals, including caregivers described in part E of subchapter III, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

(8) providing technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation and for family members of the victims;

(9) conducting special and on-going training, for individuals involved in serving victims of elder abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined by a State agency to be appropriate;

(10) promoting the development of an elder abuse, neglect, and exploitation system—

(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

(B) under which a State agency—

(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

(ii) on a finding of elder abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited older individual;

(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

(i) such administrative procedures;

(ii) such personnel, such as forensic specialists, trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

(iii) such training procedures;

(iv) such institutional and other facilities (public and private); and

(v) such related multidisciplinary programs and services, including programs and arrangements that protect against financial exploitation,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

(D) that preserves the confidentiality of records in order to protect the rights of older individuals;

(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

(F) that enables an older individual to participate in decisions regarding the welfare of the older individual, and makes the least restrictive alternatives available to an older individual who is abused, neglected, or exploited; and

(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

(i) the problems of elder abuse, neglect, and exploitation;

(ii) the facilities described in subparagraph (C)(iv); and

(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation;

(11) examining various types of shelters serving older individuals (in this paragraph referred to as "safe havens"), and testing various safe haven models for establishing safe havens (at home or elsewhere), that recognize autonomy and self-determination, and fully protect the due process rights of older individuals;

(12) supporting multidisciplinary elder justice activities, such as—

(A) supporting and studying team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social service, health care, public safety, and legal disciplines;

(B) establishing a State coordinating council, which shall identify the individual State's needs and provide the Assistant Secretary with information and recommendations relating to efforts by the State to combat elder abuse, neglect, and exploitation;

(C) providing training, technical assistance, community outreach and education, and other methods of support to groups carrying out multidisciplinary efforts at the State (referred to in some States as "State Working Groups");

(D) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of States and communities (other than the ones in which the review teams were used);

(E) developing best practices, for use in long-term care facilities, that reduce the risk of elder abuse for residents, including the risk of resident-to-resident abuse; and

(F) supporting and implementing innovative practices, programs, and materials in communities to develop partnerships across disciplines for the prevention, investigation, and prosecution of abuse, neglect, and exploitation; and

(13) addressing underserved populations of older individuals, such as—

(A) older individuals living in rural locations;

(B) older individuals in minority populations; or

(C) low-income older individuals.

(c) Approach

In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach, in consultation with area agencies on aging, to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

(d) Coordination

In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

(1) area agency on aging programs;

(2) adult protective service programs;

(3) the State Long-Term Care Ombudsman program established in subpart II of this part;

(4) protection and advocacy programs;

(5) facility and long-term care provider licensure and certification programs;

(6) medicaid fraud and abuse services, including services provided by a State medicaid fraud control unit, as defined in section 1396b(q) of this title;

(7) victim assistance programs; and

(8) consumer protection and State and local law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals, and services provided by agencies and courts of competent jurisdiction.

(e) Requirements

In developing and enhancing programs under subsection (a), the State agency shall—

(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

(2) require that all information gathered in the course of receiving a report described in subsection (b)(10)(B)(i), and making a referral described in subsection (b)(10)(B)(ii), shall remain confidential except—

(A) if all parties to such complaint or report consent in writing to the release of such information;

(B) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(C) upon court order; and

(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirement described in paragraph (2).

(f) Designation

The State agency may designate a State entity to carry out the programs and activities described in this subpart.

(g) Study and report

(1) Study

The Secretary, in consultation with the Department of the Treasury and the Attorney General of the United States, State attorneys general, and tribal and local prosecutors, shall conduct a study of the nature and extent of financial exploitation of older individuals. The purpose of this study would be to define and describe the scope of the problem of financial exploitation of the elderly

and to provide an estimate of the number and type of financial transactions considered to constitute financial exploitation faced by older individuals. The study shall also examine the adequacy of current Federal and State legal protections to prevent such exploitation.

(2) Report

Not later than 18 months after November 13, 2000, the Secretary shall submit to Congress a report, which shall include—

(A) the results of the study conducted under this subsection; and

(B) recommendations for future actions to combat the financial exploitation of older individuals.

(h) Accountability measures

The Assistant Secretary shall develop accountability measures to ensure the effectiveness of the activities carried out under this section.

(i) Evaluating programs

The Assistant Secretary shall evaluate the activities carried out under this section, using funds made available under section 3017(h) of this title.

(j) Compliance with applicable laws

In order to receive funds made available to carry out this section, an entity shall comply with all applicable laws, regulations, and guidelines.

(Pub. L. 89–73, title VII, §721, as added Pub. L. 102–375, title VII, §703(b), Sept. 30, 1992, 106 Stat. 1282; amended Pub. L. 106–501, title VII, §705, title VIII, §801(e)(3), Nov. 13, 2000, 114 Stat. 2290, 2293; Pub. L. 109–365, title VII, §702, Oct. 17, 2006, 120 Stat. 2591; Pub. L. 114–144, §8(e), Apr. 19, 2016, 130 Stat. 351; Pub. L. 116–131, title VI, §603, title VII, §701(12), Mar. 25, 2020, 134 Stat. 269, 272.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (b)(12)(C). Pub. L. 116–131, §603(1), inserted "community outreach and education," after "technical assistance,".

Subsec. (b)(12)(F). Pub. L. 116–131, §603(2), substituted "implementing" for "studying" and inserted ", programs, and materials" after "practices".

Subsec. (i). Pub. L. 116–131, §701(12), substituted "3017(h) of this title" for "3017(g) of this title".

2016—Subsec. (b). Pub. L. 114–144, §8(e)(1)(A), struck out "(including financial exploitation)" after "and exploitation" in introductory provisions.

Subsec. (b)(5) to (10). Pub. L. 114–144, §8(e)(1)(B), (C), added par. (5) and redesignated former pars. (5) to (9) as (6) to (10), respectively. Former par. (10) redesignated (11).

Subsec. (b)(10)(C)(ii). Pub. L. 114–144, §8(e)(1)(D)(i), inserted ", such as forensic specialists," after "such personnel".

Subsec. (b)(10)(C)(v). Pub. L. 114–144, §8(e)(1)(D)(ii), inserted before comma at end ", including programs and arrangements that protect against financial exploitation".

Subsec. (b)(11), (12). Pub. L. 114–144, §8(e)(1)(B), redesignated pars. (10) and (11) as (11) and (12), respectively. Former par. (12) redesignated (13).

Subsec. (b)(12)(F). Pub. L. 114–144, §8(e)(1)(E), added subpar. (F).

Subsec. (b)(13). Pub. L. 114–144, §8(e)(1)(B), redesignated par. (12) as (13).

Subsec. (e)(2). Pub. L. 114–144, §8(e)(2), substituted "subsection (b)(10)(B)(i)" for "subsection (b)(9)(B)(i)" and "subsection (b)(10)(B)(ii)" for "subsection (b)(9)(B)(ii)" in introductory provisions.

2006—Subsec. (a). Pub. L. 109–365, §702(1), substituted "programs to address" for "programs for the prevention of".

Subsec. (b). Pub. L. 109–365, §702(2)(A), substituted "programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation), including—" for "programs for the prevention and treatment of elder abuse, neglect, and exploitation (including financial exploitation), including—" in introductory provisions.

Subsec. (b)(2) to (9). Pub. L. 109–365, §702(2)(B), (C), added par. (2) and redesignated former pars. (2) to

(8) as (3) to (9), respectively.

Subsec. (b)(10) to (12). Pub. L. 109–365, §702(2)(D)–(F), added pars. (10) to (12).

Subsec. (e)(2). Pub. L. 109–365, §702(3), substituted "subsection (b)(9)(B)(i)" for "subsection (b)(8)(B)(i)" and "subsection (b)(9)(B)(ii)" for "subsection (b)(8)(B)(ii)".

Subsecs. (h) to (j). Pub. L. 109–365, §702(4), added subsecs. (h) to (j).

2000—Subsec. (a). Pub. L. 106–501, §801(e)(3), substituted "section 3058a of this title and made available to carry out this subpart" for "section 3058a(b) of this title".

Subsec. (b). Pub. L. 106–501, §705(1)(A), in introductory provisions, inserted "(including financial exploitation)" after "exploitation".

Subsec. (b)(2). Pub. L. 106–501, §705(1)(B), inserted ", State and local law enforcement systems, and courts of competent jurisdiction" after "service program".

Subsec. (b)(5). Pub. L. 106–501, §705(1)(C), inserted "including caregivers described in part E of subchapter III," after "individuals,".

Subsec. (d)(8). Pub. L. 106–501, §705(2), inserted "State and local" before "law enforcement programs" and ", and services provided by agencies and courts of competent jurisdiction" before period at end.

Subsec. (g). Pub. L. 106–501, §705(3), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

DECLARATION OF PURPOSE

Pub. L. 102–375, title VII, §703(a), Sept. 30, 1992, 106 Stat. 1282, provided that: "The purpose of this section [enacting this subpart] is to assist States in the design, development, and coordination of comprehensive services of the State and local levels to prevent, treat, and remedy elder abuse, neglect, and exploitation."

SUBPART IV—STATE LEGAL ASSISTANCE DEVELOPMENT PROGRAM

§3058j. State legal assistance development

A State agency shall provide the services of an individual who shall be known as a State legal assistance developer, and the services of other personnel, sufficient to ensure—

(1) State leadership in securing and maintaining the legal rights of older individuals;

(2) State capacity for coordinating the provision of legal assistance;

(3) State capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons, as appropriate;

(4) State capacity to promote financial management services to older individuals at risk of conservatorship;

(5) State capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and

(6) State capacity to improve the quality and quantity of legal services provided to older individuals.

(Pub. L. 89–73, title VII, §731, as added Pub. L. 106–501, title VII, §706, Nov. 13, 2000, 114 Stat. 2291.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3058j, Pub. L. 89–73, title VII, §731, as added Pub. L. 102–375, title VII, §704, Sept. 30, 1992, 106 Stat. 1285, related to State elder rights and legal assistance development, prior to repeal by Pub. L. 106–501, title VII, §706, Nov. 13, 2000, 114 Stat. 2291.

SUBPART V—OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM

§3058k. Repealed. Pub. L. 106–501, title VII, §706, Nov. 13, 2000, 114 Stat. 2291

Section, Pub. L. 89–73, title VII, §741, as added Pub. L. 102–375, title VII, §705(b), Sept. 30, 1992, 106 Stat. 1287; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990, related to State outreach, counseling, and assistance program for insurance and public benefits.

PART B—NATIVE AMERICAN ORGANIZATION AND ELDER JUSTICE PROVISIONS

§3058aa. Native American program

(a) Establishment

The Assistant Secretary, acting through the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging, shall establish and carry out a program for—

(1) assisting eligible entities in prioritizing, on a continuing basis, the needs of the service population of the entities relating to elder rights;

(2) making grants to eligible entities to carry out vulnerable elder rights protection activities that the entities determine to be priorities; and

(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—

(A) establishing a coordinating council, which shall identify the needs of an individual Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing entity of the Native American group to combat elder abuse, neglect, and exploitation;

(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and

(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of Indian tribes and other Native American groups (other than the ones in which the review teams were used).

(b) Application

In order to be eligible to receive assistance under this section, an entity shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information as the Assistant Secretary may require.

(c) Eligible entity

An entity eligible to receive assistance under this section shall be—

(1) an Indian tribe; or

(2) a public agency, or a nonprofit organization, serving older individuals who are Native Americans.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2007, and such sums as may be necessary for subsequent fiscal years.

(Pub. L. 89–73, title VII, §751, as added Pub. L. 102–375, title VII, §706, Sept. 30, 1992, 106 Stat. 1290; amended Pub. L. 103–171, §3(a)(10), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title VII, §707, Nov. 13, 2000, 114 Stat. 2291; Pub. L. 109–365, title VII, §703, Oct. 17, 2006, 120 Stat. 2592.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a)(3). Pub. L. 109–365, §703(1), added par. (3).
Subsec. (b). Pub. L. 109–365, §703(2), substituted "this section" for "this part".
Subsec. (d). Pub. L. 109–365, §703(3), substituted "this part" for "this section" and "2007" for "2001".
2000—Subsec. (d). Pub. L. 106–501 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995."
1993—Subsecs. (a), (b). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" and "Director of the Office for" for "Associate Commissioner on" in subsec. (a) and "Assistant Secretary" for "Commissioner" in two places in subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.
Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058aa–1. Grants to promote comprehensive State elder justice systems

(a) Purpose and authority

For each fiscal year, the Assistant Secretary may make grants to States, on a competitive basis, in accordance with this section, to promote the development and implementation, within each such State, of a comprehensive elder justice system, as defined in subsection (b).

(b) Comprehensive elder justice system defined

In this section, the term "comprehensive elder justice system" means an integrated, multidisciplinary, and collaborative system for preventing, detecting, and addressing elder abuse, neglect, and exploitation in a manner that—

(1) provides for widespread, convenient public access to the range of available elder justice information, programs, and services;

(2) coordinates the efforts of public health, social service, and law enforcement authorities, as well as other appropriate public and private entities, to identify and diminish duplication and gaps in the system;

(3) provides a uniform method for the standardization, collection, management, analysis, and reporting of data; and

(4) provides such other elements as the Assistant Secretary determines appropriate.

(c) Applications

To be eligible to receive a grant under this section for a fiscal year, a State shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information and assurances as the Assistant Secretary determines appropriate.

(d) Amount of grants

The amount of a grant to a State with an application approved under this section for a fiscal year shall be such amount as the Assistant Secretary determines appropriate.

(e) Use of funds

(1) In general

A State that receives a grant under this section shall use funds made available through such grant to promote the development and implementation of a comprehensive elder justice system by—

(A) establishing formal working relationships among public and private providers of elder justice programs, service providers, and stakeholders in order to create a unified elder justice network across such State to coordinate programmatic efforts;

(B) facilitating and supporting the development of a management information system and standard data elements;

(C) providing for appropriate education (including educating the public about the range of available elder justice information, programs, and services), training, and technical assistance; and

(D) taking such other steps as the Assistant Secretary determines appropriate.

(2) Maintenance of effort

Funds made available to States pursuant to this section shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in paragraph (1).

(Pub. L. 89–73, title VII, §752, as added Pub. L. 109–365, title VII, §704(2), Oct. 17, 2006, 120 Stat. 2593.)

PART C—GENERAL PROVISIONS

§3058bb. Definitions

As used in this subchapter:

(1) Elder right

The term "elder right" means a right of an older individual.

(2) Vulnerable elder rights protection activity

The term "vulnerable elder rights protection activity" means an activity funded under part A.

(Pub. L. 89–73, title VII, §761, as added Pub. L. 102–375, title VII, §707, Sept. 30, 1992, 106 Stat. 1291; amended Pub. L. 106–501, title VIII, §801(e)(4), Nov. 13, 2000, 114 Stat. 2293.)

EDITORIAL NOTES

AMENDMENTS

2000—Par. (2). Pub. L. 106–501 substituted "part A" for "subpart II, III, IV, or V of this subchapter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058cc. Administration

A State agency may carry out vulnerable elder rights protection activities either directly or through contracts or agreements with public or nonprofit private agencies or organizations, such as—

(1) other State agencies;
(2) area agencies on aging;
(3) county governments;
(4) institutions of higher education;
(5) Indian tribes; or
(6) nonprofit service providers or volunteer organizations.

(Pub. L. 89–73, title VII, §762, as added Pub. L. 102–375, title VII, §707, Sept. 30, 1992, 106 Stat. 1291; amended Pub. L. 106–501, title VIII, §801(e)(5), Nov. 13, 2000, 114 Stat. 2293.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–501 struck out "or an entity described in section 3058aa(c) of this title" after "A State agency" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058dd. Technical assistance

(a) Other agencies

In carrying out the provisions of this subchapter, the Assistant Secretary may request the technical assistance and cooperation of such Federal entities as may be appropriate.

(b) Assistant Secretary

The Assistant Secretary shall provide technical assistance and training (by contract, grant, or otherwise) to persons and entities that administer programs established under this subchapter.

(Pub. L. 89–73, title VII, §763, as added Pub. L. 102–375, title VII, §707, Sept. 30, 1992, 106 Stat. 1291; amended Pub. L. 103–171, §3(a)(11), (13), Dec. 2, 1993, 107 Stat. 1990.)

EDITORIAL NOTES

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–171, §3(a)(13), substituted "Assistant Secretary" for "Commissioner".

Subsec. (b). Pub. L. 103–171, §13(a)(11), (13), substituted "Assistant Secretary" for "Commissioner" in heading and text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058ee. Audits

(a) Access

The Assistant Secretary, the Comptroller General of the United States, and any duly authorized representative of the Assistant Secretary or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to financial assistance received under this subchapter.

(b) Limitation

State agencies and area agencies on aging shall not request information or data from providers that is not pertinent to services furnished under this subchapter or to a payment made for the services.

(Pub. L. 89–73, title VII, §764, as added Pub. L. 102–375, title VII, §707, Sept. 30, 1992, 106 Stat. 1291; amended Pub. L. 103–171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106–501, title VIII, §801(e)(6), Nov. 13, 2000, 114 Stat. 2293.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–501 substituted "and area agencies on aging" for ", area agencies on aging, and entities described in section 3058aa(c) of this title".

1993—Subsec. (a). Pub. L. 103–171 substituted "Assistant Secretary" for "Commissioner" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103–171, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

Section inapplicable with respect to fiscal year 1992, see section 905(b)(6) of Pub. L. 102–375, set out as an Effective Date of 1992 Amendment note under section 3001 of this title.

§3058ff. Rule of construction

Nothing in this subchapter shall be construed to interfere with or abridge the right of an older individual to practice the individual's religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—

(1) is contemporaneously expressed by the older individual—

(A) either orally or in writing;

(B) with respect to a specific illness or injury that the older individual has at the time of the decision; and

(C) when the older individual is competent to make the decision;

(2) is set forth prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

(3) may be unambiguously deduced from the older individual's life history.

(Pub. L. 89–73, title VII, §765, as added Pub. L. 109–365, title VII, §705, Oct. 17, 2006, 120 Stat. 2594.)

CHAPTER 35A—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

§§3061 to 3067. Repealed. Pub. L. 94–135, title I, §113(b), Nov. 28, 1975, 89 Stat. 725

Section 3061, Pub. L. 93–29, title IX, §902, May 3, 1973, 87 Stat. 60, related to establishment of Older American Community Service Employment Program authority of Secretary, execution of agreements with terms and conditions for furthering purposes and goals of program, and regulations for execution of chapter provisions and costs and non-Federal share.

Section 3062, Pub. L. 93–29, title IX, §903, May 3, 1973, 87 Stat. 62, related to administration of community service projects: consideration of needs of localities, employment situation and skills of eligible participants, and potential projects and number and percentage of eligible individuals in local population; agency cooperation, community service projects as part of general manpower programs, expenditure of project appropriations for manpower programs prohibited; use of services, equipment, personnel, facilities of Federal and other agencies, and cooperation with other public and private agencies in such use; community service projects: criteria for equitable participation in administration of such projects; payments, advances, reimbursement, and installments; and prohibition of delegation of functions and duties.

Section 3063, Pub. L. 93–29, title IX, §904, May 3, 1973, 87 Stat. 63, related to participants without status of Federal employees; contractual requirement of workmen's compensation coverage and severance benefits.

Section 3064, Pub. L. 93–29, title IX, §905, May 3, 1973, 87 Stat. 63, related to interagency cooperation.

Section 3065, Pub. L. 93–29, title IX, §906, May 3, 1973, 87 Stat. 63, related to allotment for projects: allotment formula, reallotments, and equitable distribution of assistance.

Section 3066, Pub. L. 93–29, title IX, §907, May 3, 1973, 87 Stat. 64, related to definitions.

Section 3067, Pub. L. 93–29, title IX, §908, May 8, 1973, 87 Stat. 64; Pub. L. 93–113, title VI, §604(b), Oct. 1, 1973, 87 Stat. 417, related to authorization of appropriations.

Subject matter is covered by section 3056 et seq. of this title.

CHAPTER 36—COMPENSATION OF CONDEMNEES IN DEVELOPMENT PROGRAMS

§§3071 to 3074. Repealed. Pub. L. 91–646, title II, §220(a)(8), title III, §306, Jan. 2, 1971, 84 Stat. 1903, 1907

Section 3071, Pub. L. 89–117, title IV, §401, Aug. 10, 1965, 79 Stat. 485; Pub. L. 90–19, §22(f), May 25, 1967, 81 Stat. 27, related to definitions.

Section 3072, Pub. L. 89–117, title IV, §402, Aug. 10, 1965, 79 Stat. 485; Pub. L. 90–19, §22(a), May 25, 1967, 81 Stat. 26, related to acquisition of realty by eminent domain.

Section 3073, Pub. L. 89–117, title IV, §403, Aug. 10, 1965, 79 Stat. 485, related to financing of payments in eminent domain where amount is in dispute.

Section 3074, Pub. L. 89–117, title IV, §404(a), Aug. 10, 1965, 79 Stat. 485; Pub. L. 90–19, §22(a), May 25, 1967, 81 Stat. 26, related to relocation payments under federally assisted development programs.

Subject matter is covered by section 4601 et seq. of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal not applicable to any State so long as sections 4630 and 4655 of this title are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91–646, set out as an Effective Date note under section 4601 of this title.

SAVINGS PROVISION

Any rights or liabilities existing under sections 3071 to 3074 as not affected by such repeal, see sections 220(b) and 306 of Pub. L. 91–646, set out as Savings Provision notes under sections 4621 and 4651 of this title.

CHAPTER 37—COMMUNITY FACILITIES AND ADVANCE LAND ACQUISITION

Sec.
3101. Congressional declaration of purpose.
3102, 3103. Omitted.
3104. Advance acquisition of land for public purposes.
3105. Powers and duties of Secretary.
3106. Definitions.
3107. Labor standards.
3108. Authorization of appropriations.

§3101. Congressional declaration of purpose

The purpose of this chapter is to assist and encourage the communities of the Nation fully to meet the needs of their citizens by making it possible, with Federal grant assistance, for their governmental bodies (1) to construct adequate basic water and sewer facilities needed to promote the efficient and orderly growth and development of our communities, (2) to construct neighborhood facilities needed to enable them to carry on programs of necessary social services, and (3) to acquire, in a planned and orderly fashion, land to be utilized in the future for public purposes.

(Pub. L. 89–117, title VII, §701, Aug. 10, 1965, 79 Stat. 489; Pub. L. 90–448, title VI, §603(a), Aug. 1, 1968, 82 Stat. 533.)

EDITORIAL NOTES

AMENDMENTS

1968—Pub. L. 90–448 substituted "in the future for public purposes" for "in connection with the future construction of public works and facilities" in cl. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–431, §1, Oct. 6, 1970, 84 Stat. 886, provided: "That this Act [amending sections 3102 and 3108 of this title and enacting provisions set out as a note under section 3108 of this title] may be cited as the 'Emergency Community Facilities Act of 1970'."

§§3102, 3103. Omitted

EDITORIAL NOTES

CODIFICATION

Section 3102, Pub. L. 89–117, title VII, §702, Aug. 10, 1965, 79 Stat. 490; 1966 Reorg. Plan No. 2, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; Pub. L. 90–19, §22(b), (g), May 25, 1967, 81 Stat. 26, 27; Pub. L. 90–448, title VI, §604, Aug. 1, 1968, 82 Stat. 534; Pub. L. 91–152, title III, §305(a), Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–431, §3(c), Oct. 6, 1970, 84 Stat. 886; 1970 Reorg. Plan No. 3, §2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087; Pub. L. 92–213, §6, Dec. 22, 1971, 85 Stat. 776; Pub. L. 92–335, §7, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, §9, Oct. 2, 1973, 87 Stat. 423, which authorized grants for basic water and sewer facilities, was omitted pursuant to section 5316 of this title which terminated the authority to make grants or loans under this section after Jan. 1, 1975.

Section 3103, Pub. L. 89–117, title VII, §703, Aug. 10, 1965, 79 Stat. 491; Pub. L. 90–19, §22(b), May 25, 1967, 81 Stat. 26; Pub. L. 98–181, title I [title I, §126(b)(2)], Nov. 30, 1983, 97 Stat. 1175, which authorized grants for neighborhood facilities, was omitted pursuant to section 5316 of this title which terminated the

authority to make grants or loans under this section after Jan. 1, 1975.

§3104. Advance acquisition of land for public purposes

(a) Authority to make grants

In order to encourage and assist the timely acquisition of land planned to be utilized in the future for public purposes, the Secretary is authorized to make grants to States and local public bodies and agencies to assist in financing the acquisition of a fee simple estate or other interest in such land.

(b) Maximum amount of grants

The amount of any grant made under this section shall not exceed the aggregate amount of reasonable interest charges on the loans or other financial obligations incurred to finance the acquisition of such land for a period not in excess of the lesser of (1) five years from the date of acquisition of such land or (2) the period of time between the date on which the land was acquired and the date its use began for the purpose for which it was acquired: *Provided*, That where all or any portion of the cost of such land is not financed through borrowings, the amount of the grant shall be computed on the basis of the aggregate amount of reasonable interest charges that the Secretary determines would have been required.

(c) Utilization of land for public purpose within reasonable period of time

No grant shall be made under this section unless the Secretary determines that the land will be utilized for a public purpose within a reasonable period of time and that such utilization will contribute to economy, efficiency, and the comprehensively planned development of the area. The Secretary shall in all cases require that land acquired with the assistance of a grant under this section be utilized for a public purpose within five years after the date on which a contract to make such grant is entered into, unless the Secretary determines that due to unusual circumstances a longer period of time is necessary and in the public interest.

(d) Diversion of land; repayment; interim use

No land acquired with assistance under this section shall, without approval of the Secretary, be diverted from the purpose originally approved. The Secretary shall approve no such diversion unless he finds that the diversion is in accord with the then applicable comprehensive plan for the area. In cases of a diversion of land to other than a public purpose, the Secretary may require repayment of the grant, or substitution of land of approximately equal fair market value, whichever he deems appropriate. An interim use of the land for a public or private purpose in accordance with standards prescribed by the Secretary, or approved by him, shall not constitute a diversion within the meaning of this subsection.

(e) Eligibility for other Federal loans or grant programs

Notwithstanding any other provision of law, no project for which land is acquired with assistance under this section shall, solely as a result of such advance acquisition, be considered ineligible for the purpose of any other Federal loan or grant program, and the amount of the purchase price paid for the land by the recipient of a grant under this section may be considered an eligible cost for the purpose of such other Federal loan or grant program.

(Pub. L. 89–117, title VII, §704, Aug. 10, 1965, 79 Stat. 491; Pub. L. 90–19, §22(b), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title VI, §603(b), Aug. 1, 1968, 82 Stat. 533; Pub. L. 96–470, title I, §107(c), Oct. 19, 1980, 94 Stat. 2238.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (c). Pub. L. 96–470 substituted "unless the Secretary determines that due to unusual circumstances a longer period of time is necessary and in the public interest" for "unless the Secretary (1) determines that due to unusual circumstances a longer period of time is necessary and in the public interest,

and (2) reports such determination promptly to the Committees on Banking and Currency of the Senate and House of Representatives".

1968—Subsec. (a). Pub. L. 90–448 substituted "to be utilized in the future for public purposes" for "to be utilized in connection with the future construction of public works or facilities".

Subsec. (b). Pub. L. 90–448 changed the period from not more than the lesser of (1) five years from the date such loan was made or such financial obligation was incurred, or (2) the period of time between the date such loan was made or such financial obligation was incurred and the date construction is begun on the public work or facility, to not more than the lesser of (1) five years from the date of acquisition of such land, or (2) the period of time between the date on which the land was acquired and the date its use began for the purpose for which it was acquired, and inserted proviso requiring the amount of the grant, where all or any portion of the cost of land is not financed through borrowings, to be computed on the basis of the aggregate amount of reasonable interest charges that the Secretary determines would have been required.

Subsec. (c). Pub. L. 90–448 substituted provisions requiring the Secretary to determine that the land will be utilized for a public purpose within a reasonable period of time, for provisions which required a determination that the public work or facility for which the land is to be utilized is planned to be constructed or initiated within a reasonable period of time, empowered the Secretary to extend the time if he determines that due to unusual circumstances a longer period of time is necessary and in the public interest, and required a prompt report of such determination to Congressional Committees.

Subsec. (d). Pub. L. 90–448 inserted provisions prohibiting diversion of land without approval of the Secretary, directing the Secretary to disapprove any diversion unless he finds that the diversion is in accord with the then applicable comprehensive plan for the area, authorizing the Secretary to accept, in cases of repayment, substitution of land of approximately equal fair market value, and stating that an interim use of land for a public or private purpose in accordance with prescribed standards shall not constitute a diversion, and eliminated provisions which required repayment if the land purchased with assistance is not utilized within five years after the agreement is entered into in connection with the construction of the public work or facility for which the land was acquired.

Subsec. (e). Pub. L. 90–448 added subsec. (e).

1967—Subsecs. (a), (c), (d). Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

§3105. Powers and duties of Secretary

(a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 1749a [1] of title 12, except subsections (a), (c)(2), and (f) thereof.

(b) The Secretary is authorized, notwithstanding the provisions of section 3324(a) and (b) of title 31, to make advance or progress payments on account of any grant made pursuant to this chapter. No part of any grant authorized to be made by the provisions of this chapter shall be used for the payment of ordinary governmental operating expenses.

(Pub. L. 89–117, title VII, §705, Aug. 10, 1965, 79 Stat. 492; Pub. L. 90–19, §22(b), May 25, 1967, 81 Stat. 26.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1749a of title 12, referred to in subsec. (a), was repealed by Pub. L. 99–498, title VII, §702, Oct. 17, 1986, 100 Stat. 1545.

CODIFICATION

In subsec. (b), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes [31 U.S.C. 529]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Administrator" wherever appearing.

[1] *See References in Text note below.*

§3106. Definitions

As used in this chapter—

(a) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) The term "local public bodies and agencies" includes public corporate bodies or political subdivisions; public agencies or instrumentalities of one or more States, municipalities, or political subdivisions of one or more States (including public agencies and instrumentalities of one or more municipalities or other political subdivisions of one or more States); Indian tribes; and boards or commissions established under the laws of any State to finance specific capital improvement projects.

(c) The term "development cost" means the cost of constructing the facility and of acquiring the land on which it is located, including necessary site improvements to permit its use as a site for the facility.

(Pub. L. 89–117, title VII, §706, Aug. 10, 1965, 79 Stat. 492.)

§3107. Labor standards

All laborers and mechanics employed by contractors or subcontractors on projects assisted under sections 3102 and 3103 of this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. No such project shall be approved without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 3145 of title 40.

(Pub. L. 89–117, title VII, §707, Aug. 10, 1965, 79 Stat. 492.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 3102 and 3103 of this title, referred to in text, were omitted from the Code pursuant to section 5316 of this title which terminated the authority to make grants or loans under those sections after Jan. 1, 1975.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)" and "section 3145 of title 40" substituted "section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c)", on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§3108. Authorization of appropriations

(a) There are authorized to be appropriated for each fiscal year commencing after June 30, 1965, and ending prior to July 1, 1969, not to exceed (1) $200,000,000 (or $350,000,000 in the case of the fiscal year commencing July 1, 1968) for grants under section 3102 of this title, (2) $50,000,000 for grants under section 3103 of this title, and (3) $25,000,000 for grants under section 3104 of this title. In addition, there is authorized to be appropriated for grants under section 3102 of this title not to

exceed $115,000,000 for the fiscal year commencing July 1, 1969, and not to exceed $100,000,000 for the fiscal year commencing July 1, 1970. In addition, upon the enactment of the Emergency Community Facilities Act of 1970, there is authorized to be appropriated for grants under section 3102 of this title not to exceed $1,000,000,000 for the fiscal year commencing July 1, 1970. In addition, there is authorized to be appropriated for the fiscal year commencing July 1, 1971, not to exceed $50,000,000 for grants under section 3103 of this title. In addition, there are authorized to be appropriated for the fiscal year commencing July 1, 1973, not to exceed $40,000,000 for grants under section 3103 of this title.

(b) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1974.

(Pub. L. 89–117, title VII, §708, Aug. 10, 1965, 79 Stat. 493; Pub. L. 90–448, title VI, §605, Aug. 1, 1968, 82 Stat. 534; Pub. L. 91–152, title III, §305(b), (c), Dec. 24, 1969, 83 Stat. 391; Pub. L. 91–431, §3(a), (b), Oct. 6, 1970, 84 Stat. 886; Pub. L. 91–609, title III, §304, Dec. 31, 1970, 84 Stat. 1780; Pub. L. 92–335, §3, July 1, 1972, 86 Stat. 405; Pub. L. 93–117, §8, Oct. 2, 1973, 87 Stat. 422.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 3102 and 3103 of this title, referred to in subsec. (a), were omitted from the Code pursuant to section 5316 of this title which terminated the authority to make grants or loans under those sections after Jan. 1, 1975.

The Emergency Community Facilities Act of 1970, referred to in subsec. (a), is Pub. L. 91–431, Oct. 6, 1970, 84 Stat. 886, which amended sections 3102 and 3108 of this title, and enacted a provision set out as a note under this section. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–117, §8(a), provided for neighborhood facility grant authorization of $40,000,000 for fiscal year commencing July 1, 1973.

Subsec. (b). Pub. L. 93–117, §8(b), substituted "July 1, 1974" for "September 30, 1972".

1972—Subsec. (b). Pub. L. 92–335 substituted "September 30, 1972" for "July 1, 1972".

1970—Subsec. (a). Pub. L. 91–609, §304(a), authorized appropriation of $50,000,000 for fiscal year commencing July 1, 1971, for grants under section 3103 of this title.

Pub. L. 91–431, §3(a), authorized appropriations for grants under section 3102 of this title of not to exceed $1,000,000,000 for fiscal year commencing July 1, 1970.

Subsec. (b). Pub. L. 91–609, §304(b), substituted "July 1, 1972" for "July 1, 1971".

Pub. L. 91–431, §3(b), substituted "July 1, 1972" for "July 1, 1971".

1969—Subsec. (a). Pub. L. 91–152, §305(c), authorized appropriations of not more than $100,000,000 for fiscal year commencing July 1, 1970.

Subsec. (b). Pub. L. 91–152, §305(b), substituted "July 1, 1971" for "July 1, 1970".

1968—Subsec. (a). Pub. L. 90–448, §605(b), authorized appropriations of not more than $350,000,000 for fiscal year commencing July 1, 1968, and not more than $115,000,000 for fiscal year commencing July 1, 1969.

Subsec. (b). Pub. L. 90–448, §605(a), substituted "July 1, 1970" for "July 1, 1969".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 91–431, §2, Oct. 6, 1970, 84 Stat. 886, provided that:

"(a) The Congress finds that a large number of municipalities and other entities of local government throughout the Nation are unable to finance construction of vital and urgently needed public facilities because of the shortage of funds for long-term borrowing.

"(b) The Congress further finds that there is an immediate need for such facilities in order to provide basic safeguards for the health and well-being of the people of the United States, to check widespread pollution of

irreplaceable water sources, and to provide an effective and practical method of combating rising unemployment."

ADMINISTRATIVE PRIORITY FOR APPLICATIONS RELATING TO ACTIVITIES IN AREAS AFFECTED BY BASE CLOSINGS

State or unit of local government or agency thereof affected by reduction in level of expenditure or employment at Department of Defense installation located in or near such State or unit of local government, priority in processing applications for assistance under this section, see section 1453a of this title.

CHAPTER 38—PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec.

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§3121. Findings and declarations

(a) Findings

Congress finds that—

(1) there continue to be areas of the United States experiencing chronic high unemployment, underemployment, outmigration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

(2) economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;

(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—

(A) creating an environment that promotes economic activity by improving and expanding public infrastructure;

(B) promoting job creation through increased innovation, productivity, and entrepreneurship;

and

(C) empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;

(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

(5) in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and

(6) Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.

(b) Declarations

In order to promote a strong and growing economy throughout the United States, Congress declares that—

(1) assistance under this chapter should be made available to both rural- and urban-distressed communities;

(2) local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy;

(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets; and

(4) assistance under this chapter should be made available to promote the productive reuse of abandoned industrial facilities and the redevelopment of brownfields.

(Pub. L. 89–136, §2, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3598; amended Pub. L. 108–373, title I, §101, Oct. 27, 2004, 118 Stat. 1757.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3121, Pub. L. 89–136, §2, Aug. 26, 1965, 79 Stat. 552; Pub. L. 94–487, title I, §102, Oct. 12, 1976, 90 Stat. 2331, set forth congressional findings and statement of purpose of chapter, prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2004—Pub. L. 108–373 reenacted section catchline without change and amended text generally, substituting pars. (1) to (6) for former pars. (1) to (8) in subsec. (a) and pars. (1) to (4) for former pars. (1) to (3) in subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–393, title I, §105, Nov. 13, 1998, 112 Stat. 3618, provided that: "This title [see Short Title of 1998 Amendment note set out below] and the amendments made by this title shall take effect on a date determined by the Secretary of Commerce, but not later than 90 days after the date of enactment of this Act [Nov. 13, 1998]." [Effective Feb. 11, 1999, see 64 F.R. 9222.]

SHORT TITLE OF 2025 AMENDMENT

Pub. L. 118–272, div. B, title II, §2201, Jan. 4, 2025, 138 Stat. 3176, provided that: "This title [see Tables for classification] may be cited as the 'Economic Development Reauthorization Act of 2024'."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–192, §1, Oct. 30, 2020, 134 Stat. 978, provided that: "This Act [amending section 3211 of this title] may be cited as the 'Reinvigorating Lending for the Future Act' or the 'RLF Act'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–373, §1(a), Oct. 27, 2004, 118 Stat. 1756, provided that: "This Act [enacting sections 3154 to 3154d, 3221, 3222, and 3234 of this title, amending this section and sections 3122, 3131, 3133, 3143 to 3147, 3149, 3151, 3161, 3162, 3174, 3192, 3196, 3212, 3213, 3219, and 3231 of this title, and repealing sections 3148, 3173, and 3195 of this title] may be cited as the 'Economic Development Administration Reauthorization Act of 2004'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–393, §1(a), Nov. 13, 1998, 112 Stat. 3596, provided that: "This Act [see Tables for classification] may be cited as the 'Economic Development Administration and Appalachian Regional Development Reform Act of 1998'."

Pub. L. 105–393, title I, §101, Nov. 13, 1998, 112 Stat. 3597, provided that: "This title [enacting subchapters I to VII of this chapter, transferring section 3222 of this title to section 3212 of this title, amending section 5316 of Title 5, Government Organization and Employees, repealing former subchapters I to X of this chapter, enacting provisions set out as notes under this section, and repealing provisions set out as a note under this section] may be cited as the 'Economic Development Administration Reform Act of 1998'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–487, §101, Oct. 12, 1976, 90 Stat. 2331, provided that: "This Act [enacting sections 3137, 3144, 3173, and 3246h of this title, amending this section and sections 3131, 3132, 3135, 3141, 3142, 3151a, 3152, 3153, 3161, 3171, 3172, 3188a, 3214, 3241, 3243, 3245, 3246a to 3246c, and 3246e to 3246g of this title, repealing section 3246d of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 3162 of this title] may be cited as the 'Public Works and Economic Development Act Amendments of 1976'."

SHORT TITLE OF 1975 AMENDMENTS

Pub. L. 94–188, §1, Dec. 31, 1975, 89 Stat. 1079, provided: "That this Act [enacting sections 3194 to 3196 of this title and sections 225 and 303 of the Appendix to former Title 40, Public Buildings, Property, and Works, amending sections 3181, 3182, 3188a and 3192 of this title, and sections 2, 101, 102, 105–107, 201, 202, 205, 207, 211, 214, 223, 224, 302, 401 and 405 of the Appendix to former Title 40, repealing section 3134 of this title, and enacting provisions set out as notes under sections 3181 and 3183 of this title and sections 1, 2 and 201 of the Appendix of former Title 40] may be cited as the 'Regional Development Act of 1975'."

Pub. L. 94–188, title II, §201, Dec. 31, 1975, 89 Stat. 1087, provided that: "This title [enacting sections 3194 to 3196 of this title, amending sections 3181, 3182, 3188a, and 3192 of this title, and enacting provisions set out as note under section 3183 of this title] may be cited as the 'Regional Action Planning Commission Improvement Act of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–567, §1, Dec. 31, 1974, 88 Stat. 1845, provided: "That this Act [enacting sections 3246 to 3246g of this title and sections 961 to 966 of Title 29, Labor, amending section 1244 of Title 20, Education, and sections 841, 842, 844, 845, 849 to 851, 981, and 983 of Title 29, and enacting provisions set out as notes under sections 3304 of Title 26, Internal Revenue Code, and 4102 of Title 38, Veterans' Benefits] may be cited as the 'Emergency Jobs and Unemployment Assistance Act of 1974'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92–65, title I, §101, Aug. 5, 1971, 85 Stat. 166, provided that: "This title [enacting section 3123 of this title and amending this section, sections 3135, 3141, 3152, 3161, 3162, 3171, 3188a, and 3191 of this title, and provisions set out as a note under section 3162 of this title] may be cited as the 'Public Works and Economic Development Act Amendments of 1971'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91–123, title II, §201, Nov. 25, 1969, 83 Stat. 216, provided that: "This title [enacting sections

3190, 3191, and 3192 of this title and amending this section and sections 3185, 3186, and 3188a of this title] may be cited as the 'Regional Action Planning Commission Amendments of 1969'."

SHORT TITLE

Pub. L. 89–136, §1(a), as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3597, provided that: "This Act [enacting this chapter] may be cited as the 'Public Works and Economic Development Act of 1965'."

A prior section 1 of Pub. L. 89–136, which provided that Pub. L. 89–136 could be cited as the "Public Works and Economic Development Act of 1965", was repealed by Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3597.

DENALI HOUSING FUND

Pub. L. 118–272, div. B, title II, §2252, Jan. 4, 2025, 138 Stat. 3211, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a nonprofit organization;

"(B) a limited dividend organization;

"(C) a cooperative organization;

"(D) an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)); and

"(E) a public entity, such as a municipality, county, district, authority, or other political subdivision of a State.

"(2) FEDERAL COCHAIR.—The term 'Federal Cochair' means the Federal Cochairperson of the Denali Commission.

"(3) FUND.—The term 'Fund' means the Denali Housing Fund established under subsection (b)(1).

"(4) LOW-INCOME.—The term 'low-income', with respect to a household means that the household income is less than 150 percent of the Federal poverty level for the State of Alaska.

"(5) MODERATE-INCOME.—The term 'moderate-income', with respect to a household, means that the household income is less than 250 percent of the Federal poverty level for the State of Alaska.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(b) DENALI HOUSING FUND.—

"(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States the Denali Housing Fund, to be administered by the Federal Cochair.

"(2) SOURCE AND USE OF AMOUNTS IN FUND.—

"(A) IN GENERAL.—Amounts allocated to the Federal Cochair for the purpose of carrying out this section shall be deposited in the Fund.

"(B) USES.—The Federal Cochair shall use the Fund as a revolving fund to carry out the purposes of this section.

"(C) INVESTMENT.—The Federal Cochair may invest amounts in the Fund that are not necessary for operational expenses in bonds or other obligations, the principal and interest of which are guaranteed by the Federal Government.

"(D) GENERAL EXPENSES.—The Federal Cochair may charge the general expenses of carrying out this section to the Fund.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2025 through 2029.

"(c) PURPOSES.—The purposes of this section are—

"(1) to encourage and facilitate the construction or rehabilitation of housing to meet the needs of low-income households and moderate-income households; and

"(2) to provide housing for public employees.

"(d) LOANS AND GRANTS.—

"(1) IN GENERAL.—The Federal Cochair may provide grants and loans from the Fund to eligible entities under such terms and conditions the Federal Cochair may prescribe.

"(2) PURPOSE.—The purpose of a grant or loan under paragraph (1) shall be for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low-income and moderate-income households in rural Alaska villages.

"(e) PROVIDING AMOUNTS TO STATES FOR GRANTS AND LOANS.—The Federal Cochair may provide amounts to the State of Alaska, or political subdivisions thereof, for making the grants and loans described in subsection (d).

"(f) LOANS.—

"(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (d) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be for not more than 90 percent of that cost.

"(2) INTEREST.—A loan under subsection (d) shall be made without interest, except that a loan made to an eligible entity established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for that type of project.

"(3) PAYMENT.—

"(A) IN GENERAL.—The Federal Cochair shall require payment of a loan made under this section under terms and conditions the Secretary may require by not later than the date of completion of the project.

"(B) CANCELLATION.—For a loan other than a loan to an eligible entity established for profit, the Secretary may cancel any part of the debt with respect to a loan made under subsection (d) if the Secretary determines that a permanent loan to finance the project cannot be obtained in an amount adequate for repayment of a loan made under subsection (d).

"(g) GRANTS.—

"(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project described in this section that the Federal Cochair considers unrecoverable from the proceeds of a permanent loan made to finance the project—

"(A) may not be made to an eligible entity established for profit; and

"(B) may not exceed 90 percent of those expenses.

"(2) SITE DEVELOPMENT COSTS AND OFFSITE IMPROVEMENTS.—

"(A) IN GENERAL.—The Federal Cochair may make grants and commitments for grants under terms and conditions the Federal Cochair may require to eligible entities for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, if the grant or commitment—

"(i) is essential to ensuring that housing is constructed on the site in the future; and

"(ii) otherwise meets the requirements for assistance under this section.

"(B) MAXIMUM AMOUNTS.—The amount of a grant under this paragraph may not—

"(i) with respect to the construction of housing, exceed 40 percent of the cost of the construction; and

"(ii) with respect to the rehabilitation of housing, exceed 10 percent of the reasonable value of the rehabilitation, as determined by the Federal Cochair.

"(h) INFORMATION, ADVICE, AND TECHNICAL ASSISTANCE.—The Federal Cochair may provide, or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by nonprofit organizations of housing for low-income or moderate-income households, or for public employees, in rural Alaska villages under this section."

TRANSITION PROVISIONS

Pub. L. 105–393, title I, §104, Nov. 13, 1998, 112 Stat. 3617, provided that:

"(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS.—This title [see Short Title of 1998 Amendment note set out above], including the amendments made by this title, does not affect the validity of any right, duty, or obligation of the United States or any other person arising under any contract, loan, or other instrument or agreement that was in effect on the day before the effective date of this title [see Effective Date note set out above].

"(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against any officer or employee of the Economic Development Administration shall abate by reason of the enactment of this title.

"(c) LIQUIDATING ACCOUNT.—The Economic Development Revolving Fund established under section 203 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143) (as in effect on the day before the effective date of this title) shall continue to be available to the Secretary of Commerce as a liquidating account (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for payment of obligations and expenses in connection with financial assistance provided under—

"(1) the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.);

"(2) the Area Redevelopment Act (42 U.S.C. 2501 et seq.); and

"(3) the Trade Act of 1974 (19 U.S.C. 2101 et seq.).

"(d) ADMINISTRATION.—The Secretary of Commerce shall take such actions authorized before the effective date of this title as are appropriate to administer and liquidate grants, contracts, agreements, loans,

obligations, debentures, or guarantees made by the Secretary under law in effect before the effective date of this title."

DENALI COMMISSION

Pub. L. 116–260, div. D, title V, §505(c), Dec. 27, 2020, 134 Stat. 1379, provided that: "Requirements relating to non-Federal cost-share grants and cooperative agreements for the Denali Commission are waived for grants awarded in fiscal year 2020 and in subsequent years in response to economic distress directly related to the impacts of the Coronavirus Disease (COVID–19)."

Pub. L. 105–277, div. C, title III, Oct. 21, 1998, 112 Stat. 2681–637, as amended by Pub. L. 106–31, title I, §105(a), May 21, 1999, 113 Stat. 62; Pub. L. 106–113, div. B, §1000(a)(4) [title VII, §701], Nov. 29, 1999, 113 Stat. 1535, 1501A–280; Pub. L. 108–7, div. A, title VII, §749, div. D, title V, §504, Feb. 20, 2003, 117 Stat. 44, 158; Pub. L. 108–199, div. B, title I, §112(d), div. E, title II, §222, Jan. 23, 2004, 118 Stat. 63, 256; Pub. L. 108–447, div. H, title V, §521, Dec. 8, 2004, 118 Stat. 3268; Pub. L. 109–59, title I, §1960, Aug. 10, 2005, 119 Stat. 1516; Pub. L. 112–141, div. A, title I, §1520, July 6, 2012, 126 Stat. 577; Pub. L. 114–322, title IV, §5002, Dec. 16, 2016, 130 Stat. 1885; Pub. L. 117–58, div. A, title I, §11507(b), Nov. 15, 2021, 135 Stat. 586; Pub. L. 117–286, §4(a)(261), (262), Dec. 27, 2022, 136 Stat. 4334; Pub. L. 118–272, div. B, title II, §2251, Jan. 4, 2025, 138 Stat. 3210, provided that:

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Denali Commission Act of 1998'.

"SEC. 302. PURPOSES.

"The purposes of this title are as follows:

"(1) To deliver the services of the Federal Government in the most cost-effective manner practicable by reducing administrative and overhead costs.

"(2) To provide job training and other economic development services in rural communities particularly distressed communities (many of which have a rate of unemployment that exceeds 50 percent).

"(3) To promote rural development, provide power generation and transmission facilities, modern communication systems, water and sewer systems and other infrastructure needs.

"SEC. 303. ESTABLISHMENT OF COMMISSION.

"(a) ESTABLISHMENT.—There is established a commission to be known as the Denali Commission (referred to in this title as the 'Commission').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Commission shall be composed of 7 members, who shall be appointed by the Secretary of Commerce (referred to in this title as the 'Secretary'), of whom—

"(A) one shall be the Governor of the State of Alaska, or an individual selected from nominations submitted by the Governor, who shall serve as the State Cochairperson;

"(B) one shall be the President of the University of Alaska, or an individual selected from nominations submitted by the President of the University of Alaska;

"(C) one shall be the President of the Alaska Municipal League or an individual selected from nominations submitted by the President of the Alaska Municipal League;

"(D) one shall be the President of the Alaska Federation of Natives or an individual selected from nominations submitted by the President of the Alaska Federation of Natives;

"(E) one shall be the Executive President of the Alaska State AFL–CIO or an individual selected from nominations submitted by the Executive President;

"(F) one shall be the President of the Associated General Contractors of Alaska or an individual selected from nominations submitted by the President of the Associated General Contractors of Alaska; and

"(G) one shall be the Federal Cochairperson, who shall be selected in accordance with the requirements of paragraph (2).

"(2) FEDERAL COCHAIRPERSON.—

"(A) IN GENERAL.—The President pro temporare [sic] of the Senate and the Speaker of the House of Representatives shall each submit a list of nominations for the position of the Federal Cochairperson under paragraph (1)(G), including pertinent biographical information, to the Secretary.

"(B) APPOINTMENT.—The Secretary shall appoint the Federal Cochairperson from among the list of nominations submitted under subparagraph (A). The Federal Cochairperson shall serve as an employee of the Department of Commerce, and may be removed by the Secretary for cause.

"(C) FEDERAL COCHAIRPERSON VOTE.—The Federal Cochairperson appointed under this paragraph shall break any tie in the voting of the Commission.

"(4) DATE.—The appointments of the members of the Commission shall be made no later than January 1, 1999.

"(c) PERIOD OF APPOINTMENT; VACANCIES.—

"(1) TERM OF FEDERAL COCHAIRPERSON.—The Federal Cochairperson shall serve for a term of four years and may be reappointed.

"(2) INTERIM FEDERAL COCHAIRPERSON.—In the event of a vacancy for any reason in the position of Federal Cochairperson, the Secretary may appoint an Interim Federal Cochairperson, who shall have all the authority of the Federal Cochairperson, to serve until such time as the vacancy in the position of Federal Cochairperson is filled in accordance with subsection (b)(2)). [sic]

"(3) TERM OF ALL OTHER MEMBERS.—All other members shall be appointed for the life of the Commission.

"(4) VACANCIES.—Except as provided in paragraph (2), any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(d) MEETINGS.—

"(1) IN GENERAL.—The Commission shall meet at the call of the Federal Cochairperson not less frequently than 2 times each year, and may, as appropriate, conduct business by telephone or other electronic means.

"(2) NOTIFICATION.—Not later than 2 weeks before calling a meeting under this subsection, the Federal Cochairperson shall—

"(A) notify each member of the Commission of the time, date and location of that meeting; and

"(B) provide each member of the Commission with a written agenda for the meeting, including any proposals for discussion and consideration, and any appropriate background materials.

"(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(f) NO FEDERAL EMPLOYEE STATUS.—No member of the Commission, other than the Federal Cochairperson, shall be considered to be a Federal employee for any purpose.

"(g) CONFLICTS OF INTEREST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no member of the Commission (referred to in this subsection as a 'member') shall participate personally or substantially, through recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract claim, controversy, or other matter in which, to the knowledge of the member, 1 or more of the following has a direct financial interest:

"(A) The member.

"(B) The spouse, minor child, or partner of the member.

"(C) An organization described in subparagraph (B), (C), (D), (E), or (F) of subsection (b)(1) for which the member is serving as an officer, director, trustee, partner, or employee.

"(D) Any individual, person, or organization with which the member is negotiating or has any arrangement concerning prospective employment.

"(2) DISCLOSURE.—Paragraph (1) shall not apply if the member—

"(A) immediately advises the designated agency ethics official for the Commission of the nature and circumstances of the matter presenting a potential conflict of interest;

"(B) makes full disclosure of the financial interest; and

"(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the designated agency ethics official for the Commission that the interest is not so substantial as to be likely to affect the integrity of the services that the Commission may expect from the member. The written determination shall specify the rationale and any evidence or support for the decision, identify steps, if any, that should be taken to mitigate any conflict of interest, and be available to the public.

"(3) ANNUAL DISCLOSURES.—Once each calendar year, each member shall make full disclosure of financial interests, in a manner to be determined by the designated agency ethics official for the Commission.

"(4) TRAINING.—Once each calendar year, each member shall undergo disclosure of financial interests training, as prescribed by the designated agency ethics official for the Commission.

"(5) CLARIFICATION.—A member of the Commission may continue to participate personally or substantially, through decision, approval, or disapproval on the focus of applications to be considered but not on individual applications where a conflict of interest exists.

"(6) VIOLATION.—Any person that violates this subsection shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

"SEC. 304. DUTIES OF THE COMMISSION.

"(a) WORK PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 21, 1998] and annually thereafter, the Commission shall develop a proposed work plan for Alaska that meets the requirements of paragraph (2) and submit that plan to the Federal Cochairperson for review in accordance with the requirements of subsection (b).

"(2) WORK PLAN.—In developing the work plan, the Commission shall—

"(A) solicit project proposals from local governments and other entities and organizations; and

"(B) provide for a comprehensive work plan for rural and infrastructure development and necessary job training in the area covered under the work plan.

"(3) REPORT.—Upon completion of a work plan under this subsection, the Commission shall prepare, and submit to the Secretary, the Federal Cochairperson, and the Director of the Office of Management and Budget, a report that outlines the work plan and contains recommendations for funding priorities.

"(b) REVIEW BY FEDERAL COCHAIRPERSON.—

"(1) IN GENERAL.—Upon receiving a work plan under this section, the Secretary, acting through the Federal Cochairperson, shall publish the work plan in the Federal Register, with notice and an opportunity for public comment. The period for public review and comment shall be the 30-day period beginning on the date of publication of that notice.

"(2) CRITERIA FOR REVIEW.—In conducting a review under paragraph (1), the Secretary, acting through the Federal Cochairperson, shall—

"(A) take into consideration the information, views, and comments received from interested parties through the public review and comment process specified in paragraph (1); and

"(B) consult with appropriate Federal officials in Alaska including but not limited to Bureau of Indian Affairs, Economic Development Administration, and Rural Development Administration.

"(3) APPROVAL.—Not later than 30 days after the end of the period specified in paragraph (1), the Secretary acting through the Federal Cochairperson, shall—

"(A) approve, disapprove, or partially approve the work plan that is the subject of the review; and

"(B) issue to the Commission a notice of the approval, disapproval, or partial approval that—

"(i) specifies the reasons for disapproving any portion of the work plan; and

"(ii) if applicable, includes recommendations for revisions to the work plan to make the plan subject to approval.

"(4) REVIEW OF DISAPPROVAL OR PARTIAL APPROVAL.—If the Secretary, acting through the Federal Cochairperson, disapproves or partially approves a work plan, the Federal Cochairperson shall submit that work plan to the Commission for review and revision.

"SEC. 305. POWERS OF THE COMMISSION.

"(a) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as it considers necessary to carry out the provisions of this Act [probably means this title]. Upon request of the Federal Cochairperson of the Commission, the head of such department or agency shall furnish such information to the Commission. Agencies must provide the Commission with the requested information in a timely manner. Agencies are not required to provide the Commission any information that is exempt from disclosure by the Freedom of Information Act [5 U.S.C. 552]. Agenices [sic] may, upon request by the Commission, make services and personnel available to the Commission to carry out the duties of the Commission. To the maximum extent practicable, the Commission shall contract for completion of necesssary [sic] work utilizing local firms and labor to minimize costs.

"(b) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(c) GIFTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on behalf of the United States, may accept[,] use, and dispose of gifts or donations of services, property, or money for purposes of carrying out this Act [probably means this title].

"(2) CONDITIONAL.—With respect to conditional gifts—

"(A)(i) the Commission, on behalf of the United States, may accept conditional gifts for purposes of carrying out this Act [probably means this title], if approved by the Federal Cochairperson; and

"(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

"(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by the gift unless the expenditure has been approved by Act of

Congress.

"(d) The Commission, acting through the Federal Cochairperson, is authorized to enter into contracts and cooperative agreements, award grants, enter into leases (including the lease of office space for any term), and make payments necessary to carry out the purposes of the Commission. With respect to funds appropriated to the Commission for fiscal year 1999, the Commission, acting through the Federal Cochairperson, is authorized to enter into contracts and cooperative agreements, award grants, and make payments to implement an interim work plan for fiscal year 1999 approved by the Commission.

"(e) USE OF FUNDS TOWARD NON-FEDERAL SHARE OF CERTAIN PROJECTS.—Notwithstanding any other provision of law regarding payment of a non-Federal share in connection with a grant-in-aid program, the Commission may use amounts made available to the Commission for the payment of such a non-Federal share for programs undertaken to carry out the purposes of the Commission.

"SEC. 306. COMMISSION PERSONNEL MATTERS.

"(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during the time such member is engaged in the performance of the duties of the Commission. The Federal Cochairperson shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. All members of the Commission who are officers or employees of the United States shall serve without compensation that is in addition to that received for their services as officers or employees of the United States.

"(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(c) STAFF.—

"(1) IN GENERAL.—The Federal Cochairperson of the Commission may, without regard to the civil service laws and regulations, appoint such personnel as may be necessary to enable the Commission to perform its duties.

"(2) COMPENSATION.—The Federal Cochairperson of the Commission may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

"(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Federal Cochairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(f) OFFICES.—The principal office of the Commission shall be located in Alaska, at a location that the Commission shall select.

"(g) ADMINISTRATIVE EXPENSES AND RECORDS.—The Commission is hereby prohibited from using more than 5 percent of the amounts appropriated under the authority of this Act [probably means this title] or transferred pursuant to section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of this Act) [43 U.S.C. 1653 note] for administrative expenses. The Commission and its grantees shall maintain accurate and complete records which shall be available for audit and examination by the Comptroller General or his or her designee.

"(h) INSPECTOR GENERAL.—[Amended section 8G of the Inspector General Act, 5 U.S.C. App.]

"SEC. 307. SPECIAL FUNCTIONS.

"(a) BULK FUELS.—Funds transferred to the Commission pursuant to section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of this Act) [43 U.S.C. 1653 note] shall be available without further appropriation and until expended. The Commission, in consultation with the Commandant of the Coast Guard, shall develop a plan to provide for the repair or replacement of bulk fuel storage tanks in Alaska that are not in compliance with applicable—

"(1) Federal law, including the Oil Pollution Act of 1990 (104 Stat. 484) [33 U.S.C. 2701 et seq.]; or

"(2) State law.

"(b) DEMONSTRATION HEALTH PROJECTS.—In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health and Human Services

is authorized to make interagency transfers to the Denali Commission to plan, construct, and equip demonstration health, nutrition, and child care projects, including hospitals, health care clinics, and mental health facilities (including drug and alcohol treatment centers) in accordance with the Work Plan referred to under section 304 of Title III—Denali Commission of Division C—Other Matters of Public Law 105–277. No grant for construction or equipment of a demonstration project shall exceed 50 percentum of such costs, unless the project is located in a severely economically distressed community, as identified in the Work Plan referred to under section 304 of Title III—Denali Commission of Division C—Other Matters of Public Law 105–277, in which case no grant shall exceed 80 percentum of such costs. To carry out this section, there is authorized to be appropriated such sums as may be necessary.

"(c) SOLID WASTE.—The Secretary of Agriculture is authorized to make direct lump sum payments, including interagency transfers, which shall remain available until expended to the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

"(d) DOCKS, WATERFRONT TRANSPORTATION DEVELOPMENT, AND RELATED INFRASTRUCTURE PROJECTS.—The Secretary of Transportation is authorized to make direct lump sum payments to the Commission to construct docks, waterfront development projects, and related transportation infrastructure, provided the local community provides a ten percent non-Federal match in the form of any necessary land or planning and design funds. To carry out this section, there is authorized to be appropriated such sums as may be necessary.

"SEC. 308. EXEMPTION FROM CHAPTER 10 OF TITLE 5, UNITED STATES CODE.

"Chapter 10 of title 5, United States Code, shall not apply to the Commission.

"SEC. 309. DENALI ACCESS SYSTEM PROGRAM.

"(a) ESTABLISHMENT OF THE DENALI ACCESS SYSTEM PROGRAM.—Not later than 3 months after the date of enactment of the SAFETEA–LU [Aug. 10, 2005], the Secretary of Transportation shall establish a program to pay the costs of planning, designing, engineering, and constructing road and other surface transportation infrastructure identified for the Denali access system program under this section.

"(b) DENALI ACCESS SYSTEM PROGRAM ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of the SAFETEA–LU [Aug. 10, 2005], the Denali Commission shall establish a Denali Access System Program Advisory Committee (referred to in this section as the 'advisory committee').

"(2) MEMBERSHIP.—The advisory committee shall be composed of nine members to be appointed by the Governor of the State of Alaska as follows:

"(A) The chairman of the Denali Commission.

"(B) Four members who represent existing regional native corporations, native nonprofit entities, or tribal governments, including one member who is a civil engineer.

"(C) Four members who represent rural Alaska regions or villages, including one member who is a civil engineer.

"(3) TERMS.—

"(A) IN GENERAL.—Except for the chairman of the Commission who shall remain a member of the advisory committee, members shall be appointed to serve a term of 4 years.

"(B) INITIAL MEMBERS.—Except for the chairman of the Commission, of the eight initial members appointed to the advisory committee, two shall be appointed for a term of 1 year, two shall be appointed for a term of 2 years, two shall be appointed for a term of 3 years, and two shall be appointed for a term of 4 years. All subsequent appointments shall be for 4 years.

"(4) RESPONSIBILITIES.—The advisory committee shall be responsible for the following activities:

"(A) Advising the Commission on the surface transportation needs of Alaska Native villages and rural communities, including projects for the construction of essential access routes within remote Alaska Native villages and rural communities and for the construction of roads and facilities necessary to connect isolated rural communities to a road system.

"(B) Advising the Commission on considerations for coordinatedtransportation [sic] planning among the Alaska Native villages, Alaska rural villages, the State of Alaska, and other government entities.

"(C) Establishing a list of transportation priorities for Alaska Native village and rural community transportation projects on an annual basis, including funding recommendations.

"(D) Facilitate the Commission's work on transportation projects involving more than one region.

"(5) CHAPTER 10 OF TITLE 5, UNITED STATES CODE, EXEMPTION.—The provisions of chapter 10 of title 5, United States Code, shall not apply to the advisory committee.

"(c) ALLOCATION OF FUNDS.—

"(1) IN GENERAL.—The Secretary of Transportation shall allocate funding authorized and made available for the Denali access system program to the Commission to carry out this section.

"(2) DISTRIBUTION OF FUNDING.—In distributing funds for surface transportation projects funded under the program, the Commission shall consult the list of transportation priorities developed by the advisory committee.

"(d) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—To construct a project under this section, the Commission shall encourage, to the maximum extent practicable, the use of employees and businesses that are residents of Alaska.

"(e) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate given the location and the functionality of the project.

"(f) MAINTENANCE.—Funding for a construction project under this section may include an additional amount equal to not more than 10 percent of the total cost of construction, to be retained for future maintenance of the project. All such retained funds shall be dedicated for maintenance of the project and may not be used for other purposes.

"(g) LEAD AGENCY DESIGNATION.—For purposes of projects carried out under this section, the Commission shall be designated as the lead agency for purposes of accepting Federal funds and for purposes of carrying out this project.

"(h) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, funds made available to carry out this section may be used to meet the non-Federal share of the cost of projects under title 23, United States Code.

"(i) SURFACE TRANSPORTATION PROGRAM TRANSFERABILITY.—

"(1) TRANSFERABILITY.—In any fiscal year, up to 15 percent of the amounts made available to the State of Alaska for surface transportation by [former] section 133 of title 23, United States Code, may be transferred to the Denali access system program.

"(2) NO EFFECT ON SET-ASIDE.—Paragraph (2) of section 133(d) [of title 23], United States Code, shall not apply to funds transferred under paragraph (1).

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2006 through 2009.

"(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of any project carried out using such funds shall be determined in accordance with section 120(b).

"SEC. 310. (a) The Federal Co-chairman of the Denali Commission shall appoint an Economic Development Committee to be chaired by the president of the Alaska Federation of Natives which shall include the Commissioner of Community and Economic Affairs for the State of Alaska, a representative from the Alaska Bankers Association, the chairman of the Alaska Permanent Fund, a representative from the Alaska State Chamber of Commerce, and a representative from each region. Of the regional representatives, at least two each shall be from Native regional corporations, Native non-profit corporations, tribes, and borough governments.

"(b) The Economic Development Committee is authorized to consider and approve applications from Regional Advisory Committees for grants and loans to promote economic development and promote private sector investment to reduce poverty in economically distressed rural villages. The Economic Development Committee may make mini-grants to individual applicants and may issue loans under such terms and conditions as it determines.

"(c) The State Co-chairman of the Denali Commission shall appoint a Regional Advisory Committee for each region which may include representatives from local, borough, and tribal governments, the Alaska Native non-profit corporation operating in the region, local Chambers of Commerce, and representatives of the private sector. Each Regional Advisory Committee shall develop a regional economic development plan for consideration by the Economic Development Committee.

"(d) The Economic Development Committee, in consultation with the First Alaskans Institute, may develop rural development performance measures linking economic growth to poverty reduction to measure the success of its program which may include economic, educational, social, and cultural indicators. The performance measures will be tested in one region for 2 years and evaluated by the University of Alaska before being deployed statewide. Thereafter, performance in each region shall be evaluated using the

performance measures, and the Economic Development Committee shall not fund projects which do not demonstrate success.

"(e) Within the amounts made available annually to the Denali Commission for training, the Commission may make a grant to the First Alaskans Foundation upon submittal of an acceptable work plan to assist Alaska Natives and other rural residents in acquiring the skills and training necessary to participate fully in private sector business and economic and development opportunities through fellowships, scholarships, internships, public service programs, and other leadership initiatives.

"(f) The Committee shall sponsor a statewide economic development summit in consultation with the World Bank to evaluate the best practices for economic development worldwide and how they can be incorporated into regional economic development plans.

"(g) There is authorized to be appropriated such sums as may be necessary to the following agencies which shall be transferred to the Denali Commission as a direct lump sum payment to implement this section—

"(1) Department of Commerce, Economic Development Administration,

"(2) Department of Housing and Urban Development,

"(3) Department of the Interior, Bureau of Indian Affairs,

"(4) Department of Agriculture, Rural Development Administration, and

"(5) Small Business Administration.

"SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.

"(a) IN GENERAL.—Subject to subsection (c), for purposes of this Act [probably means this title], the Commission may accept transfers of funds from other Federal agencies.

"(b) TRANSFERS.—Any Federal agency authorized to carry out an activity that is within the authority of the Commission may transfer to the Commission any appropriated funds for the activity.

"(c) TREATMENT.—Any funds transferred to the Commission under this subsection—

"(1) shall remain available until expended;

"(2) may, to the extent necessary to carry out this Act [probably means this title], be transferred to, and merged with, the amounts made available by appropriations Acts for the Commission by the Federal Cochairperson; and

"(3) notwithstanding any other provision of law, shall—

"(A) be treated as if directly appropriated to the Commission and subject to applicable provisions of this Act; and

"(B) not be subject to any requirements that applied to the funds before the transfer, including a requirement in an appropriations Act or a requirement or regulation of the Federal agency from which the funds are transferred.

"SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Commission to carry out the duties of the Commission consistent with the purposes of this title and pursuant to the work plan approved under section 304, $35,000,000 for each of fiscal years 2025 through 2029.

"(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available until expended."

[Pub. L. 114–322, title IV, §5002(b)(2), Dec. 16, 2016, 130 Stat. 1886, which renumbered section 310 of Pub. L. 105–277, relating to authorization of appropriations, as 312, was executed by renumbering the section and transferring it so as to appear after section 311, to reflect the probable intent of Congress.]

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Pub. L. 100–460, title II, Oct. 1, 1988, 102 Stat. 2246, as amended by Pub. L. 106–554, §1(a)(4) [div. B, title I, §153(a), title V, §504], Dec. 21, 2000, 114 Stat. 2763, 2763A–252, 2763A–281; Pub. L. 107–171, title VI, §6027(j), May 13, 2002, 116 Stat. 374; Pub. L. 110–234, title VI, §6025(c), May 22, 2008, 122 Stat. 1177; Pub. L. 110–246, §4(a), title VI, §6025(c), June 18, 2008, 122 Stat. 1664, 1939; Pub. L. 118–272, div. B, title II, §2253(f), Jan. 4, 2025, 138 Stat. 3213, incorporated by reference and made a part of that public law the provisions of S. 2836, the Delta Development Act, as introduced in the Senate on Sept. 27, 1988, which provided for establishment of Lower Mississippi Delta Development Commission to study and make recommendations regarding economic needs and development of Lower Mississippi Delta region, set forth

membership, compensation, powers, and administrative provisions for Commission, required submission to Congress, President, and Governors of certain States of interim and final reports, and provided for termination of Commission no later than two years after Oct. 1, 1988.

Prior to amendment by Pub. L. 106–554, Pub. L. 100–460 also incorporated by reference and made a part of that public law the provisions of H.R. 5378, as introduced in the House of Representatives on Sept. 26, 1988, and known as the "Lower Mississippi Delta Development Act", which contained provisions similar to those in S. 2836.

Pub. L. 101–161, title II, Nov. 21, 1989, 103 Stat. 969, extended date for submission of the Commission's interim report to Oct. 16, 1989.

PUBLIC WORKS IMPROVEMENT

Pub. L. 98–501, title I, Oct. 19, 1984, 98 Stat. 2320, known as the "Public Works Improvement Act of 1984", established the National Council on Public Works Improvement, to prepare and submit to the President and Congress reports in 1986, 1987, and 1988 on the state of the Nation's infrastructure. Pursuant to section 109 of Pub. L. 98–501, the Council ceased to exist on Apr. 15, 1988.

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Pub. L. 94–487, title II, Oct. 12, 1976, 90 Stat. 2339, 2340, as amended by Pub. L. 95–31, title II, §§201, 202, May 23, 1977, 91 Stat. 170, provided for calling of a White House Conference on Balanced National Growth and Economic Development within 18 months of Oct. 12, 1976, set forth powers, functions, membership, etc., of Conference, and required submission to President of a final report within 180 days after calling of Conference, with President to forward recommendations to Congress within 90 days after submission of report.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11386

Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, which related to coordination of activities of regional commissions and Federal Government relating to regional economic development and which established Federal Advisory Council on Regional Economic Development, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 11422

Ex. Ord. No. 11422, Aug. 15, 1968, 33 F.R. 11739, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which related to Cooperative Area Manpower Planning System, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 11493

Ex. Ord. No. 11493, Nov. 13, 1969, 34 F.R. 18289, which created Council for Rural Affairs to advise President with respect to further development of non-metropolitan areas of country, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237. Council terminated and its functions transferred to Domestic Council by section 2(b) of Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, set out as a note under section 501 of Title 31, Money and Finance.

EX. ORD. NO. 13122. INTERAGENCY TASK FORCE ON THE ECONOMIC DEVELOPMENT OF THE SOUTHWEST BORDER

Ex. Ord. No. 13122, May 25, 1999, 64 F.R. 29201, as amended by Ex. Ord. No. 13284, §6, Jan. 23, 2003, 68 F.R. 4075, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide a more rapid and integrated Federal response to the economic development challenges of the Southwest Border region, it is hereby ordered as follows:

SECTION 1. *Establishment of an Interagency Task Force on the Economic Development of the Southwest Border*. (a) There is established the "Interagency Task Force on the Economic Development of the Southwest Border" (Task Force) that reports to the Vice President, as Chair of the President's Community Empowerment Board (PCEB), and to the Assistant to the President for Economic Policy, as Vice Chair of the PCEB.

(b) The Task Force shall comprise the Secretary of State, Secretary of Agriculture, Secretary of Commerce, Secretary of Defense, the Attorney General, Secretary of the Interior, Secretary of Education, Secretary of

Health and Human Services, Secretary of Housing and Urban Development, Secretary of Energy, Secretary of Labor, Secretary of Transportation, Secretary of the Treasury, Secretary of Homeland Security, Director of the Office of Management and Budget, Director of National Drug Control Policy, Administrator of General Services, Administrator of the Small Business Administration, Administrator of the Environmental Protection Agency, or their designees, and such other senior executive branch officials as may be determined by the Co-Chairs of the Task Force. The Secretaries of the Treasury, Agriculture, and Labor shall Co-Chair the Task Force, rotating annually. The agency chairing the Task Force will provide administrative support for the Task Force.

(c) The purpose of the Task Force is to coordinate and better leverage existing Administration efforts for the Southwest Border, in concert with locally led efforts, in order to increase the living standards and the overall economic profile of the Southwest Border so that it may achieve the average of the Nation. Specifically, the Task Force shall:

(1) analyze the existing programs and policies of Task Force members that relate to the Southwest Border to determine what changes, modifications, and innovations should be considered;

(2) consider statistical and data analysis, research, and policy studies related to the Southwest Border;

(3) develop and recommend short-term and long-term options for promoting sustainable economic development;

(4) consult and coordinate activities with State, tribal, and local governments, community leaders, Members of Congress, the private sector, and other interested parties, paying particular attention to maintaining existing authorities of the States, tribes, and local governments, and preserving their existing working relationships with other agencies, organizations, or individuals;

(5) coordinate and collaborate on research and demonstration priorities of Task Force member agencies related to the Southwest Border;

(6) integrate Administration initiatives and programs into the design of sustainable economic development actions for the Southwest Border; and

(7) focus initial efforts on pilot communities for implementing a coordinated and expedited Federal response to local economic development and other needs.

(d) The Task Force shall issue an interim report to the Vice President by November 15, 1999. The Task Force shall issue its first annual report to the Vice President by April 15, 2000, with subsequent reports to follow yearly and a final report on April 15, 2002. The reports shall describe the actions taken by, and progress of, each member of the Task Force in carrying out this order. The Task Force shall terminate 30 days after submitting its final report unless a Task Force consensus recommends continuation of activities.

SEC. 2. *Specific Activities by Task Force Members and Other Agencies*. The agencies represented on the Task Force shall work together and report their actions and progress in carrying out this order to the Task Force Chair 1 month before the reports are due to the Vice President under section 1(d) of this order.

SEC. 3. *Cooperation*. All efforts taken by agencies under sections 1 and 2 of this order shall, as appropriate, further partnerships and cooperation with organizations that represent the Southwest Border and with State and local governments.

SEC. 4. *(a) "Agency" means an executive agency as defined in 5 U.S.C. 105.*

(b) The "Southwest Border" or "Southwest Border region" is defined as including the areas up to 150 miles north of the United States-Mexican border in the States of Arizona, New Mexico, Texas, and California.

SEC. 5. *Judicial Review*. This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

EX. ORD. NO. 14145. HELPING LEFT-BEHIND COMMUNITIES MAKE A COMEBACK

Ex. Ord. No. 14145, Jan. 19, 2025, 90 F.R. 8105, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. Well-designed programs that support local and Tribal leaders in left-behind communities can lead to stronger economic outcomes, strengthen regional assets, and reduce regional inequality. It is the policy of my Administration to take a whole-of-government approach to defining, coordinating, and increasing the accessibility of existing and future programs that help left-behind communities.

SEC. 2. *Definitions*. For purposes of this order:

(a) The term "covered communities" means:

(i) municipalities or other local areas within an economically distressed region;

(ii) communities in Community Disaster Resiliency Zones;

(iii) regions served by any of the following Federal programs: the Energy Communities Interagency

Working Group Priority Energy Communities, the Economic Development Administration Regional Technology and Innovation Hubs, the National Science Foundation Regional Innovation Engines, the Department of Housing and Urban Development Distressed Cities and Persistent Poverty Technical Assistance Program, or the Economic Development Administration Recompete Pilot Program; or

(iv) rural communities identified by the Secretary of Agriculture and Administrator of the Environmental Protection Agency.

(b) "Economically distressed region" means a region described by section 301 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161), section 29(j) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3722b(j)(1)), or 49 U.S.C. 6702(a)(1), or that meets the definition of "persistent poverty county" in section 736 of Division A of Public Law 117–328 [136 Stat. 4503].

(c) "Implementing agencies" means the Department of the Treasury, the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of Transportation, the Department of Energy, the Department of Homeland Security, the Environmental Protection Agency, and the Small Business Administration.

(d) "Place-based economic development" means policies and programs administered by the Federal Government that target defined regions, including Tribal lands, and use a coordinated approach that represents the interests of community members and community-based organizations in covered communities to:

(i) improve physical infrastructure;

(ii) support workforce development to fill locally and regionally demanded well-paying jobs;

(iii) connect regions to new economic opportunities;

(iv) increase the capacity of unions, labor organizations, community organizations, and the general public to negotiate legally binding agreements with investors, project developers, and companies to deliver locally defined benefits to local communities;

(v) increase research and development capacity to accelerate local and regional innovation; or

(vi) strengthen rural, Tribal and community systems.

SEC. 3. *Strengthening Federal Collaboration on Economic Development*. (a) The Secretary of Commerce, acting through the Assistant Secretary for Economic Development and in consultation with the Assistant to the President for Economic Policy, shall, where appropriate and consistent with applicable law, coordinate Federal investments with implementing agencies and develop and implement policy recommendations, including on meaningful community engagement, related to place-based economic development focused on covered communities.

(b) Within 1 year of the date of this order [Jan. 19, 2025], consistent with applicable law, including section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3133), the Secretary of Commerce, through the Assistant Secretary for Economic Development, shall work with implementing agencies to:

(i) improve the quality, frequency, and accessibility of engagement with State, Tribal, territorial, local, and non-profit organizations in covered communities;

(ii) support localized, community economic development that helps generate private investments that benefit left-behind communities, such as workforce training, resilient physical infrastructure, affordable energy, civic infrastructure, affordable housing, childcare, and transportation;

(iii) develop an interagency technical assistance network in local geographies to enable interested communities and organizations to access information and resources from across the Federal Government through a single point of entry; and

(v) identify geographies served by overlapping Federal place-based economic development programs to facilitate coordination of funding opportunities and post-award implementation, consistent with applicable law.

(c) Implementing agencies shall, to the extent appropriate and consistent with applicable law, include in forthcoming funding opportunities requirements, application evaluation factors, or incentives that provide a preference for applications from entities in and serving covered communities.

SEC. 4. *Supporting Award Access in Economically Distressed Regions*. (a) Implementing agencies shall, to the extent consistent with applicable law, assist potential grant applicants, including in economically distressed regions, in understanding and applying for Federal grants. Implementing agencies' activities may include:

(i) conducting proactive engagement with communities and organizations to promote opportunities for Federal assistance;

(ii) providing guidance and technical assistance to applicants; and

(iii) identifying resources across the agencies' technical assistance programs and offices for support.

(b) Within 1 year of the date of this order, implementing agencies shall, to the extent consistent with applicable law, consider signing a memorandum of agreement to exchange information, tools, and leading practices to ensure applicants to under-resourced programs are made aware of, and may be considered for, similar programs at other agencies.

SEC. 5. *Promoting Disaster Resilience and Long-Term Economic Development Post-Disaster*. In coordination with the Secretary of Commerce, implementing agencies that have field offices in economically distressed regions or Community Disaster Resilience Zones that have received a major disaster declaration within the past 3 years shall, as appropriate and consistent with applicable law:

(a) seek input from local organizations on needs for and barriers to long-term economic resilience;

(b) identify funding opportunities to address long-term economic development and infrastructure needs; and

(c) provide targeted support for navigating the application process for funding opportunities.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§3122. Definitions

In this chapter:

(1) Blue economy

The term "blue economy" means the sustainable use of marine, lake, or other aquatic resources in support of economic development objectives.

(2) Capacity building

The term "capacity building" includes all activities associated with early stage community-based project formation and conceptualization, prior to project predevelopment activity, including grants to local community organizations for planning participation, community outreach and engagement activities, research, and mentorship support to move projects from formation and conceptualization to project predevelopment.

(3) Comprehensive economic development strategy

The term "comprehensive economic development strategy" means a comprehensive economic development strategy approved by the Secretary under section 3162 of this title.

(4) Department

The term "Department" means the Department of Commerce.

(5) Economic development district

(A) In general

The term "economic development district" means any area in the United States that—

(i) is composed of areas described in section 3161(a) of this title and, to the extent determined appropriate by the Secretary, neighboring counties or communities; and

(ii) has been designated by the Secretary as an economic development district under section 3171 of this title.

(B) Inclusion

The term "economic development district" includes any economic development district designated by the Secretary under section 3173 of this title (as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998).

(6) Eligible recipient

(A) In general

The term "eligible recipient" means—

(i) an economic development district;

(ii) an Indian tribe;

(iii) a State;

(iv) a city or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions;

(v) an institution of higher education or a consortium of institutions of higher education;

(vi) a public or private nonprofit organization or association acting in cooperation with officials of a political subdivision of a State;

(vii) an economic development organization; or

(viii) a public-private partnership for public infrastructure.

(B) Training, research, and technical assistance grants

In the case of grants under section 3147 of this title, the term "eligible recipient" also includes private individuals and for-profit organizations.

(7) Federal agency

The term "Federal agency" means a department, agency, or instrumentality of the United States.

(8) Grant

The term "grant" includes a cooperative agreement (within the meaning of chapter 63 of title 31).

(9) Indian tribe

The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or Regional Corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) Outdoor recreation

The term "outdoor recreation" means all recreational activities, and the economic drivers of those activities, that occur in nature-based environments outdoors.

(11) Project predevelopment

The term "project predevelopment" means a measure required to be completed before the initiation of a project, including—

(A) planning and community asset mapping;

(B) training;

(C) technical assistance and organizational development;

(D) feasibility and market studies;

(E) demonstration projects; and

(F) other predevelopment activities determined by the Secretary to be appropriate.

(12) Regional Commission

The term "Regional Commission" means any of the following:

(A) The Appalachian Regional Commission established by section 14301(a) of title 40.

(B) The Delta Regional Authority established by section 2009aa–1(a)(1) of title 7.

(C) The Denali Commission established by section 303(a) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(D) The Great Lakes Authority established by section 15301(a)(4) of title 40.

(E) The Mid-Atlantic Regional Commission established by section 15301(a)(5) of title 40.

(F) The Northern Border Regional Commission established by section 15301(a)(3) of title 40.

(G) The Northern Great Plains Regional Authority established by section 2009bb–1(a)(1) of title 7.

(H) The Southeast Crescent Regional Commission established by section 15301(a)(1) of title 40.

(I) The Southern New England Regional Commission established by section 15301(a)(6) of title 40.

(J) The Southwest Border Regional Commission established by section 15301(a)(2) of title 40.

(13) Secretary

The term "Secretary" means the Secretary of Commerce.

(14) State

The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(15) Travel and tourism

The term "travel and tourism" means any economic activity that primarily serves to encourage recreational or business travel in or to the United States, including activities relating to public or nonprofit entertainment venues in the United States.

(16) United States

The term "United States" means all of the States.

(17) University center

The term "university center" means an institution of higher education or a consortium of institutions of higher education established under section 3147(c)(1) of this title.

(Pub. L. 89–136, §3, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3599; amended Pub. L. 108–373, title I, §102, Oct. 27, 2004, 118 Stat. 1758; Pub. L. 118–272, div. B, title II, §2211(a), Jan. 4, 2025, 138 Stat. 3177.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3173 of this title (as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998), referred to in par. (5)(B), means section 3173 of this title prior to its repeal by Pub. L. 105–393, §102(a). See Prior Provisions note set out under section 3173 of this title and section 105 of Pub. L. 105–393, set out as an Effective Date note under section 3121 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (9), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 3122, Pub. L. 91–524, title IX, §901, Nov. 30, 1970, 84 Stat. 1383; Pub. L. 92–419, title VI, §601, Aug. 30, 1972, 86 Stat. 674; Pub. L. 94–273, §7(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 96–355, §6, Sept. 24, 1980, 94 Stat. 1174, which related to priority to be given to revitalization and development of rural areas, was transferred to section 2204b–1 of Title 7, Agriculture.

AMENDMENTS

2025—Pars. (1), (2). Pub. L. 118–272, §2211(a)(2), added pars. (1) and (2). Former pars. (1) and (2) redesignated (3) and (4), respectively.

Pars. (3) to (5). Pub. L. 118–272, §2211(a)(1), redesignated pars. (1) to (3) as (3) to (5), respectively. Former pars. (4) and (5) redesignated (6) and (7), respectively.

Par. (5)(A)(i). Pub. L. 118–272, §2211(a)(3), substituted "to the extent determined appropriate by the

Secretary" for "to the extent appropriate".

Par. (6). Pub. L. 118–272, §2211(a)(1), redesignated par. (4) as (6). Former par. (6) redesignated (8).

Par. (6)(A)(vii), (viii). Pub. L. 118–272, §2211(a)(4), added cls. (vii) and (viii).

Pars. (7) to (9). Pub. L. 118–272, §2211(a)(1), redesignated pars. (5) to (7) as (7) to (9), respectively. Former pars. (8) and (9) redesignated (12) and (13), respectively.

Pars. (10), (11). Pub. L. 118–272, §2211(a)(5), added pars. (10) and (11). Former pars. (10) and (11) redesignated (14) and (16), respectively.

Par. (12). Pub. L. 118–272, §2211(a)(6), added par. (12) and struck out former par. (12), as redesignated from par. (8), which defined Regional Commissions to include Appalachian Regional Commission, Delta Regional Authority, Denali Commission, and Northern Great Plains Regional Authority.

Pub. L. 118–272, §2211(a)(1), redesignated par. (8) as (12). Former par. (12) redesignated (17).

Pars. (13), (14). Pub. L. 118–272, §2211(a)(1), redesignated pars. (9) and (10) as (13) and (14), respectively.

Par. (15). Pub. L. 118–272, §2211(a)(7), added par. (15).

Par. (16). Pub. L. 118–272, §2211(a)(1), redesignated par. (11) as (16).

Par. (17). Pub. L. 118–272, §2211(a)(1), (8), redesignated par. (12) as (17) and substituted "established under section 3147(c)(1) of this title" for "established as a University Center for Economic Development under section 3147(a)(2)(D) of this title".

2004—Par. (4)(A). Pub. L. 108–373, §102(a), redesignated cls. (ii) to (vii) as (i) to (vi), respectively, inserted ", including a special purpose unit of a State or local government engaged in economic or infrastructure development activities," after "State" in cl. (iv), and struck out cl. (i) which read as follows: "an area described in section 3161(a) of this title;".

Pars. (8) to (12). Pub. L. 108–373, §102(b), added pars. (8) and (12) and redesignated former pars. (8) to (10) as (9) to (11), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3123. Discrimination on basis of sex prohibited in federally assisted programs

No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.].

(Pub. L. 92–65, title I, §112, Aug. 5, 1971, 85 Stat. 168.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in text, is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, which is classified generally to this chapter (§3121 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Public Works and Economic Development Act of 1965 which comprises this chapter.

SUBCHAPTER I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION

§3131. Establishment of economic development partnerships

(a) In general

In providing assistance under this subchapter, the Secretary shall cooperate with States and other entities to ensure that, consistent with national objectives, Federal programs are compatible with and further the objectives of State, regional, and local economic development plans and comprehensive economic development strategies.

(b) Technical assistance

The Secretary may provide such technical assistance to States, political subdivisions of States, sub-State regional organizations (including organizations that cross State boundaries), multi-State regional organizations, and nonprofit organizations as the Secretary determines is appropriate to—

(1) alleviate economic distress;

(2) encourage and support public-private partnerships for the formation and improvement of economic development strategies that sustain and promote economic development across the United States; and

(3) promote investment in infrastructure and technological capacity to keep pace with the changing global economy.

(c) Intergovernmental review

The Secretary shall promulgate regulations to ensure that appropriate State and local government agencies have been given a reasonable opportunity to review and comment on proposed projects under this subchapter that the Secretary determines may have a significant direct impact on the economy of the area.

(d) Cooperation agreements

(1) In general

The Secretary may enter into a cooperation agreement with any 2 or more States, or an organization of any 2 or more States, in support of effective economic development.

(2) Participation

Each cooperation agreement shall provide for suitable participation by other governmental and nongovernmental entities that are representative of significant interests in and perspectives on economic development in an area.

(Pub. L. 89–136, title I, §101, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3600; amended Pub. L. 108–373, title I, §103, Oct. 27, 2004, 118 Stat. 1759.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3131, Pub. L. 89–136, title I, §101, Aug. 26, 1965, 79 Stat. 552; Pub. L. 91–123, title III, §301(1), Nov. 25, 1969, 83 Stat. 219; Pub. L. 92–65, title I, §102, Aug. 5, 1971, 85 Stat. 166; Pub. L. 94–487, title I, §103, Oct. 12, 1976, 90 Stat. 2331, authorized direct and supplementary grants, prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–373, §103(1), substituted "multi-State regional organizations, and nonprofit organizations" for "and multi-State regional organizations" in introductory provisions.

Subsec. (d)(1). Pub. L. 108–373, §103(2), struck out "adjoining" before "States" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of

this title.

§3132. Cooperation of Federal agencies

In accordance with applicable laws and subject to the availability of appropriations, each Federal agency shall exercise its powers, duties and functions, and shall cooperate with the Secretary, in such manner as will assist the Secretary in carrying out this subchapter.

(Pub. L. 89–136, title I, §102, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3601.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3132, Pub. L. 89–136, title I, §102, Aug. 26, 1965, 79 Stat. 554; Pub. L. 93–423, §2, Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94–487, title I, §104, Oct. 12, 1976, 90 Stat. 2331; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96–506, §1(1), Dec. 8, 1980, 94 Stat. 2745, authorized grants for operation of health projects, prior to repeal by Pub. L. 105–393, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3133. Coordination

(a) In general

The Secretary shall coordinate activities relating to the preparation and implementation of comprehensive economic development strategies under this chapter with Federal agencies carrying out other Federal programs, States, economic development districts, Indian tribes, and other appropriate planning and development organizations.

(b) Meetings

(1) In general

To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.

(2) Regional commissions

(A) In general

In addition to meetings described in paragraph (1), not later than 1 year after January 4, 2025, and not less frequently than every 2 years thereafter, the Secretary shall convene a meeting with the Regional Commissions in furtherance of subsection (a).

(B) Attendees

The attendees for a meeting convened under this paragraph shall consist of—

(i) the Secretary, acting through the Assistant Secretary of Commerce for Economic Development, serving as Chair;

(ii) the Federal Cochairpersons of the Regional Commissions, or their designees; and

(iii) the State Cochairpersons of the Regional Commissions, or their designees.

(C) Purpose

The purposes of a meeting convened under this paragraph shall include—

(i) to enhance coordination between the Economic Development Administration and the Regional Commissions in carrying out economic development programs;

(ii) to reduce duplication of efforts by the Economic Development Administration and the Regional Commissions in carrying out economic development programs;

(iii) to develop best practices and strategies for fostering regional economic development; and

(iv) any other purposes as determined appropriate by the Secretary.

(D) Report

Where applicable and pursuant to subparagraph (C), not later than 1 year after a meeting under this paragraph, the Secretary shall prepare and make publicly available a report detailing, at a minimum—

(i) the planned actions by the Economic Development Administration and the Regional Commissions to enhance coordination or reduce duplication of efforts and a timeline for implementing those actions; and

(ii) any best practices and strategies developed.

(Pub. L. 89–136, title I, §103, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3601; amended Pub. L. 108–373, title I, §104, Oct. 27, 2004, 118 Stat. 1759; Pub. L. 118–272, div. B, title II, §2212, Jan. 4, 2025, 138 Stat. 3178.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3133, Pub. L. 89–136, title I, §103, Aug. 26, 1965, 79 Stat. 554, set limitation on funds which could be expended in any one State, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 3134, Pub. L. 89–136, title I, §104, Aug. 26, 1965, 79 Stat. 554, related to the ineligibility of Appalachian region projects for appropriations under this subchapter, prior to repeal by Pub. L. 94–188, title I, §123, Dec. 31, 1975, 89 Stat. 1086.

Prior sections 3135 to 3137 were repealed by Pub. L. 105–393, §102(a).

Section 3135, Pub. L. 89–136, title I, §105, Aug. 26, 1965, 79 Stat. 554; Pub. L. 91–123, title III, §301(2), Nov. 25, 1969, 83 Stat. 219; Pub. L. 91–304, §1(a), July 6, 1970, 84 Stat. 375; Pub. L. 92–65, title I, §103, Aug. 5, 1971, 85 Stat. 166; Pub. L. 93–46, §1, June 18, 1973, 87 Stat. 96; Pub. L. 93–423, §1, Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94–487, title I, §105, Oct. 12, 1976, 90 Stat. 2331; Pub. L. 96–506, §1(2), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(1), Aug. 13, 1981, 95 Stat. 766, authorized appropriations to carry out this subchapter from fiscal year ending June 30, 1966, to fiscal year ending Sept. 30, 1982.

Section 3136, Pub. L. 89–136, title I, §106, Aug. 26, 1965, 79 Stat. 554; 1966 Reorg. Plan No. 2, §1(h)(3), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608; 1970 Reorg. Plan No. 3, §2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, conditioned use of financial assistance for sewer or other waste disposal facilities upon certification by Administrator of Environmental Protection Agency.

Section 3137, Pub. L. 89–136, title I, §107, as added Pub. L. 94–487, title I, §106, Oct. 12, 1976, 90 Stat. 2332, authorized increase in amount of grant for construction cost increases after grant had been made.

AMENDMENTS

2025—Subsec. (b). Pub. L. 118–272 added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations."

2004—Pub. L. 108–373 designated existing provisions as subsec. (a), inserted heading, inserted "Indian tribes," after "districts,", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

SUBCHAPTER II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

§3141. Grants for public works and economic development

(a) In general

On the application of an eligible recipient, the Secretary may make grants for—

(1) acquisition or development of land and improvements for use for a public works, public service, or development facility or for the improvement of waste management and recycling systems; and

(2) acquisition, design and engineering, construction, rehabilitation, alteration, expansion, increasing the resilience [1] or improvement of such a facility, including related machinery and equipment.

(b) Criteria for grant

The Secretary may make a grant under this section only if the Secretary determines that—

(1) the project for which the grant is applied for will, directly or indirectly—

(A) improve the opportunities, in the area where the project is or will be located, for the successful establishment, expansion, or retention,[2] of industrial or commercial plants or facilities;

(B) assist in the creation of additional long-term employment opportunities in the area; or

(C) primarily benefit the long-term unemployed and underemployed and members of low-income families;

(2) the project for which the grant is applied for will fulfill a pressing need of the area, or a part of the area, in which the project is or will be located; and

(3) the area for which the project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy.

(c) Additional considerations

In awarding grants under subsection (a) and subject to the criteria in subsection (b), the Secretary may also consider the extent to which a project would—

(1) lead to economic diversification in the area, or a part of the area, in which the project is or will be located;

(2) address and mitigate economic impacts from extreme weather events, including development of resilient infrastructure, products, and processes;

(3) benefit highly rural communities without adequate tax revenues to invest in long-term or costly infrastructure;

(4) increase access to high-speed broadband;

(5) support outdoor recreation to spur economic development, with a focus on rural communities;

(6) promote job creation or retention relative to the population of the impacted region with outsized significance;

(7) promote travel and tourism; or

(8) promote blue economy activities.

(d) Maximum assistance for each State

Not more than 15 percent of the amounts made available to carry out this section may be expended

in any 1 State.

(Pub. L. 89–136, title II, §201, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3601; amended Pub. L. 118–272, div. B, title II, §2213(a), Jan. 4, 2025, 138 Stat. 3179.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3141, Pub. L. 89–136, title II, §201, Aug. 26, 1965, 79 Stat. 554; Pub. L. 91–304, §1(b), July 6, 1970, 84 Stat. 375; Pub. L. 92–65, title I, §104, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, §2, June 18, 1973, 87 Stat. 96; Pub. L. 93–423, §4(a), Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94–487, title I, §107(a), (b), Oct. 12, 1976, 90 Stat. 2332; Pub. L. 96–506, §1(3), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(2), Aug. 13, 1981, 95 Stat. 766, authorized public works and development facility loans, prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2025—Subsec. (a)(1). Pub. L. 118–272, §2213(a)(1)(A), inserted "or for the improvement of waste management and recycling systems" after "development facility".

Subsec. (a)(2). Pub. L. 118–272, §2213(a)(1)(B), inserted "increasing the resilience" after "expansion,".

Subsec. (b)(1)(A). Pub. L. 118–272, §2213(a)(2)(A), substituted "successful establishment, expansion, or retention," for "successful establishment or expansion".

Subsec. (b)(1)(C). Pub. L. 118–272, §2213(a)(2)(B), inserted "and underemployed" after "unemployed".

Subsecs. (c), (d). Pub. L. 118–272, §2213(a)(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

[1] So in original. Probably should be followed by a comma.

[2] So in original. The comma probably should not appear.

§3142. Base closings and realignments

Notwithstanding any other provision of law, the Secretary may provide to an eligible recipient any assistance available under this subchapter for a project to be carried out on a military or Department of Energy installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

(Pub. L. 89–136, title II, §202, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3602.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3142, Pub. L. 89–136, title II, §202, Aug. 26, 1965, 79 Stat. 556; Pub. L. 93–423, §4(b), Sept. 27, 1974, 88 Stat. 1158; Pub. L. 94–487, title I, §§107(c), (d), 108, Oct. 12, 1976, 90 Stat. 2332, authorized business loans and loan guarantees, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 3142–1, Pub. L. 91–596, §28(d), Dec. 29, 1970, 84 Stat. 1618; Pub. L. 93–237, §2(c), Jan. 2, 1974, 87 Stat. 1024, which authorized loans for small business compliance with occupational safety and health standards, was omitted from the Code in view of the repeal of subchapter II of this chapter by Pub. L.

105–393.

A prior section 3142a, Pub. L. 89–298, title II, §217, Oct. 27, 1965, 79 Stat. 1088, which authorized purchase of indebtedness and loans for waterways projects, was transferred to section 2220 of Title 33, Navigation and Navigable Waters.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3143. Grants for planning and grants for administrative expenses

(a) In general

On the application of an eligible recipient, the Secretary may make grants to pay the costs of economic development planning and the administrative expenses of organizations that carry out the planning.

(b) Planning process

Planning assisted under this subchapter shall be a continuous process involving public officials and private citizens in—

(1) analyzing local economies;

(2) defining economic development goals;

(3) determining project opportunities; and

(4) formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes.

(c) Use of planning assistance

Planning assistance under this subchapter shall be used in conjunction with any other available Federal planning assistance to ensure adequate and effective planning and economical use of funds.

(d) Administrative expenses

Administrative expenses that may be paid with a grant under this section include—

(1) expenses related to carrying out the planning process described in subsection (b);

(2) expenses related to project predevelopment;

(3) expenses related to updating economic development plans to align with other applicable State, regional, or local planning efforts; and

(4) expenses related to hiring professional staff to assist communities in—

(A) project predevelopment and implementing projects and priorities included in—

(i) a comprehensive economic development strategy; or

(ii) an economic development planning grant;

(B) identifying and using other Federal, State, and Tribal economic development programs;

(C) leveraging private and philanthropic investment;

(D) preparing economic recovery plans in response to disasters; and

(E) carrying out economic development and predevelopment activities in accordance with professional economic development best practices.

(e) State plans

(1) Development

Any State plan developed with assistance under this section shall be developed, to the maximum extent practicable, cooperatively by the State, political subdivisions of the State, and the economic development districts located wholly or partially in the State.

(2) Comprehensive economic development strategy

As a condition of receipt of assistance for a State plan under this subsection, the State shall have or develop a comprehensive economic development strategy.

(3) Coordination

Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans.

(4) Comprehensive planning process

Any overall State economic development planning assisted under this section shall be a part of a comprehensive planning process that shall consider the provision of public works to—

(A) promote economic development and opportunity;

(B) foster effective transportation access;

(C) enhance and protect the environment;

(D) assist in carrying out the workforce investment strategy of a State;

(E) promote the use of technology in economic development, including access to high-speed telecommunications (including broadband);

(F) address and mitigate economic impacts of extreme weather; and

(G) balance resources through the sound management of physical development.

(5) Report to Secretary

Each State that receives assistance for the development of a plan under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

(Pub. L. 89–136, title II, §203, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3602; amended Pub. L. 108–373, title II, §201, Oct. 27, 2004, 118 Stat. 1759; Pub. L. 118–272, div. B, title II, §2214, Jan. 4, 2025, 138 Stat. 3180.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3143, Pub. L. 89–136, title II, §203, Aug. 26, 1965, 79 Stat. 558; Pub. L. 94–273, §2(25), Apr. 21, 1976, 90 Stat. 376, directed deposit of funds into Economic Development Revolving Fund, prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2025—Subsecs. (d), (e). Pub. L. 118–272, §2214(1), (2), added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (e)(4)(E). Pub. L. 118–272, §2214(3)(A), substituted "(including broadband);" for "; and".

Subsec. (e)(4)(F), (G). Pub. L. 118–272, §2214(3)(B), (C), added subpar. (F) and redesignated former subpar. (F) as (G).

2004—Subsec. (d)(1). Pub. L. 108–373, §201(1), inserted ", to the maximum extent practicable," after "shall be developed".

Subsec. (d)(3). Pub. L. 108–373, §201(2), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "On completion of a State plan developed with assistance under this section, the State shall—

"(A) certify to the Secretary that, in the development of the State plan, local and economic development district plans were considered and, to the maximum extent practicable, the State plan is consistent with the local and economic development district plans; and

"(B) identify any inconsistencies between the State plan and the local and economic development district plans and provide a justification for each inconsistency."

Subsec. (d)(4)(D) to (F). Pub. L. 108–373, §201(3), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3144. Cost sharing

(a) Federal share

Except as provided in subsection (c), the Federal share of the cost of any project carried out under this subchapter shall not exceed—

(1) 60 percent; plus

(2) an additional percent that—

(A) shall not exceed 30 percent; and

(B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.

(b) Non-Federal share

(1) In general

In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, assumptions of debt, and services.

(2) Regional Commission funds

Notwithstanding any other provision of law, any funds contributed by a Regional Commission for a project under this subchapter may be considered to be part of the non-Federal share of the costs of the project.

(c) Increase in Federal share

(1) Indian tribes

In the case of a grant to an Indian tribe for a project under this subchapter, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

(2) Certain States, political subdivisions, and nonprofit organizations

In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision or can otherwise document that no local matching funds are reasonably obtainable, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

(3) Training, research, and technical assistance

In the case of a grant provided under section 3143 or 3147 of this title, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

(4) Small communities

In the case of a grant to a political subdivision of a State (as described in section 3122(6)(A)(iv) of this title) that has a population of fewer than 10,000 residents and meets 1 or more of the eligibility criteria described in section 3161(a) of this title, the Secretary may increase the Federal share under paragraph (1) up to 100 percent of the total cost of the project.

(Pub. L. 89–136, title II, §204, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3603; amended Pub. L. 108–373, title II, §202, Oct. 27, 2004, 118 Stat. 1759; Pub. L. 118–272, div. B, title II, §2215, Jan. 4, 2025, 138 Stat. 3181.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3144, Pub. L. 89–136, title II, §204, as added Pub. L. 94–487, title I, §109, Oct. 12, 1976, 90 Stat. 2333; amended Pub. L. 96–470, title I, §201(d), Oct. 19, 1980, 94 Stat. 2241; Pub. L. 96–506, §1(4), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(3), Aug. 13, 1981, 95 Stat. 766, authorized interest free loans to carry out approved redevelopment area plans, prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2025—Subsec. (a)(1). Pub. L. 118–272, §2215(1), substituted "60" for "50".

Subsec. (b). Pub. L. 118–272, §2215(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (c)(2). Pub. L. 118–272, §2215(3)(A), inserted "or can otherwise document that no local matching funds are reasonably obtainable" after "or political subdivision".

Subsec. (c)(3). Pub. L. 118–272, §2215(3)(B), substituted "section 3143 or 3147 of this title" for "section 3147 of this title" and "project." for "project if the Secretary determines that the project funded by the grant merits, and is not feasible without, such an increase."

Subsec. (c)(4). Pub. L. 118–272, §2215(3)(C), added par. (4).

2004—Subsec. (a). Pub. L. 108–373, §202(a), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "Subject to section 3145 of this title, the amount of a grant for a project under this subchapter shall not exceed 50 percent of the cost of the project."

Subsec. (b). Pub. L. 108–373, §202(b), inserted "assumptions of debt," after "equipment,".

Subsec. (c). Pub. L. 108–373, §202(c), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3145. Supplementary grants

(a) Definition of designated Federal grant program

In this section, the term "designated Federal grant program" means any Federal grant program that—

(1) provides assistance in the construction or equipping of public works, public service, or development facilities;

(2) the Secretary designates as eligible for an allocation of funds under this section; and

(3) assists projects that are—

(A) eligible for assistance under this subchapter; and

(B) consistent with a comprehensive economic development strategy.

(b) Supplementary grants

Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.

(c) Requirements applicable to supplementary grants

(1) Amount of supplementary grants

The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 3144 of this title.

(2) Form of supplementary grants

The Secretary shall make supplementary grants by—

(A) the payment of funds made available under this chapter to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

(B) the award of funds under this chapter, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary.

(3) Federal share limitations specified in other laws

Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be used to increase the Federal share for specific projects under the program that are carried out in areas described in section 3161(a) of this title above the Federal share of the cost of the project authorized by the law governing the program.

(Pub. L. 89–136, title II, §205, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3603; amended Pub. L. 108–373, title II, §203, Oct. 27, 2004, 118 Stat. 1760.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–373, §203(a), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

"(1) IN GENERAL.—On the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the eligible recipient's economic situation, for which the eligible recipient cannot provide the required non-Federal share.

"(2) PURPOSES OF GRANTS.—Supplementary grants under paragraph (1) may be made for purposes that shall include enabling eligible recipients to use—

"(A) designated Federal grant programs; and

"(B) direct grants authorized under this subchapter."

Subsec. (c)(1), (2). Pub. L. 108–373, §203(b)(1), added pars. (1) and (2) and struck out former pars. (1) and (2), which read as follows:

"(1) AMOUNT OF SUPPLEMENTARY GRANTS.—Subject to paragraph (4), the amount of a supplementary grant under this subchapter for a project shall not exceed the applicable percentage of the cost of the project established by regulations promulgated by the Secretary, except that the non-Federal share of the cost of a project (including assumptions of debt) shall not be less than 20 percent.

"(2) FORM OF SUPPLEMENTARY GRANTS.—In accordance with such regulations as the Secretary may promulgate, the Secretary shall make supplementary grants by increasing the amounts of grants authorized under this subchapter or by the payment of funds made available under this chapter to the heads of the Federal agencies responsible for carrying out the applicable Federal programs."

Subsec. (c)(4). Pub. L. 108–373, §203(b)(2), struck out heading and text of par. (4). Text read as follows:

"(A) INDIAN TRIBES.—In the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1) or may waive the non-Federal share.

"(B) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1)."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3146. Regulations on relative needs and allocations

In promulgating rules, regulations, and procedures for assistance under this subchapter, the

Secretary shall ensure that—

(1) the relative needs of eligible areas are given adequate consideration by the Secretary, as determined based on, among other relevant factors—

(A) the severity of the rates of unemployment in the eligible areas and the duration of the unemployment;

(B) the per capita income levels, the labor force participation rate, and the extent of underemployment in eligible areas; and

(C) the outmigration of population from eligible areas and the extent to which the outmigration is causing economic injury in the eligible areas;

(2) allocations of assistance under this subchapter are prioritized to ensure that the level of economic distress of an area, rather than a preference for a geographic area or a specific type of economic distress, is the primary factor in allocating the assistance;

(3)(A) rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this subchapter;

(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this subchapter from public works in, or economic development of, rural or urban economically distressed areas; and

(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and

(4) grants made under this subchapter promote job creation and retention and will have a high probability of meeting or exceeding applicable performance requirements established in connection with the grants.

(Pub. L. 89–136, title II, §206, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3604; amended Pub. L. 108–373, title II, §204, Oct. 27, 2004, 118 Stat. 1761; Pub. L. 118–272, div. B, title II, §2216, Jan. 4, 2025, 138 Stat. 3181.)

EDITORIAL NOTES

AMENDMENTS

2025—Par. (1)(B). Pub. L. 118–272, §2216(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "the income levels and the extent of underemployment in eligible areas; and".

Par. (4). Pub. L. 118–272, §2216(2), inserted "and retention" after "creation".

2004—Pars. (3), (4). Pub. L. 108–373 added pars. (3) and (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3147. Grants for training, research, and technical assistance

(a) In general

(1) Grants

On the application of an eligible recipient, the Secretary may make grants for training, research, and technical assistance, including grants for program evaluation and economic impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment.

(2) Types of assistance

Grants under paragraph (1) may be used for—

(A) project planning, project predevelopment, and feasibility studies;

(B) demonstrations of innovative activities or strategic economic development investments;

(C) management and operational assistance;

(D) establishment of university centers;

(E) establishment of business outreach centers;

(F) studies evaluating the needs of, and development potential for, economic growth of areas that the Secretary determines have substantial need for the assistance;

(G) studies that evaluate the effectiveness of coordinating projects funded under this chapter with projects funded under other Acts;

(H) assessment, marketing, and establishment of business clusters; and

(I) other activities determined by the Secretary to be appropriate.

(3) Cooperation requirement

In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3122(6)(A)(vi) of this title requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.

(b) Methods of provision of assistance

In providing research and technical assistance under this section, the Secretary, in addition to making grants under subsection (a), may—

(1) provide research and technical assistance through officers or employees of the Department;

(2) pay funds made available to carry out this section to Federal agencies; or

(3) employ private individuals, partnerships, businesses, corporations, or appropriate institutions under contracts entered into for that purpose.

(c) University centers

(1) Establishment

In accordance with subsection (a)(2)(D), the Secretary may make grants to institutions of higher education to serve as university centers.

(2) Geographic coverage

The Secretary shall ensure that the network of university centers established under this subsection provides services in each State.

(3) Duties

To the maximum extent practicable, a university center established under this subsection shall—

(A) collaborate with other university centers;

(B) collaborate with economic development districts and other relevant Federal economic development technical assistance and service providers to provide expertise and technical assistance to develop, implement, and support comprehensive economic development strategies and other economic development planning at the local, regional, and State levels, with a focus on innovation, entrepreneurship, workforce development, and regional economic development;

(C) provide technical assistance, business development, and technology transfer services to businesses in the area served by the university center;

(D) establish partnerships with 1 or more commercialization intermediaries that are public or nonprofit technology transfer organizations eligible to receive a grant under section 1862s–9 of this title;

(E) promote local and regional capacity building; and

(F) provide to communities and regions assistance relating to data collection and analysis and other research relating to economic conditions and vulnerabilities that can inform economic development and adjustment strategies.

(4) Consideration

In making grants under this subsection, the Secretary shall consider—

(A) the significant role of regional public universities in supporting economic development in distressed communities through the planning and the implementation of economic development projects and initiatives; and

(B) the location of the university center in or near a distressed community.

(Pub. L. 89–136, title II, §207, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3604; amended Pub. L. 108–373, title II, §205, Oct. 27, 2004, 118 Stat. 1761; Pub. L. 118–272, div. B, title II, §§2211(b), 2217, Jan. 4, 2025, 138 Stat. 3178, 3181.)

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (a)(2)(A). Pub. L. 118–272, §2217(1), inserted ", project predevelopment," after "planning".

Subsec. (a)(3). Pub. L. 118–272, §2211(b), substituted "section 3122(4)(A)(vi) of this title" for "section 3122(6)(A)(vi) of this title".

Subsec. (c). Pub. L. 118–272, §2217(2), added subsec. (c).

2004—Subsec. (a)(2)(G) to (I). Pub. L. 108–373, §205(a), added subpars. (G) and (H) and redesignated former subpar. (G) as (I).

Subsec. (a)(3). Pub. L. 108–373, §205(b), added par. (3) and struck out heading and text of former par. (3). Text read as follows: "In the case of a project assisted under this section, the Secretary may reduce or waive the non-Federal share, without regard to section 3144 or 3145 of this title, if the Secretary finds that the project is not feasible without, and merits, such a reduction or waiver."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3148. Investment priorities

(a) In general

Subject to subsection (b), for a project to be eligible for assistance under this subchapter, the project shall be consistent with 1 or more of the following investment priorities:

(1) Critical infrastructure

Economic development planning or implementation projects that support development of public facilities, including basic public infrastructure, transportation infrastructure, or telecommunications infrastructure.

(2) Workforce

Economic development planning or implementation projects that—

(A) support job skills training to meet the hiring needs of the area in which the project is to be carried out and that result in well-paying jobs; or

(B) otherwise promote labor force participation.

(3) Innovation and entrepreneurship

Economic development planning or implementation projects that—

(A) support the development of innovation and entrepreneurship-related infrastructure;

(B) promote business development and lending; or

(C) foster the commercialization of new technologies that are creating technology-driven businesses and high-skilled, well-paying jobs of the future.

(4) Economic recovery resilience

Economic development planning or implementation projects that enhance the ability of an area to withstand and recover from adverse short-term or long-term changes in economic conditions, including effects from industry contractions or economic impacts from natural disasters.

(5) Manufacturing

Economic development planning or implementation projects that encourage job creation, business expansion, technology and capital upgrades, and productivity growth in manufacturing, including efforts that contribute to the competitiveness and growth of domestic suppliers or the domestic production of innovative, high-value products and production technologies.

(b) Conditions

If the Secretary plans to use an investment priority that is not described in subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notification that explains the basis for using that investment priority.

(c) Savings clause

Nothing in this section waives any other requirement of this chapter.

(Pub. L. 89–136, title II, §208, as added Pub. L. 118–272, div. B, title II, §2218, Jan. 4, 2025, 138 Stat. 3182.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3148, Pub. L. 89–136, title II, §208, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3605, related to prevention of unfair competition, prior to repeal by Pub. L. 108–373, title II, §206(a), Oct. 27, 2004, 118 Stat. 1761.

§3149. Grants for economic adjustment

(a) In general

On the application of an eligible recipient, the Secretary may make grants for development of public facilities, public services, business development (including funding of a revolving loan fund), planning, technical assistance, training, and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation and further the economic adjustment objectives of this subchapter.

(b) Criteria for assistance

The Secretary may provide assistance under this section only if the Secretary determines that—

(1) the project will help the area to meet a special need arising from—

(A) actual or threatened severe unemployment; or

(B) economic adjustment problems resulting from severe changes in economic conditions; and

(2) the area for which a project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy, except that this paragraph shall not apply to planning projects.

(c) Particular community assistance

Assistance under this section may include assistance provided for activities identified by communities, the economies of which are injured by—

(1) military base closures or realignments, defense contractor reductions in force, or Department of Energy defense-related funding reductions, for help in diversifying their economies through projects to be carried out on Federal Government installations or elsewhere in the communities;

(2) disasters or emergencies, in areas with respect to which a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), for post-disaster economic recovery;

(3) international trade, for help in economic restructuring of the communities;

(4) fishery failures, in areas with respect to which a determination that there is a commercial fishery failure has been made under section 1861a(a) of title 16;

(5) the loss of manufacturing, travel and tourism, natural resource-based, blue economy, or agricultural jobs, for reinvesting in and diversifying the economies of the communities;

(6) economic dislocation in the steel industry due to the closure of a steel plant, primary steel economy contraction events (including temporary layoffs and shifts to part-time work), or job losses in the steel industry or associated with the departure or contraction of the steel industry, for help in economic restructuring of the communities; or

(7) limited water for industrial consumption in areas impacted by decreased water supplies due to drought or extreme heat.

(d) Assistance to coal communities

(1) Definitions

In this subsection:

(A) Coal economy

The term "coal economy" means the complete supply chain of coal-reliant industries, including—

(i) coal mining;

(ii) coal-fired power plants;

(iii) transportation or logistics; and

(iv) manufacturing.

(B) Contraction event

The term "contraction event" means the closure of a facility or a reduction in activity relating to a coal-reliant industry, including an industry described in any of clauses (i) through (iv) of subparagraph (A).

(2) Authorization

On the application of an eligible recipient, the Secretary may make grants for projects in areas adversely impacted by a contraction event in the coal economy.

(3) Eligibility

(A) In general

In carrying out this subsection, the Secretary shall determine the eligibility of an area based on whether the eligible recipient can reasonably demonstrate that the area—

(i) has been adversely impacted by a contraction event in the coal economy within the previous 25 years; or

(ii) will be adversely impacted by a contraction event in the coal economy.

(B) Prohibition

No regulation or other policy of the Secretary may limit the eligibility of an eligible recipient for a grant under this subsection based on the date of a contraction event except as provided in subparagraph (A)(i).

(C) Demonstrating adverse impact

For the purposes of this paragraph, an eligible recipient may demonstrate an adverse impact by demonstrating—

(i) a loss in employment;

(ii) a reduction in tax revenue; or

(iii) any other factor, as determined to be appropriate by the Secretary.

(e) Assistance to nuclear host communities

(1) Definitions

In this subsection:

(A) Commission

The term "Commission" means the Nuclear Regulatory Commission.

(B) Community advisory board

The term "community advisory board" means a community committee or other advisory organization that—

(i) primarily focuses on the economic impacts of decommissioning activities; and

(ii) aims to foster communication and information exchange between a licensee planning for and involved in decommissioning activities and members of the community that decommissioning activities may affect.

(C) Decommission

The term "decommission" has the meaning given the term in section 50.2 of title 10, Code of Federal Regulations (or successor regulations).

(D) Licensee

The term "licensee" has the meaning given the term in section 50.2 of title 10, Code of Federal Regulations (or successor regulations).

(E) Nuclear host community

The term "nuclear host community" means an eligible recipient that has been economically impacted, or reasonably demonstrates to the satisfaction of the Secretary that it will be economically impacted, by a nuclear power plant licensed by the Commission that—

(i) is not co-located with an operating nuclear power plant;

(ii) is at a site with spent nuclear fuel; and

(iii) as of January 4, 2025—

(I) has ceased operations; or

(II) has provided a written notification to the Commission that it will cease operations.

(2) Authorization

On the application of an eligible recipient, the Secretary may make grants—

(A) to assist with economic development in nuclear host communities; and

(B) to fund community advisory boards in nuclear host communities.

(3) Requirement

In carrying out this subsection, to the maximum extent practicable, the Secretary shall implement the recommendations described in the report submitted to Congress under section 108 of the Nuclear Energy Innovation and Modernization Act (Public Law 115–439; 132 Stat. 5577) entitled "Best Practices for Establishment and Operation of Local Community Advisory Boards Associated with Decommissioning Activities at Nuclear Power Plants".

(4) Distribution of funds

The Secretary shall establish a methodology to ensure, to the maximum extent practicable, geographic diversity among grant recipients under this subsection.

(f) Special provisions relating to revolving loan fund grants

(1) In general

The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

(2) Efficient administration

The Secretary may—

(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

(3) Treatment of actions

An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

(4) Preservation of securities laws

(A) Not treated as exempted securities

No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

(B) Preservation

Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.

(g) Disaster mitigation

In providing assistance pursuant to subsection (c)(2), if appropriate and as applicable, the Secretary may encourage hazard mitigation in assistance provided pursuant to such subsection.

(Pub. L. 89–136, title II, §209, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3605; amended Pub. L. 108–373, title II, §207, Oct. 27, 2004, 118 Stat. 1762; Pub. L. 115–254, div. D, §1217(a), Oct. 5, 2018, 132 Stat. 3451; Pub. L. 118–272, div. B, title II, §2219, Jan. 4, 2025, 138 Stat. 3183.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Section 108 of the Nuclear Energy Innovation and Modernization Act, referred to in subsec. (e)(3), is section 108 of Pub. L. 115–439, title I, Jan. 14, 2019, 132 Stat. 5577, which is not classified to the Code.

The Securities Act of 1933, referred to in subsec. (f)(4)(A), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (f)(4)(A), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

2025—Subsec. (c)(5). Pub. L. 118–272, §2219(1)(B)(i), inserted ", travel and tourism, natural resource-based, blue economy, or agricultural" after "manufacturing".

Subsec. (c)(6), (7). Pub. L. 118–272, §2219(1)(A), (B)(ii), (C), added pars. (6) and (7).

Subsecs. (d) to (g). Pub. L. 118–272, §2219(2), (3), added subsecs. (d) and (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

2018—Subsec. (e). Pub. L. 115–254 added subsec. (e).

2004—Subsec. (c)(5). Pub. L. 108–373, §207(a), added par. (5).

Subsec. (d). Pub. L. 108–373, §207(b), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows:

"(1) IN GENERAL.—Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

"(2) LIMITATION.—Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3150. Changed project circumstances

In any case in which a grant (including a supplementary grant described in section 3145 of this title) has been made by the Secretary under this subchapter (or made under this chapter, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a project, and, after the grant has been made but before completion of the project, the purpose or scope of the project that was the basis of the grant is modified, the Secretary may approve, subject (except for a grant for which funds were obligated in fiscal year 1995) to the availability of appropriations, the use of grant funds for the modified project if the Secretary determines that—

(1) the modified project meets the requirements of this subchapter and is consistent with the comprehensive economic development strategy submitted as part of the application for the grant; and

(2) the modifications are necessary to enhance economic development in the area for which the project is being carried out.

(Pub. L. 89–136, title II, §210, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3606.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Economic Development Administration Reform Act of 1998, referred to in text, see section 105 of Pub. L. 105–393, set out as an Effective Date note under section 3121 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3151. Use of funds in projects constructed under projected cost

(a) In general

In the case of a grant to a recipient for a construction project under section 3141 or 3149 of this

title, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 3144 of this title; or

(2) to improve the project.

(b) Other uses of excess funds

Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this chapter.

(c) Transferred funds

In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 3214 of this title, the Secretary shall—

(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

(2) return the funds to the originating agency.

(Pub. L. 89–136, title II, §211, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3606; amended Pub. L. 108–373, title II, §208, Oct. 27, 2004, 118 Stat. 1763; Pub. L. 111–8, div. G, title I, §1301(b), Mar. 11, 2009, 123 Stat. 829; Pub. L. 111–68, div. A, title I, §1501(a), Oct. 1, 2009, 123 Stat. 2041.)

EDITORIAL NOTES

PRIOR PROVISIONS

Prior sections 3151 and 3151a were repealed by Pub. L. 105–393, §102(a).

Section 3151, Pub. L. 89–136, title III, §301, Aug. 26, 1965, 79 Stat. 558; Pub. L. 91–123, title III, §302, Nov. 25, 1969, 83 Stat. 219; Pub. L. 93–46, §3(a), June 18, 1973, 87 Stat. 96, authorized technical assistance to alleviate or prevent excessive unemployment or underemployment.

Section 3151a, Pub. L. 89–136, title III, §302, as added Pub. L. 93–423, §5(b), Sept. 27, 1974, 88 Stat. 1159; amended Pub. L. 94–487, title I, §110, Oct. 12, 1976, 90 Stat. 2333, authorized grants for economic development planning.

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–68 struck out subsec. (d). Text read as follows: "The Comptroller General of the United States shall regularly review the implementation of this section."

Pub. L. 111–8 added subsec. (d) and struck out former subsec. (d) which required the Comptroller General to review and report on the implementation of this section.

2004—Pub. L. 108–373 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "In any case in which a grant (including a supplementary grant described in section 3145 of this title) has been made by the Secretary under this subchapter (or made under this chapter, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a construction project, and, after the grant has been made but before completion of the project, the cost of the project based on the designs and specifications that was the basis of the grant has decreased because of decreases in costs—

"(1) the Secretary may approve, subject to the availability of appropriations, the use of the excess funds or a portion of the funds to improve the project; and

"(2) any amount of excess funds remaining after application of paragraph (1) shall be deposited in the general fund of the Treasury."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3152. Reports by recipients

(a) In general

Each recipient of assistance under this subchapter shall submit reports to the Secretary at such intervals and in such manner as the Secretary shall require by regulation, except that no report shall be required to be submitted more than 10 years after the date of closeout of the assistance award.

(b) Contents

Each report shall contain an evaluation of the effectiveness of the economic assistance provided under this subchapter in meeting the need that the assistance was designed to address and in meeting the objectives of this chapter.

(Pub. L. 89–136, title II, §212, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3606.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3152, Pub. L. 89–136, title III, §303, formerly §302, Aug. 26, 1965, 79 Stat. 560, amended Pub. L. 91–123, title III, §303, Nov. 25, 1969, 83 Stat. 219; Pub. L. 91–304, §1(c), July 6, 1970, 84 Stat. 375; Pub. L. 92–65, title I, §105, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, §3(b), June 18, 1973, 87 Stat. 96; renumbered §303 and amended Pub. L. 93–423, §5(a), (c), Sept. 27, 1974, 88 Stat. 1159, 1160; Pub. L. 94–487, title I, §111, Oct. 12, 1976, 90 Stat. 2334; Pub. L. 96–506, §1(5), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(4), Aug. 13, 1981, 95 Stat. 766, authorized appropriations for technical assistance and economic development planning, prior to repeal by Pub. L. 105–393, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3153. Prohibition on use of funds for attorney's and consultant's fees

Assistance made available under this subchapter shall not be used directly or indirectly for an attorney's or consultant's fee incurred in connection with obtaining grants and contracts under this subchapter.

(Pub. L. 89–136, title II, §213, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3607.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3153, Pub. L. 89–136, title III, §304, as added Pub. L. 93–423, §5(d), Sept. 27, 1974, 88 Stat. 1160; amended Pub. L. 94–487, title I, §112, Oct. 12, 1976, 90 Stat. 2334; Pub. L. 96–506, §1(6), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(5), Aug. 13, 1981, 95 Stat. 766, authorized appropriations for supplemental and basic grants and loans, prior to repeal by Pub. L. 105–393, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of

this title.

§3154. Special impact areas

(a) In general

On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 3162 of this title, the Secretary may waive, in whole or in part, the requirements of section 3162 of this title and designate the area represented by the recipient as a special impact area.

(b) Conditions

The Secretary may make a designation under subsection (a) only after determining that—

(1) the project will fulfill a pressing need of the area; and

(2) the project will—

(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

(c) Notification

At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.

(Pub. L. 89–136, title II, §214, as added Pub. L. 108–373, title II, §209(a), Oct. 27, 2004, 118 Stat. 1763.)

§3154a. Performance awards

(a) In general

The Secretary may make a performance award in connection with a grant made, on or after October 27, 2004, to an eligible recipient for a project under section 3141 or 3149 of this title.

(b) Performance measures

(1) Regulations

The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

(2) Considerations

In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

(A) whether the recipient meets or exceeds scheduling goals;

(B) whether the recipient meets or exceeds job creation goals;

(C) amounts of private sector capital investments leveraged; and

(D) such other factors as the Secretary determines to be appropriate.

(c) Amount of awards

(1) In general

The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

(2) Maximum amount

The amount of a performance award may not exceed 10 percent of the amount of the grant.

(d) Use of awards

A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this chapter, in accordance with section 3212 of this title and such regulations as the Secretary may promulgate.

(e) Federal share

Notwithstanding section 3144 of this title, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

(f) Treatment in meeting non-Federal share requirements

For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

(g) Terms and conditions

In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

(h) Funding

The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

(i) Reporting requirement

The Secretary shall include information regarding performance awards made under this section in the annual report required under section 3213 of this title.

(j) Review by Comptroller General

(1) Review

The Comptroller General shall regularly review the implementation of this section.

(2) Report

Not later than 1 year after October 27, 2004, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller on implementation of this subsection.

(Pub. L. 89–136, title II, §215, as added Pub. L. 108–373, title II, §210(a), Oct. 27, 2004, 118 Stat. 1764.)

§3154b. Planning performance awards

(a) In general

The Secretary may make a planning performance award in connection with a grant made, on or after October 27, 2004, to an eligible recipient for a project under this subchapter located in an economic development district.

(b) Eligibility

The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

(2) the project is consistent with the comprehensive economic development strategy of the district;

(3) the recipient worked with Federal, State, and local economic development entities

throughout the development of the project; and

(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

(c) Maximum amount

The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

(d) Use of awards

A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this subchapter.

(e) Federal share

Notwithstanding section 3144 of this title, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this subchapter.

(f) Funding

The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

(Pub. L. 89–136, title II, §216, as added Pub. L. 108–373, title II, §211(a), Oct. 27, 2004, 118 Stat. 1765.)

§3154c. Direct expenditure or redistribution by recipient

(a) In general

Subject to subsection (b), a recipient of a grant under section 3141, 3143, or 3147 of this title may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

(b) Limitation

A recipient may not redistribute grant funds received under section 3141 or 3143 of this title to a for-profit entity.

(c) Economic adjustment

Subject to subsection (d), a recipient of a grant under section 3149 of this title may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

(d) Limitation

Under subsection (c), a recipient may not provide any grant to a private for-profit entity.

(Pub. L. 89–136, title II, §217, as added Pub. L. 108–373, title II, §212(a), Oct. 27, 2004, 118 Stat. 1766.)

§3154d. Renewable energy program

(a) Definition of renewable energy site

In this section, the term "renewable energy site" means a brownfield site that is redeveloped through the incorporation of 1 or more renewable energy technologies, including solar, wind, geothermal, ocean, and emerging, but proven, renewable energy technologies.

(b) Establishment

On the application of an eligible recipient, the Secretary may make a grant for a project for the development of a renewable energy site if the Secretary determines that the project will—

(1) use 1 or more renewable energy technologies described in subsection (a), to develop

abandoned or contaminated sites for commercial use; and

(2) improve the commercial and economic opportunities in the area in which the project is located.

(c) Savings clause

To the extent that any portion of a grant awarded under subsection (b) involves remediation, the remediation shall be subject to section 3222 of this title.

(Pub. L. 89–136, title II, §218, as added Pub. L. 108–373, title II, §213(a), Oct. 27, 2004, 118 Stat. 1766; amended Pub. L. 118–272, div. B, title II, §2220, Jan. 4, 2025, 138 Stat. 3185.)

EDITORIAL NOTES

AMENDMENTS

2025—Pub. L. 118–272, §2220(1), substituted "Renewable energy" for "Brightfields demonstration" in section catchline.

Subsec. (a). Pub. L. 118–272, §2220(2), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "In this section, the term 'brightfield site' means a brownfield site that is redeveloped through the incorporation of 1 or more solar energy technologies."

Subsec. (b). Pub. L. 118–272, §2220(3)(A), (B), substituted "Establishment" for "Demonstration program" in heading and "renewable energy" for "brightfield" in introductory provisions.

Subsec. (b)(1). Pub. L. 118–272, §2220(3)(C), substituted "renewable energy technologies described in subsection (a)," for "solar energy technologies".

Subsec. (d). Pub. L. 118–272, §2220(4), struck out subsec. (d). Text read as follows: "There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2008, to remain available until expended."

§3154e. Workforce training grants

(a) In general

On the application of an eligible recipient, the Secretary may make grants to support the development and expansion of innovative workforce training programs through sectoral partnerships leading to quality jobs and the acquisition of equipment or construction of facilities to support workforce development activities.

(b) Eligible uses

Funds from a grant under this section may be used for—

(1) acquisition or development of land and improvements to house workforce training activities;

(2) acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related equipment and machinery;

(3) acquisition of machinery or equipment to support workforce training activities;

(4) planning, technical assistance, and training;

(5) sector partnerships development, program design, and program implementation; and

(6) in the case of an eligible recipient that is a State, subject to subsection (c), a State program to support individual trainees for employment in critical industries with high demand and vacancies necessary for further economic development of the applicable State that—

(A) requires significant post-secondary training; but

(B) does not require a post-secondary degree.

(c) State grant pilot program

(1) In general

The Secretary may award grants to States for the purpose described in subsection (b)(6).

(2) Application

To be eligible to receive a grant under this subsection, the Chief Executive of a State shall

submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, which shall include, at a minimum, the following:

(A) A method for identifying critical industry sectors driving in-State economic growth that face staffing challenges for in-demand jobs and careers.

(B) A governance structure for the implementation of the program established by the State, including defined roles for the consortia of agencies of such State, at a minimum, to include the State departments of economic development, labor, and education, or the State departments or agencies with jurisdiction over those matters.

(C) A strategy for recruiting participants from at least 1 community that meets 1 or more of the criteria described in section 3161(a) of this title.

(D) A plan for how the State will develop a tracking system for eligible programs, participant enrollment, participant outcomes, and an application portal for individual participants.

(3) Selection

The Secretary shall award not more than 1 grant under this subsection to any State.

(4) Eligible uses

A grant under this subsection may be used for—

(A) necessary costs to carry out the matters described in this subsection, including tuition and stipends for individuals that receive funds under the program established by the applicable State, subject to the requirements described in paragraph (6); and

(B) program implementation, planning, technical assistance, or training.

(5) Federal share

Notwithstanding section 3144 of this title, the Federal share of the cost of any award carried out with a grant made under this subsection shall not exceed 70 percent.

(6) Participant amounts

A State shall ensure that grant funds provided under this subsection to each individual that receives funds under the program established by the applicable State is the lesser of the following amounts:

(A) In a case in which the individual is also eligible for a Federal Pell Grant under section 1070a of title 20 for enrollment at the applicable training program for any award year of the training program, $11,000 minus the amount of the awarded Federal Pell Grant.

(B) For an individual not described in paragraph (1), the lesser of—

(i) $11,000; and

(ii) the total cost of the training program in which the individual is enrolled, including tuition, fees, career navigation services, textbook costs, expenses related to assessments and exams for certification or licensure, equipment costs, and wage stipends (in the case of a training program that is an earn-and-learn program).

(7) Termination

The authority provided under this subsection shall expire on September 30, 2029.

(d) Coordination

The Secretary shall coordinate the development of new workforce development models with the Secretary of Labor and the Secretary of Education.

(Pub. L. 89–136, title II, §219, as added Pub. L. 118–272, div. B, title II, §2221, Jan. 4, 2025, 138 Stat. 3186.)

§3154f. Congressional notification requirements

(a) In general

In the case of a project described in subsection (b), the Secretary shall provide to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and

Infrastructure of the House of Representatives notice, in accordance with subsection (c), of the award of a grant for the project not less than 3 business days before notifying an eligible recipient of their selection for that award.

(b) Projects described

A project referred to in subsection (a) is a project that the Secretary has selected to receive a grant administered by the Economic Development Administration in an amount not less than $100,000.

(c) Requirements

A notification under subsection (a) shall include—

(1) the name of the project;
(2) the name of the applicant;
(3) the region in which the project is to be carried out;
(4) the State in which the project is to be carried out;
(5) the 1 or more counties or political subdivisions in which the project is to be carried out;
(6) the number of jobs expected to be created or retained as a result of the project;
(7) the estimated date of completion of the project;
(8) the amount of the grant awarded;
(9) a description of the project; and
(10) any additional information, as determined to be appropriate by the Secretary.

(d) Public availability

The Secretary shall make a notification under subsection (a) publicly available not later than 60 days after the date on which the Secretary provides the notice.

(Pub. L. 89–136, title II, §220, as added Pub. L. 118–272, div. B, title II, §2222, Jan. 4, 2025, 138 Stat. 3187.)

§3154g. High-speed broadband deployment initiative

(a) Definitions

In this section:

(1) Broadband project

The term "broadband project" means, for the purposes of providing, extending, expanding, or improving high-speed broadband service to further the goals of this chapter—

(A) planning, technical assistance, or training;
(B) the acquisition or development of land; or
(C) the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of facilities, including related machinery, equipment, contractual rights, and intangible property.

(2) Eligible recipient

(A) In general

The term "eligible recipient" means an eligible recipient.

(B) Inclusions

The term "eligible recipient" includes—

(i) a public-private partnership; and
(ii) a consortium formed for the purpose of providing, extending, expanding, or improving high-speed broadband service between 1 or more eligible recipients and 1 or more for-profit organizations.

(3) High-speed broadband

The term "high-speed broadband" means the provision of 2-way data transmission with

sufficient downstream and upstream speeds to end users to permit effective participation in the economy and to support economic growth, as determined by the Secretary.

(b) Broadband projects

(1) In general

On the application of an eligible recipient, the Secretary may make grants under this subchapter for broadband projects, which shall be subject to the provisions of this section.

(2) Considerations

In reviewing applications submitted under paragraph (1), the Secretary shall take into consideration geographic diversity of grants provided, including consideration of underserved markets, in addition to data requested in paragraph (3).

(3) Data requested

In reviewing an application submitted under paragraph (1), the Secretary shall request from the Federal Communications Commission, the Administrator of the National Telecommunications and Information Administration, the Secretary of Agriculture, and the Appalachian Regional Commission data on—

(A) the level and extent of broadband service that exists in the area proposed to be served; and

(B) the level and extent of broadband service that will be deployed in the area proposed to be served pursuant to another Federal program.

(4) Interest in real or personal property

For any broadband project carried out by an eligible recipient that is a public-private partnership or consortium, the Secretary shall require that title to any real or personal property acquired or improved with grant funds, or if the recipient will not acquire title, another possessory interest acceptable to the Secretary, be vested in a public partner or eligible nonprofit organization or association for the useful life of the project, after which title may be transferred to any member of the public-private partnership or consortium in accordance with regulations promulgated by the Secretary.

(5) Procurement

Notwithstanding any other provision of law, no person or entity shall be disqualified from competing to provide goods or services related to a broadband project on the basis that the person or entity participated in the development of the broadband project or in the drafting of specifications, requirements, statements of work, or similar documents related to the goods or services to be provided.

(6) Broadband project property

(A) In general

The Secretary may permit a recipient of a grant for a broadband project to grant an option to acquire real or personal property (including contractual rights and intangible property) related to that project to a third party on such terms as the Secretary determines to be appropriate, subject to the condition that the option may only be exercised after the Secretary releases the Federal interest in the property.

(B) Treatment

The grant or exercise of an option described in subparagraph (A) shall not constitute a redistribution of grant funds under section 3154c of this title.

(c) Non-Federal share

In determining the amount of the non-Federal share of the cost of a broadband project, the Secretary may provide credit toward the non-Federal share for the present value of allowable

contributions over the useful life of the broadband project, subject to the condition that the Secretary may require such assurances of the value of the rights and of the commitment of the rights as the Secretary determines to be appropriate.

(Pub. L. 89–136, title II, §221, as added Pub. L. 118–272, div. B, title II, §2223, Jan. 4, 2025, 138 Stat. 3188.)

§3154h. Critical Supply Chain Site Development grant program

(a) In general

On the application of an eligible recipient, the Secretary may make grants under the "Critical Supply Chain Site Development grant program" (referred to in this section as the "grant program") to carry out site development or expansion projects for the purpose of making the site ready for manufacturing projects.

(b) Considerations

In providing a grant to an eligible recipient under the grant program, the Secretary may consider whether—

(1) the proposed improvements to the site will improve economic conditions for rural areas, Tribal communities, or areas that meet 1 or more of the criteria described in section 3161(a) of this title;

(2) the project is consistent with regional economic development plans, which may include a comprehensive economic development strategy;

(3) the eligible recipient has initiatives to prioritize job training and workforce development; and

(4) the project supports industries determined by the Secretary to be of strategic importance to the national or economic security of the United States.

(c) Priority

In awarding grants to eligible recipients under the grant program, the Secretary shall give priority to eligible recipients that propose to carry out a project that—

(1) has State, local, private, or nonprofit funds being contributed to assist with site development efforts; and

(2) if the site development or expansion project is carried out, will result in a demonstrated interest in the site by commercial entities or other entities.

(d) Use of funds

A grant provided under the grant program may be used for the following activities relating to the development or expansion of a site:

(1) Investments in site utility readiness, including—

(A) construction of on-site utility infrastructure;

(B) construction of last-mile infrastructure, including road infrastructure, water infrastructure, power infrastructure, broadband infrastructure, and other physical last-mile infrastructure;

(C) site grading; and

(D) other activities to extend public utilities or services to a site, as determined appropriate by the Secretary.

(2) Investments in site readiness, including—

(A) land assembly;

(B) environmental reviews;

(C) zoning;

(D) design;

(E) engineering; and

(F) permitting.

(3) Investments in workforce development and sustainability programs, including job training and retraining programs.

(4) Investments to ensure that disadvantaged communities have access to on-site jobs.

(e) Prohibition

(1) In general

Subject to paragraph (2), in awarding grants under the grant program, the Secretary shall not require an eligible recipient to demonstrate that a private company or investment has selected the site for development or expansion.

(2) Safeguards

In awarding grants under the grant program, the Secretary shall include necessary safeguards to ensure that—

(A) the site development is fully completed within a reasonable timeframe; and

(B) the eligible recipient has sufficiently demonstrated private sector interest.

(Pub. L. 89–136, title II, §222, as added Pub. L. 118–272, div. B, title II, §2224, Jan. 4, 2025, 138 Stat. 3189.)

SUBCHAPTER III—ELIGIBILITY; COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

§3161. Eligibility of areas

(a) In general

For a project to be eligible for assistance under section 3141 or 3149 of this title, the project shall be located in an area that, on the date of submission of the application, meets 1 or more of the following criteria:

(1) Low per capita income

The area has a per capita income of 80 percent or less of the national average.

(2) Unemployment rate above national average

The area has an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate.

(3) Unemployment, underemployment, or economic adjustment problems

The area is an area that the Secretary determines has experienced or is about to experience a special need arising from actual or threatened severe unemployment, underemployment, or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions.

(4) Low median household income

The area has a median household income of 80 percent or less of the national average.

(5) Workforce participation

The area has—

(A) a labor force participation rate of 90 percent or less of the national average; or

(B) a prime-age employment gap of 5 percent or more.

(6) Expected economic dislocation and distress from energy industry transitions

The area is an area that is expected to experience actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic

conditions from energy industries that are experiencing accelerated contraction.

(b) Political boundaries of areas

An area that meets 1 or more of the criteria of subsection (a), including a small area of poverty or high unemployment within a larger community in less economic distress, shall be eligible for assistance under section 3141 or 3149 of this title without regard to political or other subdivisions or boundaries.

(c) Documentation

(1) In general

A determination of eligibility under subsection (a) shall be supported by the most recent Federal data available (including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate), or, if no recent Federal data is available, by the most recent data available through the government of the State in which the area is located.

(2) Acceptance by Secretary

The documentation shall be accepted by the Secretary unless the Secretary determines that the documentation is inaccurate.

(d) Prior designations

Any designation of a redevelopment area made before the effective date of the Economic Development Administration Reform Act of 1998 shall not be effective after that effective date.

(e) Transparency

To the extent the Secretary includes neighboring counties and communities in an economic development district in accordance with subsection (a)(3), the Secretary shall submit to Congress, and make publicly available online, a notification describing the justification for such inclusion and detailing the economic indicators of such neighboring counties and communities.

(Pub. L. 89–136, title III, §301, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3607; amended Pub. L. 108–373, title III, §301, Oct. 27, 2004, 118 Stat. 1767; Pub. L. 118–272, div. B, title II, §2225, Jan. 4, 2025, 138 Stat. 3191.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Economic Development Administration Reform Act of 1998, referred to in subsec. (d), see section 105 of Pub. L. 105–393, set out as an Effective Date note under section 3121 of this title.

PRIOR PROVISIONS

A prior section 3161, Pub. L. 89–136, title IV, §401, Aug. 26, 1965, 79 Stat. 560; Pub. L. 89–794, title XI, §1102, Nov. 8, 1966, 80 Stat. 1477; Pub. L. 91–123, title III, §304, Nov. 25, 1969, 83 Stat. 219; Pub. L. 92–65, title I, §106, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–423, §§3(a), 6, Sept. 27, 1974, 88 Stat. 1158, 1161; Pub. L. 94–487, title I, §§113, 114, Oct. 12, 1976, 90 Stat. 2334, set forth criteria for determining eligible redevelopment areas, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 301 of Pub. L. 89–136 was classified to section 3151 of this title prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2025—Subsec. (a)(3) to (6). Pub. L. 118–272, §2225(1), added pars. (3) to (6) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows: "The area is an area that the Secretary determines has experienced or is about to experience a special need arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions."

Subsec. (e). Pub. L. 118–272, §2225(2), added subsec. (e).

2004—Subsec. (c)(1). Pub. L. 108–373 inserted "(including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate)" after "most recent Federal data available".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3162. Comprehensive economic development strategies

(a) In general

The Secretary may provide assistance under section 3141 or 3149 of this title (except for planning assistance under section 3149 of this title) to an eligible recipient for a project only if the eligible recipient submits to the Secretary, as part of an application for the assistance—

(1) an identification of the economic development problems to be addressed using the assistance;

(2) an identification of the past, present, and projected future economic development investments in the area receiving the assistance and public and private participants and sources of funding for the investments; and

(3)(A) a comprehensive economic development strategy for addressing the economic problems identified under paragraph (1) in a manner that promotes economic development and opportunity, fosters effective transportation access, maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications), enhances and protects the environment, including to mitigate and adapt to the economic impacts of extreme weather, and balances resources through sound management of development; and

(B) a description of how the strategy will solve the problems.

(b) Approval of comprehensive economic development strategy

The Secretary shall approve a comprehensive economic development strategy that meets the requirements of subsection (a) to the satisfaction of the Secretary.

(c) Approval of other plan

(1) In general

The Secretary may accept as a comprehensive economic development strategy a satisfactory plan developed under another federally supported program.

(2) Existing strategy

To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.

(d) Exception

This section shall not apply to grants awarded under section 3147 of this title or grants awarded under section 3149(c)(2) of this title for areas to which more than one comprehensive economic development strategy may apply.

(Pub. L. 89–136, title III, §302, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3608; amended Pub. L. 108–373, title III, §302, Oct. 27, 2004, 118 Stat. 1767; Pub. L. 118–272, div. B, title II, §2226, Jan. 4, 2025, 138 Stat. 3191.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3162, Pub. L. 89–136, title IV, §402, Aug. 26, 1965, 79 Stat. 561; Pub. L. 92–65, title I, §107, Aug. 5, 1971, 85 Stat. 167, required annual review of area eligibility, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 302 of Pub. L. 89–136 was classified to section 3151a of this title prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2025—Subsec. (a)(3)(A). Pub. L. 118–272, §2226(1), inserted "including to mitigate and adapt to the economic impacts of extreme weather," after "enhances and protects the environment,".

Subsec. (d). Pub. L. 118–272, §2226(2), added subsec. (d).

2004—Subsec. (a)(3)(A). Pub. L. 108–373, §302(a), inserted "maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications)," after "access,".

Subsec. (c). Pub. L. 108–373, §302(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

SUBCHAPTER IV—ECONOMIC DEVELOPMENT DISTRICTS

§3171. Designation of economic development districts

(a) In general

In order that economic development projects of broad geographic significance may be planned and carried out, the Secretary may designate appropriate economic development districts in the United States, with the concurrence of the States in which the districts will be wholly or partially located, if—

(1) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 3161(a) of this title;

(2) the proposed district contains at least 1 area described in section 3161(a) of this title; and

(3) the proposed district has a comprehensive economic development strategy that—

(A) contains a specific program for intra-district cooperation, self-help, and public investment; and

(B) is approved by each affected State and by the Secretary.

(b) Authorities

The Secretary may, under regulations promulgated by the Secretary—

(1) invite the States to determine boundaries for proposed economic development districts;

(2) cooperate with the States—

(A) in sponsoring and assisting district economic planning and economic development groups; and

(B) in assisting the district groups in formulating comprehensive economic development strategies for districts; and

(3) encourage participation by appropriate local government entities in the economic development districts.

(Pub. L. 89–136, title IV, §401, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3608.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3171, Pub. L. 89–136, title IV, §403, Aug. 26, 1965, 79 Stat. 562; Pub. L. 91–304, §1(d), July 6, 1970, 84 Stat. 375; Pub. L. 92–65, title I, §108, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, §4, June 18, 1973, 87 Stat. 96; Pub. L. 93–423, §7, Sept. 27, 1974, 88 Stat. 1161; Pub. L. 94–487, title I, §115, Oct. 12, 1976, 90 Stat. 2335; Pub. L. 96–506, §1(7), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(6), Aug. 13, 1981, 95 Stat. 766, authorized Secretary to designate economic development districts and centers, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 401 of Pub. L. 89–136 was classified to section 3161 of this title prior to repeal by Pub. L. 105–393, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3172. Termination or modification of economic development districts

The Secretary shall, by regulation, promulgate standards for the termination or modification of the designation of economic development districts.

(Pub. L. 89–136, title IV, §402, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3609.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3172, Pub. L. 89–136, title IV, §404, as added Pub. L. 93–423, §8, Sept. 27, 1974, 88 Stat. 1162; amended Pub. L. 94–487, title I, §116, Oct. 12, 1976, 90 Stat. 2335; Pub. L. 96–506, §1(8), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97–35, title XVIII, §1821(a)(7), Aug. 13, 1981, 95 Stat. 766, authorized additional appropriations for Indian economic development, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 402 of Pub. L. 89–136 was classified to section 3162 of this title prior to repeal by Pub. L. 105–393, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3173. Repealed. Pub. L. 108–373, title IV, §401(a), Oct. 27, 2004, 118 Stat. 1767

Section, Pub. L. 89–136, title IV, §403, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3609, related to incentives for projects in economic development districts.

A prior section 3173, Pub. L. 89–136, title IV, §405, as added Pub. L. 94–487, title I, §117, Oct. 12, 1976, 90 Stat. 2335, directed furnishing of unemployment rate information by either Federal Government or State, prior to repeal by Pub. L. 105–393, §102(a).

A prior section 403 of Pub. L. 89–136 was classified to section 3171 of this title prior to repeal by Pub. L. 105–393, §102(a).

§3174. Provision of comprehensive economic development strategies to Regional Commissions

If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.

(Pub. L. 89–136, title IV, §404, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3609; amended Pub. L. 108–373, title IV, §402(a), Oct. 27, 2004, 118 Stat. 1768.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 404 of Pub. L. 89–136 was classified to section 3172 of this title prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2004—Pub. L. 108–373 amended section catchline and text generally. Prior to amendment, text read as follows: "If any part of an economic development district is in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)), the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the Appalachian Regional Commission established under that Act."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3175. Assistance to parts of economic development districts not in eligible areas

Notwithstanding section 3161 of this title, the Secretary may provide such assistance as is available under this chapter for a project in a part of an economic development district that is not in an area described in section 3161(a) of this title, if the project will be of a substantial direct benefit to an area described in section 3161(a) of this title that is located in the district.

(Pub. L. 89–136, title IV, §405, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3609.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 405 of Pub. L. 89–136 was classified to section 3173 of this title prior to repeal by Pub. L. 105–393, §102(a).

Prior sections 3181 to 3190 were repealed by Pub. L. 97–35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766, effective Sept. 30, 1981.

Section 3181, Pub. L. 89–136, title V, §501, Aug. 26, 1965, 79 Stat. 564; Pub. L. 91–123, title II, §202, Nov. 25, 1969, 83 Stat. 216; Pub. L. 94–188, title II, §209(a), Dec. 31, 1975, 89 Stat. 1091, related to designation, etc., of economic development regions.

Section 3182, Pub. L. 89–136, title V, §502, Aug. 26, 1965, 79 Stat. 564; Pub. L. 94–188, title II, §§208, 209(b), Dec. 31, 1975, 89 Stat. 1091, related to establishment, membership, etc., of regional commissions.

Section 3183, Pub. L. 89–136, title V, §503, Aug. 26, 1965, 79 Stat. 565; Pub. L. 90–103, title II, §201, Oct. 11, 1967, 81 Stat. 266; Pub. L. 93–423, §9(a), Sept. 27, 1974, 88 Stat. 1162, set forth functions of Commissions.

Section 3184, Pub. L. 89–136, title V, §504, Aug. 26, 1965, 79 Stat. 566, set out program development criteria.

Section 3185, Pub. L. 89–136, title V, §505, Aug. 26, 1965, 79 Stat. 566; Pub. L. 90–103, title II, §202, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91–123, title II, §203, Nov. 25, 1969, 83 Stat. 216; Pub. L. 93–423, §9(b), Sept. 27, 1974, 88 Stat. 1162; Pub. L. 94–273, §2(25), Apr. 21, 1976, 90 Stat. 376, set out provisions relating to technical and planning assistance to regional commissions.

Section 3186, Pub. L. 89–136, title V, §506, Aug. 26, 1965, 79 Stat. 567; Pub. L. 91–123, title II, §204, Nov. 25, 1969, 83 Stat. 217, related to administrative powers of regional commissions and headquarters of Federal cochairman.

Section 3187, Pub. L. 89–136, title V, §507, Aug. 26, 1965, 79 Stat. 568, related to information procurement.

Section 3188, Pub. L. 89–136, title V, §508, Aug. 26, 1965, 79 Stat. 568, related to personal financial interests of commission personnel.

Section 3188a, Pub. L. 89–136, title V, §509, as added Pub. L. 90–103, title II, §203, Oct. 11, 1967, 81 Stat. 266; amended Pub. L. 91–123, title II, §205, Nov. 25, 1969, 83 Stat. 217; Pub. L. 91–258, title I, §52(b)(2), May 21, 1970, 84 Stat. 235; Pub. L. 92–65, title I, §109, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93–46, §5, June 18, 1973, 87 Stat. 97; Pub. L. 93–423, §9(c), Sept. 27, 1974, 88 Stat. 1162; Pub. L. 94–188, title II, §202, Dec. 31, 1975, 89 Stat. 1087; Pub. L. 94–487, title I, §§118, 119, Oct. 12, 1976, 90 Stat. 2335, 2336; Pub. L. 96–506, §1(9), Dec. 8, 1980, 94 Stat. 2745, related to supplements to Federal grant-in-aid programs.

Section 3189, Pub. L. 89–136, title V, §510, formerly §509, Aug. 26, 1965, 79 Stat. 569; renumbered §510, Pub. L. 90–103, title II, §203, Oct. 11, 1967, 81 Stat. 266; Pub. L. 94–273, §25, Apr. 21, 1976, 90 Stat. 380, related to annual reports to Congress.

Section 3190, Pub. L. 89–136, title V, §511, as added Pub. L. 91–123, title II, §206, Nov. 25, 1969, 83 Stat. 218; amended Pub. L. 93–423, §9(d), Sept. 27, 1974, 88 Stat. 1162, required coordination of activities between Secretary and Federal cochairmen in grants and loans.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

SUBCHAPTER V—ADMINISTRATION

§3191. Assistant Secretary for Economic Development

(a) In general

The Secretary shall carry out this chapter through an Assistant Secretary of Commerce for Economic Development, to be appointed by the President, by and with the advice and consent of the Senate.

(b) Compensation

The Assistant Secretary of Commerce for Economic Development shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5.

(c) Duties

The Assistant Secretary of Commerce for Economic Development shall carry out such duties as the Secretary shall require and shall serve as the administrator of the Economic Development Administration of the Department.

(Pub. L. 89–136, title V, §501, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3610.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3191, Pub. L. 89–136, title V, §512, as added Pub. L. 91–123, title II, §206, Nov. 25, 1969, 83 Stat. 218; amended Pub. L. 92–65, title I, §110, Aug. 5, 1971, 85 Stat. 167, related to Federal Field Committee for Development Planning in Alaska, prior to repeal by Pub. L. 97–35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766, effective Sept. 30, 1981.

A prior section 501 of Pub. L. 89–136 was classified to section 3181 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3192. Economic development information clearinghouse

In carrying out this chapter, the Secretary shall—

(1) maintain a central information clearinghouse on the Internet with—

(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;

(B) links to State economic development organizations; and

(C) links to other appropriate economic development resources;

(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;

(3) assist areas described in section 3161(a) of this title and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas; and

(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this chapter.

(Pub. L. 89–136, title V, §502, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3610; amended Pub. L. 108–373, title V, §501, Oct. 27, 2004, 118 Stat. 1768.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3192, Pub. L. 89–136, title V, §513, as added Pub. L. 91–123, title II, §206, Nov. 25, 1969, 83 Stat. 219; amended Pub. L. 94–188, title II, §203, Dec. 31, 1975, 89 Stat. 1087, related to regional transportation systems, prior to repeal by Pub. L. 97–35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766, effective Sept. 30, 1981.

A prior section 502 of Pub. L. 89–136 was classified to section 3182 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

AMENDMENTS

2004—Par. (1). Pub. L. 108–373, §501(1), added par. (1) and struck out former par. (1) which read as follows: "maintain a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal and State governments, including political subdivisions of States;".

Par. (2). Pub. L. 108–373, §501(2), added par. (2) and struck out former par. (2) which read as follows:

"assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal, State, and local laws in locating and applying for the assistance; and".

Par. (4). Pub. L. 108–373, §501(3), (4), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3193. Consultation with other persons and agencies

(a) Consultation on problems relating to employment

The Secretary may consult with any persons, including representatives of labor, management, agriculture, and government, who can assist in addressing the problems of area and regional unemployment or underemployment.

(b) Consultation on administration of chapter

The Secretary may provide for such consultation with interested Federal agencies as the Secretary determines to be appropriate in the performance of the duties of the Secretary under this chapter.

(Pub. L. 89–136, title V, §503, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3610.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3193, Pub. L. 89–136, title V, §514, as added Pub. L. 93–423, §11, Sept. 27, 1974, 88 Stat. 1162, provided for the acquisition and disposal of excess property from the Administrator of General Services by the Federal cochairman of each regional action planning commission, prior to repeal by Pub. L. 94–519, §§6, 9, Oct. 17, 1976, 90 Stat. 2456, 2457, effective Oct. 17, 1977.

A prior section 503 of Pub. L. 89–136 was classified to section 3183 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3194. Administration, operation, and maintenance

The Secretary shall approve Federal assistance under this chapter only if the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

(Pub. L. 89–136, title V, §504, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3610.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3194, Pub. L. 89–136, title V, §515, as added Pub. L. 94–188, title II, §204, Dec. 31, 1975,

89 Stat. 1088, related to energy demonstration projects and programs, prior to repeal by Pub. L. 97–35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766, effective Sept. 30, 1981.

A prior section 504 of Pub. L. 89–136 was classified to section 3184 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3195. Repealed. Pub. L. 108–373, title V, §502(a), Oct. 27, 2004, 118 Stat. 1768

Section, Pub. L. 89–136, title V, §505, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3610, related to businesses desiring Federal contracts.

A prior section 3195, Pub. L. 89–136, title V, §516, as added Pub. L. 94–188, title II, §205, Dec. 31, 1975, 89 Stat. 1088, related to health and nutrition demonstration projects, prior to repeal by Pub. L. 97–35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766, effective Sept. 30, 1981.

A prior section 505 of Pub. L. 89–136 was classified to section 3185 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

§3196. Performance evaluations of grant recipients

(a) In general

The Secretary shall conduct an evaluation of each university center and each economic development district that receives grant assistance under this chapter (each referred to in this section as a "grantee") to assess the grantee's performance and contribution toward retention and creation of employment.

(b) Purpose of evaluations of university centers

The purpose of the evaluations of university centers under subsection (a) shall be to determine which university centers are performing well and are worthy of continued grant assistance under this chapter, and which should not receive continued assistance, so that university centers that have not previously received assistance may receive assistance.

(c) Timing of evaluations

Evaluations under subsection (a) shall be conducted on a continuing basis so that each grantee is evaluated within 3 years after the first award of assistance to the grantee, and at least once every 3 years thereafter, so long as the grantee receives the assistance.

(d) Evaluation criteria

(1) Establishment

The Secretary shall establish criteria for use in conducting evaluations under subsection (a).

(2) Evaluation criteria for university centers

The criteria for evaluation of a university center shall, at a minimum, provide for an assessment of the center's contribution to providing technical assistance, conducting applied research, program performance, and disseminating results of the activities of the center.

(3) Evaluation criteria for economic development districts

The criteria for evaluation of an economic development district shall, at a minimum, provide for an assessment of management standards, financial accountability, and program performance.

(e) Peer review

In conducting an evaluation of a university center or economic development district under

subsection (a), the Secretary shall provide for the participation of at least 1 other university center or economic development district, as appropriate, on a cost-reimbursement basis.

(Pub. L. 89–136, title V, §506, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3611; amended Pub. L. 108–373, title V, §503, Oct. 27, 2004, 118 Stat. 1769.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3196, Pub. L. 89–136, title V, §517, as added Pub. L. 94–188, title II, §206, Dec. 31, 1975, 89 Stat. 1090, related to vocational and technical educational demonstration projects, prior to repeal by Pub. L. 97–35, title XVIII, §1821(a)(8), Aug. 13, 1981, 95 Stat. 766, effective Sept. 30, 1981.

A prior section 506 of Pub. L. 89–136 was classified to section 3186 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

AMENDMENTS

2004–Subsec. (c). Pub. L. 108–373, §503(a), struck out "after the effective date of the Economic Development Administration Reform Act of 1998" after "assistance to the grantee".

Subsec. (d)(2). Pub. L. 108–373, §503(b), inserted "program performance," after "applied research,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3197. Notification of reorganization

Not later than 30 days before the date of any reorganization of the offices, programs, or activities of the Economic Development Administration, the Secretary shall provide notification of the reorganization to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

(Pub. L. 89–136, title V, §507, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3611.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 507 of Pub. L. 89–136 was classified to section 3187 of this title prior to repeal by Pub. L. 97–35, §1821(a)(8).

Prior sections 3201 to 3204 were repealed by Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3597.

Section 3201, Pub. L. 89–136, title VI, §601(a), Aug. 26, 1965, 79 Stat. 569; Pub. L. 97–195, §1(c)(3), June 16, 1982, 96 Stat. 115, related to appointment of Assistant Secretary of Commerce and Administrator for Economic Development.

Section 3202, Pub. L. 89–136, title VI, §602, Aug. 26, 1965, 79 Stat. 570, related to National Public Advisory Committee on Regional Economic Development.

Section 3203, Pub. L. 89–136, title VI, §603, Aug. 26, 1965, 79 Stat. 570, authorized Secretary to consult with other persons and agencies.

Section 3204, Pub. L. 89–136, title VI, §604, as added Pub. L. 90–103, title II, §204, Oct. 11, 1967, 81 Stat. 268, conditioned assistance upon proper administration, operation, and maintenance of project.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3198. Office of Tribal Economic Development

(a) Establishment

There is established within the Economic Development Administration an Office of Tribal Economic Development (referred to in this section as the "Office").

(b) Purposes

The purposes of the Office shall be—

(1) to coordinate all Tribal economic development activities carried out by the Secretary;

(2) to help Tribal communities access economic development assistance programs, including the assistance provided under this chapter;

(3) to coordinate Tribal economic development strategies and efforts with other Federal agencies; and

(4) to be a participant in any negotiated rulemakings or consultations relating to, or having an impact on, projects, programs, or funding that benefit Tribal communities.

(c) Tribal economic development strategy

(1) In general

Not later than 1 year after January 4, 2025, the Office shall initiate a Tribal consultation process to develop, and not less frequently than every 3 years thereafter, update, a strategic plan for Tribal economic development for the Economic Development Administration.

(2) Submission to Congress

Not later than 1 year after January 4, 2025, and not less frequently than every 3 years thereafter, the Office shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the strategic plan for Tribal economic development developed under paragraph (1).

(d) Outreach

The Secretary shall establish a publicly facing website to help provide a comprehensive, single source of information for Indian tribes, Tribal leaders, Tribal businesses, and citizens in Tribal communities to better understand and access programs that support economic development in Tribal communities, including the economic development programs administered by Federal agencies or departments other than the Department.

(e) Dedicated staff

The Secretary shall ensure that the Office has sufficient staff to carry out all outreach activities under this section.

(Pub. L. 89–136, title V, §508, as added Pub. L. 118–272, div. B, title II, §2227, Jan. 4, 2025, 138 Stat. 3192.)

§3199. Office of Disaster Recovery and Resilience

(a) Establishment

The Secretary shall establish an Office of Disaster Recovery and Resilience—

(1) to direct and implement the post-disaster economic recovery responsibilities of the Economic Development Administration pursuant to subsections (c)(2) and (e) of section 3149 of this title and section 3233 of this title;

(2) to direct and implement economic recovery and enhanced resilience support function

activities as directed under the National Disaster Recovery Framework; and

(3) support long-term economic recovery in communities in which a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or otherwise impacted by an event of national significance, as determined by the Secretary, through—

(A) convening and deploying an economic development assessment team;

(B) hosting or attending convenings related to identification of additional Federal, State, local, and philanthropic entities and resources;

(C) exploring potential flexibilities related to existing awards;

(D) provision of technical assistance through staff or contractual resources; and

(E) other activities determined by the Secretary to be appropriate.

(b) Appointment authorities

(1) Appointment

The Secretary is authorized to appoint such temporary personnel as may be necessary to carry out the responsibilities of the Office of Disaster Recovery and Resilience, without regard to the provisions of subchapter I of chapter 33 of title 5 governing appointments in the competitive service.

(2) Conversion of employees

Notwithstanding chapter 33 of title 5, or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, a temporary employee appointed under this subsection may be selected by the Secretary for a permanent appointment in the competitive service in the Economic Development Administration under internal competitive promotion procedures if—

(A) the employee has served continuously for at least 2 years under 1 or more appointments under this subsection; and

(B) the employee's performance has been at an acceptable level of performance throughout the period or periods referred to in subparagraph (A).

(3) Status upon conversion

An individual converted under this subsection shall become a career-conditional employee, unless the employee has already completed the service requirements for career tenure.

(4) Reporting

For any fiscal year during which the Secretary exercises the authority under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the use of that authority including, at a minimum—

(A) the number of employees hired under the authority during the fiscal year;

(B) the positions and grades for which employees were hired;

(C) the number of employees converted to career-conditional;

(D) a description of how the Secretary assessed employee performance to determine the eligibility of the employee for conversion under paragraph (2)(B);

(E) the number of employees who were hired under that authority as temporary employees who have met the continuous service requirements described in subparagraph (A) of paragraph (2) but not the performance requirements described in subparagraph (B) of that paragraph; and

(F) the number of employees who were hired under that authority who have separated from the Economic Development Administration.

(5) Rule of construction

Nothing in this subsection waives any requirement relating to qualifications of applicants for positions in the Office of Disaster Recovery and Resilience under this subsection.

(6) Termination

The authority provided by this subsection shall expire on September 30, 2029.

(c) Disaster team

(1) Establishment

As soon as practicable after January 4, 2025, the Secretary shall establish a disaster team (referred to in this section as the "disaster team") for the deployment of individuals to carry out responsibilities of the Office of Disaster Recovery and Resilience after a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and the Department has been activated by the Federal Emergency Management Agency.

(2) Membership

(A) Designation of staff

As soon as practicable after January 4, 2025, the Secretary shall designate to serve on the disaster team—

(i) employees of the Office of Disaster Recovery and Resilience;

(ii) employees of the Department who are not employees of the Economic Development Administration; and

(iii) in consultation with the heads of other Federal agencies, employees of those agencies, as appropriate.

(B) Capabilities

In designating individuals under subparagraph (A), the Secretary shall ensure that the disaster team includes a sufficient quantity of—

(i) individuals who are capable of deploying rapidly and efficiently to respond to major disasters and emergencies; and

(ii) highly trained full-time employees who will lead and manage the disaster team.

(3) Training

The Secretary shall ensure that appropriate and ongoing training is provided to members of the disaster team to ensure that the members are adequately trained regarding the programs and policies of the Economic Development Administration relating to post-disaster economic recovery efforts.

(4) Expenses

In carrying out this section, the Secretary may—

(A) use, with or without reimbursement, any service, equipment, personnel, or facility of any Federal agency with the explicit support of that agency, to the extent such use does not impair or conflict with the authority of the President or the Administrator of the Federal Emergency Management Agency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to direct Federal agencies in any major disaster or emergency declared under that Act; and

(B) provide members of the disaster team with travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of services for, or relating to, the disaster team.

(d) Annual reports

Not later than July 1, 2026, and annually thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(1) a summary of the activities of the Office of Disaster Recovery and Resilience and any disaster teams established pursuant to subsection (c);

(2) the number and details of the disasters in which the Office of Disaster Recovery and Resilience and permanent and temporary personnel, including disaster teams, were involved and

deployed;

(3) the locations and length of any deployments;

(4) the number of personnel deployed, broken down by category, including permanent and temporary personnel; and

(5) a breakdown of expenses, with or without reimbursement.

(Pub. L. 89–136, title V, §509, as added Pub. L. 118–272, div. B, title II, §2228, Jan. 4, 2025, 138 Stat. 3192.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsecs. (a)(3) and (c)(1), (4)(A), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§3200. Technical Assistance Liaisons

(a) In general

A Regional Director of a regional office of the Economic Development Administration may designate a staff member to act as a "Technical Assistance Liaison" for any State served by the regional office.

(b) Role

A Technical Assistance Liaison shall—

(1) work in coordination with an Economic Development Representative to provide technical assistance, in addition to technical assistance under section 3147 of this title, to eligible recipients that are underresourced communities, as determined by the Technical Assistance Liaison, that submit applications for assistance under subchapter II; and

(2) at the request of an eligible recipient that submitted an application for assistance under subchapter II, provide technical feedback on unsuccessful grant applications.

(c) Technical assistance

The Secretary may enter into a contract or cooperative agreement with an eligible recipient for the purpose of providing technical assistance to eligible recipients that are underresourced communities that have submitted or may submit an application for assistance under this chapter.

(Pub. L. 89–136, title V, §510, as added Pub. L. 118–272, div. B, title II, §2229, Jan. 4, 2025, 138 Stat. 3195.)

SUBCHAPTER VI—MISCELLANEOUS

§3211. Powers of Secretary

(a) In general

In carrying out the duties of the Secretary under this chapter, the Secretary may—

(1) adopt, alter, and use a seal, which shall be judicially noticed;

(2) subject to the civil service and classification laws, select, employ, appoint, and fix the compensation of such personnel as are necessary to carry out this chapter;

(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary determines to be appropriate;

(4) request directly, from any Federal agency, board, commission, office, or independent establishment, such information, suggestions, estimates, and statistics as the Secretary determines to be necessary to carry out this chapter (and each Federal agency, board, commission, office, or independent establishment may provide such information, suggestions, estimates, and statistics directly to the Secretary);

(5) under regulations promulgated by the Secretary—

(A) assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Secretary's discretion and on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Secretary in connection with assistance provided under this chapter; and

(B) collect or compromise all obligations assigned to or held by the Secretary in connection with that assistance until such time as the obligations are referred to the Attorney General for suit or collection;

(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary in connection with assistance provided under this chapter;

(7) pursue to final collection, by means of compromise or other administrative action, before referral to the Attorney General, all claims against third parties assigned to the Secretary in connection with assistance provided under this chapter;

(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), to the extent appropriate in connection with assistance provided under this chapter;

(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Secretary, take any action, including the procurement of the services of attorneys by contract, determined by the Secretary to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance provided under this chapter;

(10)(A) employ experts and consultants or organizations as authorized by section 3109 of title 5 except that contracts for such employment may be renewed annually;

(B) compensate individuals so employed, including compensation for travel time; and

(C) allow individuals so employed, while away from their homes or regular places of business, travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Federal Government service;

(11) establish performance measures for grants and other assistance provided under this chapter, and use the performance measures to evaluate the economic impact of economic development assistance programs under this chapter, which establishment and use of performance measures shall be provided by the Secretary through—

(A) officers or employees of the Department;

(B) the employment of persons under contracts entered into for such purposes; or

(C) grants to persons, using funds made available to carry out this chapter;

(12) conduct environmental reviews and incur necessary expenses to evaluate and monitor the environmental impact of economic development assistance provided and proposed to be provided under this chapter, including expenses associated with the representation and defense of the actions of the Secretary relating to the environmental impact of the assistance, using any funds made available to carry out section 3147 of this title;

(13) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or the property of the Secretary; and

(14) establish such rules, regulations, and procedures as the Secretary considers appropriate for carrying out this chapter.

(b) Deficiency judgments

The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise pursue claims relating to mortgages assigned to the Secretary.

(c) Inapplicability of certain other requirements

Section 6101 of title 41 shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of assistance provided under this chapter if the premium for the insurance or the amount of the services or supplies does not exceed $1,000.

(d) Property interests

(1) In general

The powers of the Secretary under this section, relating to property acquired by the Secretary in connection with assistance provided under this chapter, shall extend to property interests of the Secretary relating to projects approved under—

(A) this chapter;

(B) title I of the Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.);

(C) title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); and

(D) the Community Emergency Drought Relief Act of 1977 (42 U.S.C. 5184 note; Public Law 95–31).

(2) Release

(A) In general

Except as provided in subparagraph (B), the Secretary may release, in whole or in part, any real property interest, or tangible personal property interest, in connection with a grant after the date that is 20 years after the date on which the grant was awarded.

(B) Certain releases

(i) In general

On written request from a recipient of a grant under section 3149(d) [1] of this title, the Secretary shall release, in accordance with this subparagraph, any Federal interest in connection with the grant, if—

(I) the request is made not less than 7 years after the final disbursement of the original grant;

(II) the recipient has complied with the terms and conditions of the grant to the satisfaction of the Secretary;

(III) any proceeds realized from the grant will be used for 1 or more activities that continue to carry out the economic development purposes of this chapter; and

(IV) the recipient includes in the written request a description of how the recipient will use the proceeds of the grant in accordance with subclause (III).

(ii) Deadline

(I) In general

Except as provided in subclause (II), the Secretary shall complete all closeout actions for the grant by not later than 180 days after receipt and acceptance of the written request under clause (i).

(II) Extension

The Secretary may extend a deadline under subclause (I) by an additional 180 days if the Secretary determines the extension to be necessary.

(iii) Savings provision

Section 3212 of this title shall continue to apply to a project assisted with a grant under section 3149(d) [1] of this title regardless of whether the Secretary releases a Federal interest

under clause (i).

(e) Powers of conveyance and execution

The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest in such property acquired by the Secretary under this chapter may be exercised by the Secretary, or by any officer or agent appointed by the Secretary for that purpose, without the execution of any express delegation of power or power of attorney.

(Pub. L. 89–136, title VI, §601, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3611; amended Pub. L. 116–192, §2, Oct. 30, 2020, 134 Stat. 978.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Works Employment Act of 1976, referred to in subsec. (d)(1)(B), is Pub. L. 94–369, July 22, 1976, 90 Stat. 999. Title I of the Act, known as the Local Public Works Capital Development and Investment Act of 1976, is classified generally to subchapter I (§6701 et seq.) of chapter 80 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6701 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (d)(1)(C), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978. Title II of the Act is classified generally to subchapter II (§2251 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Community Emergency Drought Relief Act of 1977, referred to in subsec. (d)(1)(D), is Pub. L. 95–31, May 23, 1977, 91 Stat. 169. Title I of the Act is set out as a note under section 5184 of this title. For complete classification of this Act to the Code, see Tables.

Section 3149(d) of this title, referred to in subsec. (d)(2)(B)(i), (iii), was redesignated section 3149(f) of this title by Pub. L. 118–272, div. B, title II, §2219(2), Jan. 4, 2025, 138 Stat. 3183.

CODIFICATION

In subsec. (c), "Section 6101 of title 41" substituted for "Section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 3211, Pub. L. 89–136, title VII, §701, Aug. 26, 1965, 79 Stat. 570, set forth powers of Secretary, prior to repeal by Pub. L. 105–393, §102(b)(3).

A prior section 601(a) of Pub. L. 89–136 was classified to section 3201 of this title prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2020—Subsec. (d)(2). Pub. L. 116–192 designated existing provisions as subpar. (A), inserted heading, substituted "Except as provided in subparagraph (B), the Secretary may" for "The Secretary may", and added subpar. (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

MODERNIZATION OF ENVIRONMENTAL REVIEWS

Pub. L. 118–272, div. B, title II, §2232, Jan. 4, 2025, 138 Stat. 3197, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Jan. 4, 2025], the Secretary of Commerce (referred to in this section as the 'Secretary') shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the efforts of the Secretary to facilitate efficient, timely, and predictable environmental reviews of projects funded by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), including through expanded use of categorical exclusions or programmatic

environmental documents (as those terms are defined in section 111 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336e)).

"(b) REQUIREMENTS.—In completing the report under subsection (a), the Secretary shall—

"(1) describe the actions the Secretary will take to implement the amendments to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) made by section 321 of the Fiscal Responsibility Act of 2023 (Public Law 118–5; 137 Stat. 38) [enacting sections 4336 to 4336e of this title and amending section 4332 of this title];

"(2) describe the existing categorical exclusions most frequently used by the Secretary to streamline the environmental review of projects funded by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.); and

"(3) consider—

"(A) the adoption of additional categorical exclusions, including those used by other Federal agencies, that would facilitate the environmental review of projects funded by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.);

"(B) the adoption of new programmatic environmental documents that would facilitate the environmental review of projects funded by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.); and

"(C) agreements with other Federal agencies that would facilitate a more efficient process for the environmental review of projects funded by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.).

"(c) RULEMAKING.—Not later than 2 years after the submission of the report under subsection (a), the Secretary shall promulgate a final rule implementing, to the maximum extent practicable, measures considered by the Secretary under subsection (b) that are necessary to streamline the environmental review of projects funded by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.)."

AUTHORIZATION FOR TEMPORARY PERSONNEL TO RESPOND TO CORONAVIRUS

Pub. L. 116–136, div. B, title II, Mar. 27, 2020, 134 Stat. 510, provided in part: "That the Secretary of Commerce is authorized to appoint and fix the compensation of such temporary personnel as may be necessary to implement the requirements under this heading ['ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS' under 'ECONOMIC DEVELOPMENT ADMINISTRATION'] in this Act [div. B of Pub. L. 116–136] to prevent, prepare for, and respond to coronavirus, without regard to the provisions of title 5, United States Code, governing appointments in competitive service: *Provided further*, That the Secretary of Commerce is authorized to appoint such temporary personnel, after serving continuously for 2 years, to positions in the Economic Development Administration in the same manner that competitive service employees with competitive status are considered for transfer, reassignment, or promotion to such positions and an individual appointed under this provision shall become a career-conditional employee, unless the employee has already completed the service requirements for career tenure".

[For definition of "coronavirus" as used in provision of title II of div. B of Pub. L. 116–136, set out above, see section 23005 of div. B of Pub. L. 116–136, set out as a note under section 162b of Title 2, The Congress.]

[1] *See References in Text note below.*

§3212. Maintenance of standards

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40. The Secretary shall not extend any financial assistance under this chapter for such a project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 3145 of title 40.

(Pub. L. 89–136, title VI, §602, formerly title VII, §712, Aug. 26, 1965, 79 Stat. 575; Pub. L. 93–567, title III, §302, Dec. 31, 1974, 88 Stat. 1855; renumbered title VI, §602, and amended Pub. L. 105–393, title I, §102(b)(1), (2), Nov. 13, 1998, 112 Stat. 3616; Pub. L. 108–373, title V, §504, Oct. 27, 2004, 118 Stat. 1769.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 3222 of this title prior to renumbering by Pub. L. 105–393.

PRIOR PROVISIONS

A prior section 3212, Pub. L. 89–136, title VII, §702, Aug. 26, 1965, 79 Stat. 572, related to prevention of unfair competition, prior to repeal by Pub. L. 105–393, §102(b)(3).

A prior section 602 of Pub. L. 89–136 was classified to section 3202 of this title prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2004—Pub. L. 108–373 substituted "in accordance with subchapter IV of chapter 31 of title 40" for "in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5)" in first sentence and "section 3145 of title 40" for "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" in third sentence.

1998—Pub. L. 105–393, §102(b)(2)(A), substituted section catchline for former section catchline.

Pub. L. 105–393, §102(b)(2)(B), which directed amendment of text by substituting "this chapter" for "sections 3131, 3141, 3142, 3171, 3243, and 3246b of this title" in second sentence, was executed by making the substitution for phrase which began with "section 3131" rather than "sections 3131", to reflect the probable intent of Congress.

1974—Pub. L. 93–567 inserted references to sections 3243 and 3236b of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–393 effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as an Effective Date note under section 3121 of this title.

§3213. Annual report to Congress

(a) In general

Not later than July 1, 2000, and July 1 of each year thereafter, the Secretary shall submit to Congress a comprehensive and detailed annual report on the activities of the Secretary under this chapter during the most recently completed fiscal year.

(b) Inclusions

Each report required under subsection (a) shall—

(1) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

(2) include a discussion of any private sector leveraging goal with respect to grants awarded to—

(A) rural areas and urban economically distressed areas; and

(B) highly distressed areas;

(3) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project; and

(4)(A) include a list of all of the grants provided by the Economic Development Administration for projects located in, or that primarily benefit, rural areas;

(B) an explanation of the process used to determine how each project referred to in subparagraph (A) would benefit a rural area; and

(C) a certification that each project referred to in subparagraph (A)—
(i) is located in a rural area; or
(ii) will primarily benefit a rural area.

(c) Additional reporting

As part of the annual report to Congress of the Economic Development Administration, the Secretary shall include a report on project completions and close outs for construction awards that includes the following information on individual construction projects:

(1) The award date of the project.
(2) The completion date of the project.
(3) The close out date of the project.
(4) The total amount of the project, including non-Federal cost share and funding from other sources, including a breakdown by source.
(5) The number of jobs anticipated to be created or retained as a result of the investment.

(d) Public availability

Not later than the date of the submission of the report under subsection (c), the Secretary shall make the report under subsection (c) publicly available.

(e) Additional reporting requirement

To ensure that projects are meeting expected timelines, not later than 1 year after January 4, 2025, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that, at a minimum—

(1) includes an analysis of Economic Development Administration construction project timeline estimates and actual project durations; and
(2) describes the frequency with which project timelines are delayed and the sources of those delays, including cases in which a project scope or schedule requires an award amendment.

(Pub. L. 89–136, title VI, §603, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3614; amended Pub. L. 108–373, title VI, §601, Oct. 27, 2004, 118 Stat. 1769; Pub. L. 118–272, div. B, title II, §2230, Jan. 4, 2025, 138 Stat. 3196.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3213, Pub. L. 89–136, title VII, §703, Aug. 26, 1965, 79 Stat. 572, set forth savings provisions, prior to repeal by Pub. L. 105–393, §102(b)(3).

A prior section 603 of Pub. L. 89–136 was classified to section 3203 of this title prior to repeal by Pub. L. 105–393, §102(a).

AMENDMENTS

2025—Subsec. (b)(2)(A). Pub. L. 118–272, §2230(1)(A)(i), inserted "areas" after "rural".
Subsec. (b)(4). Pub. L. 118–272, §2230(1)(A)(ii)–(C), added par. (4).
Subsecs. (c) to (e). Pub. L. 118–272, §2230(2), added subsecs. (c) to (e).
2004—Pub. L. 108–373 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3214. Delegation of functions and transfer of funds among Federal agencies

(a) Delegation of functions to other Federal agencies

The Secretary may—

(1) delegate to the heads of other Federal agencies such functions, powers, and duties of the Secretary under this chapter as the Secretary determines to be appropriate; and

(2) authorize the redelegation of the functions, powers, and duties by the heads of the agencies.

(b) Transfer of funds to other Federal agencies

Funds authorized to be appropriated to carry out this chapter may be transferred between Federal agencies, if the funds are used for the purposes for which the funds are specifically authorized and appropriated.

(c) Transfer of funds from other Federal agencies

(1) In general

Subject to paragraph (2), for the purposes of this chapter, the Secretary may accept transfers of funds from other Federal agencies if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated.

(2) Use of funds

The transferred funds—

(A) shall remain available until expended; and

(B) may, to the extent necessary to carry out this chapter, be transferred to and merged by the Secretary with the appropriations for salaries and expenses.

(Pub. L. 89–136, title VI, §604, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3614.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3214, Pub. L. 89–136, title VII, §704, Aug. 26, 1965, 79 Stat. 572; Pub. L. 94–487, title I, §120, Oct. 12, 1976, 90 Stat. 2336, related to transfer of functions of Area Redevelopment Administration, prior to repeal by Pub. L. 105–393, §102(b)(3).

A prior section 604 of Pub. L. 89–136 was classified to section 3204 of this title prior to repeal by Pub. L. 105–393, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3215. Penalties

(a) False statements; security overvaluation

A person that makes any statement that the person knows to be false, or willfully overvalues any security, for the purpose of—

(1) obtaining for the person or for any applicant any financial assistance under this chapter or any extension of the assistance by renewal, deferment, or action, or by any other means, or the acceptance, release, or substitution of security for the assistance;

(2) influencing in any manner the action of the Secretary; or

(3) obtaining money, property, or any thing of value, under this chapter;

shall be fined under title 18, imprisoned not more than 5 years, or both.

(b) Embezzlement and fraud-related crimes

A person that is connected in any capacity with the Secretary in the administration of this chapter and that—

(1) embezzles, abstracts, purloins, or willfully misapplies any funds, securities, or other thing of value, that is pledged or otherwise entrusted to the person;

(2) with intent to defraud the Secretary or any other person or entity, or to deceive any officer, auditor, or examiner—

(A) makes any false entry in any book, report, or statement of or to the Secretary; or

(B) without being duly authorized, draws any order or issue, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

(3) with intent to defraud, participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary; or

(4) gives any unauthorized information concerning any future action or plan of the Secretary that might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary;

shall be fined under title 18, imprisoned not more than 5 years, or both.

(Pub. L. 89–136, title VI, §605, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3614.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3215, Pub. L. 89–136, title VII, §705, Aug. 26, 1965, 79 Stat. 573, related to separability of provisions, prior to repeal by Pub. L. 105–393, §102(b)(3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3216. Employment of expediters and administrative employees

Assistance shall not be provided by the Secretary under this chapter to any business unless the owners, partners, or officers of the business—

(1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of the business for the purpose of expediting applications made to the Secretary for assistance of any kind, under this chapter, and the fees paid or to be paid to the person for expediting the applications; and

(2) execute an agreement binding the business, for the 2-year period beginning on the date on which the assistance is provided by the Secretary to the business, to refrain from employing, offering any office or employment to, or retaining for professional services, any person who, on the date on which the assistance or any part of the assistance was provided, or within the 1-year period ending on that date—

(A) served as an officer, attorney, agent, or employee of the Department; and

(B) occupied a position or engaged in activities that the Secretary determines involved discretion with respect to the granting of assistance under this chapter.

(Pub. L. 89–136, title VI, §606, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3615.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3216, Pub. L. 89–136, title VII, §706, Aug. 26, 1965, 79 Stat. 573, defined terms as used in this chapter, prior to repeal by Pub. L. 105–393, §102(b)(3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3217. Maintenance and public inspection of list of approved applications for financial assistance

(a) In general

The Secretary shall—

(1) maintain as a permanent part of the records of the Department a list of applications approved for financial assistance under this chapter; and

(2) make the list available for public inspection during the regular business hours of the Department.

(b) Additions to list

The following information shall be added to the list maintained under subsection (a) as soon as an application described in subsection (a)(1) is approved:

(1) The name of the applicant and, in the case of a corporate application, the name of each officer and director of the corporation.

(2) The amount and duration of the financial assistance for which application is made.

(3) The purposes for which the proceeds of the financial assistance are to be used.

(Pub. L. 89–136, title VI, §607, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3615.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3217, Pub. L. 89–136, title VII, §707, Aug. 26, 1965, 79 Stat. 573; Pub. L. 94–273, §26, Apr. 21, 1976, 90 Stat. 380, required annual report to Congress on operations under this chapter, prior to repeal by Pub. L. 105–393, §102(b)(3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3218. Records and audits

(a) Recordkeeping and disclosure requirements

Each recipient of assistance under this chapter shall keep such records as the Secretary shall require, including records that fully disclose—

(1) the amount and the disposition by the recipient of the proceeds of the assistance;

(2) the total cost of the project in connection with which the assistance is given or used;

(3) the amount and nature of the portion of the cost of the project provided by other sources; and

(4) such other records as will facilitate an effective audit.

(b) Access to books for examination and audit

The Secretary, the Inspector General of the Department, and the Comptroller General of the United States, or any duly authorized representative, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that relate to assistance received under this chapter.

(Pub. L. 89–136, title VI, §608, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3616.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3218, Pub. L. 89–136, title VII, §708, Aug. 26, 1965, 79 Stat. 573, authorized delegation of functions and transfer of funds, prior to repeal by Pub. L. 105–393, §102(b)(3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3219. Relationship to assistance under other law

Nothing in this chapter authorizes or permits any reduction in the amount of Federal assistance that any State or other entity eligible under this chapter is entitled to receive under any other Act.

(Pub. L. 89–136, title VI, §609, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3616; amended Pub. L. 108–373, title VI, §602, Oct. 27, 2004, 118 Stat. 1769.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3219, Pub. L. 89–136, title VII, §709, Aug. 26, 1965, 79 Stat. 574; Pub. L. 97–35, title XVIII, §1821(a)(9), Aug. 13, 1981, 95 Stat. 766, authorized appropriations for which specific authority was not otherwise provided, prior to repeal by Pub. L. 105–393, §102(b)(3).

AMENDMENTS

2004—Pub. L. 108–373 designated text of subsec. (b) as entire section and struck out subsec. (b) heading and heading and text of subsec. (a). Prior to amendment, text of subsec. (a) read as follows: "Except as otherwise provided in this chapter, all financial and technical assistance authorized under this chapter shall be in addition to any Federal assistance authorized before the effective date of the Economic Development Administration Reform Act of 1998."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of

this title.

§3220. Acceptance of certifications by applicants

Under terms and conditions determined by the Secretary, the Secretary may accept the certifications of an applicant for assistance under this chapter that the applicant meets the requirements of this chapter.

(Pub. L. 89–136, title VI, §610, as added Pub. L. 105–393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3616.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3220, Pub. L. 89–136, title VII, §710, Aug. 26, 1965, 79 Stat. 574, set forth penalties for false statements, securities overvaluation, embezzlement, misapplication of funds, false book entries, schemes to defraud, and speculation, prior to repeal by Pub. L. 105–393, title I, §102(b)(3), Nov. 13, 1998, 112 Stat. 3617.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3221. Brownfields redevelopment report

(a) Definition of brownfield site

In this section, the term "brownfield site" has the meaning given the term in section 9601(39) of this title.

(b) Report

(1) In general

Not later than 1 year after October 27, 2004, the Comptroller General shall prepare a report that evaluates the grants made by the Economic Development Administration for the economic development of brownfield sites.

(2) Contents

The report shall—

(A) identify each project conducted during the previous 10-year period in which grant funds have been used for brownfield sites redevelopment activities; and

(B) include for each project a description of—

(i) the type of economic development activities conducted;

(ii) if remediation activities were conducted—

(I) the type of remediation activities; and

(II) the amount of grant money used for those activities in dollars and as a percentage of the total grant award;

(iii) the economic development and environmental standards applied, if applicable;

(iv) the economic development impact of the project;

(v) the role of Federal, State, or local environmental agencies, if any; and

(vi) public participation in the project.

(3) Submission of report

The Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report.

(Pub. L. 89–136, title VI, §611, as added Pub. L. 108–373, title VI, §603(a), Oct. 27, 2004, 118 Stat. 1769.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3221, Pub. L. 89–136, title VII, §711, Aug. 26, 1965, 79 Stat. 574, related to employment of expediters and administrative employees, prior to repeal by Pub. L. 105–393, title I, §102(b)(3), Nov. 13, 1998, 112 Stat. 3617.

§3222. Savings clause

To the extent that any portion of grants made under this chapter are used for an economic development project that involves remediation, the remediation shall be conducted in compliance with all applicable Federal, State, and local laws and standards.

(Pub. L. 89–136, title VI, §612, as added Pub. L. 108–373, title VI, §604(a), Oct. 27, 2004, 118 Stat. 1770.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3222, Pub. L. 89–136, title VII, §712, Aug. 26, 1965, 79 Stat. 575; Pub. L. 93–567, title III, §302, Dec. 31, 1974, 88 Stat. 1855, which related to labor standards and rate of wages, was renumbered section 602 of Pub. L. 89–136 by Pub. L. 105–393 and transferred to section 3212 of this title.

Prior sections 3223 to 3226 were repealed by Pub. L. 105–393, title I, §102(b)(3), Nov. 13, 1998, 112 Stat. 3617.

Section 3223, Pub. L. 89–136, title VII, §713, Aug. 26, 1965, 79 Stat. 575, required maintenance of records of approved applications and availability for public inspection.

Section 3224, Pub. L. 89–136, title VII, §714, Aug. 26, 1965, 79 Stat. 575, related to recordkeeping and audits.

Section 3225, Pub. L. 89–136, title VII, §715, Aug. 26, 1965, 79 Stat. 575, extended benefits to redevelopment areas under former section 2504 of this title.

Section 3226, Pub. L. 89–136, title VII, §716, Aug. 26, 1965, 79 Stat. 576, prohibited statutory construction which could cause diminution in other Federal assistance.

SUBCHAPTER VII—FUNDING

§3231. General authorization of appropriations

(a) Grants for public works and economic development

There are authorized to be appropriated to carry out section 3141 of this title, to remain available until expended—

(1) $170,000,000 for fiscal year 2025;
(2) $195,000,000 for fiscal year 2026;
(3) $220,000,000 for fiscal year 2027;
(4) $245,000,000 for fiscal year 2028; and
(5) $270,000,000 for fiscal year 2029.

(b) Grants for planning and grants for administrative expenses

There are authorized to be appropriated to carry out section 3143 of this title, to remain available until expended—

(1) $90,000,000 for fiscal year 2025;
(2) $100,000,000 for fiscal year 2026;
(3) $110,000,000 for fiscal year 2027;
(4) $120,000,000 for fiscal year 2028; and
(5) $130,000,000 for fiscal year 2029.

(c) Grants for training, research, and technical assistance

There are authorized to be appropriated to carry out section 3147 of this title, to remain available until expended—

(1) $25,000,000 for fiscal year 2025;
(2) $30,000,000 for fiscal year 2026;
(3) $35,000,000 for fiscal year 2027;
(4) $40,000,000 for fiscal year 2028; and
(5) $45,000,000 for fiscal year 2029.

(d) Grants for economic adjustment

There are authorized to be appropriated to carry out section 3149 of this title (other than subsections (d) and (e)), to remain available until expended—

(1) $65,000,000 for fiscal year 2025;
(2) $75,000,000 for fiscal year 2026;
(3) $85,000,000 for fiscal year 2027;
(4) $95,000,000 for fiscal year 2028; and
(5) $105,000,000 for fiscal year 2029.

(e) Assistance to coal communities

There is authorized to be appropriated to carry out section 3149(d) of this title $75,000,000 for each of fiscal years 2025 through 2029, to remain available until expended.

(f) Assistance to nuclear host communities

There are authorized to be appropriated to carry out section 3149(e) of this title, to remain available until expended—

(1) to carry out paragraph (2)(A), $35,000,000 for each of fiscal years 2025 through 2029; and
(2) to carry out paragraph (2)(B), $5,000,000 for each of fiscal years 2025 through 2027.

(g) Renewable energy program

There is authorized to be appropriated to carry out section 3154d of this title $5,000,000 for each of fiscal years 2025 through 2029, to remain available until expended.

(h) Workforce training grants

There is authorized to be appropriated to carry out section 3154e of this title $50,000,000 for each of fiscal years 2025 through 2029, to remain available until expended, of which $10,000,000 for each of fiscal years 2025 through 2029 shall be used to carry out subsection (c) of that section.

(i) Critical Supply Chain Site Development grant program

There is authorized to be appropriated to carry out section 3154h of this title $20,000,000 for each of fiscal years 2025 through 2029, to remain available until expended.

(j) Technical Assistance Liaisons

There is authorized to be appropriated to carry out section 3200 of this title $5,000,000 for each of fiscal years 2025 through 2029, to remain available until expended.

(k) Salaries and expenses

There are authorized to be appropriated for salaries and expenses of administering this chapter, to remain available until expended—

(1) $33,377,000 for fiscal year 2004; and
(2) such sums as are necessary for each fiscal year thereafter.

(Pub. L. 89–136, title VII, §701, as added Pub. L. 105–393, title I, §102(b)(3), Nov. 13, 1998, 112 Stat. 3617; amended Pub. L. 108–373, title VII, §701, Oct. 27, 2004, 118 Stat. 1771; Pub. L. 118–272, div. B, title II, §2236(a), Jan. 4, 2025, 138 Stat. 3199.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3231, Pub. L. 89–136, title VIII, §801, as added Pub. L. 93–288, title V, §501, May 22, 1974, 88 Stat. 160; amended Pub. L. 100–707, title I, §109(r)(1), Nov. 23, 1988, 102 Stat. 4710, set forth congressional statement of purpose and defined "major disaster", prior to repeal by Pub. L. 105–393, §102(c).

A prior section 701 of Pub. L. 89–136 was classified to section 3211 of this title prior to repeal by Pub. L. 105–393, §102(b)(3).

AMENDMENTS

2025—Pub. L. 118–272 added subsecs. (a) to (j), redesignated former subsec. (b) as (k), and struck out former subsec. (a) which authorized appropriations for economic development assistance programs to carry out this chapter for fiscal years 2004 to 2008.

2004—Pub. L. 108–373 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this chapter $397,969,000 for fiscal year 1999, $368,000,000 for fiscal year 2000, $335,000,000 for fiscal year 2001, $335,000,000 for fiscal year 2002, and $335,000,000 for fiscal year 2003, to remain available until expended."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3232. Authorization of appropriations for defense conversion activities

(a) In general

In addition to amounts made available under section 3231 of this title, there are authorized to be appropriated such sums as are necessary to carry out section 3149(c)(1) of this title, to remain available until expended.

(b) Pilot projects

Funds made available under subsection (a) may be used for activities including pilot projects for privatization of, and economic development activities for, closed or realigned military or Department of Energy installations.

(Pub. L. 89–136, title VII, §702, as added Pub. L. 105–393, title I, §102(b)(3), Nov. 13, 1998, 112 Stat. 3617.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3232, Pub. L. 89–136, title VIII, §802, as added Pub. L. 93–288, title V, §501, May 22, 1974, 88 Stat. 160; amended Pub. L. 100–707, title I, §109(r)(2), Nov. 23, 1988, 102 Stat. 4710, related to disaster recovery planning, prior to repeal by Pub. L. 105–393, §102(c).

A prior section 702 of Pub. L. 89–136 was classified to section 3212 of this title prior to repeal by Pub. L. 105–393, §102(b)(3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3233. Authorization of appropriations for disaster economic recovery activities

(a) In general

In addition to amounts made available under section 3231 of this title, there are authorized to be appropriated such sums as are necessary to carry out section 3149(c)(2) of this title, to remain available until expended.

(b) Federal share

The Federal share of the cost of activities funded with amounts made available under subsection (a) shall be up to 100 percent.

(Pub. L. 89–136, title VII, §703, as added Pub. L. 105–393, title I, §102(b)(3), Nov. 13, 1998, 112 Stat. 3617.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 3233, Pub. L. 89–136, title VIII, §803, as added Pub. L. 93–288, title V, §501, May 22, 1974, 88 Stat. 161, authorized provision of funds for recovery investment plans, prior to repeal by Pub. L. 105–393, title I, §102(c), Nov. 13, 1998, 112 Stat. 3617.

A prior section 703 of Pub. L. 89–136 was classified to section 3213 of this title prior to repeal by Pub. L. 105–393, §102(b)(3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Feb. 11, 1999, see section 105 of Pub. L. 105–393, set out as a note under section 3121 of this title.

§3234. Repealed. Pub. L. 118–272, div. B, title II, §2236(b), Jan. 4, 2025, 138 Stat. 3201

Section 3234, Pub. L. 89–136, title VII, §704, as added Pub. L. 108–373, title VII, §702(a), Oct. 27, 2004, 118 Stat. 1771, provided for funding for grants for planning and administrative expenses.

Prior sections 3234 and 3235 were repealed by Pub. L. 105–393, title I, §102(c), Nov. 13, 1998, 112 Stat. 3617.

Section 3234, Pub. L. 89–136, title VIII, §804, as added Pub. L. 93–288, title V, §501, May 22, 1974, 88 Stat. 162, authorized disaster area loan guarantees.

Section 3235, Pub. L. 89–136, title VIII, §805, as added Pub. L. 93–288, title V, §501, May 22, 1974, 88 Stat. 162, authorized provision of technical assistance for facilitation of economic recovery in disaster areas.

A prior section 3236, Pub. L. 89–136, title VIII, §806, as added Pub. L. 93–288, title V, §501, May 22, 1974, 88 Stat. 163, related to authorization of appropriations for subchapter, prior to repeal by Pub. L. 97–35, title XVIII, §1821(a)(10), Aug. 13, 1981, 95 Stat. 766.

Prior sections 3241 to 3246c were repealed by Pub. L. 105–393, title I §102(c), Nov. 13, 1998, 112 Stat. 3617.

Section 3241, Pub. L. 89–136, title IX, §901, as added Pub. L. 93–423, §12, Sept. 27, 1974, 88 Stat. 1164; amended Pub. L. 94–487, title I, §121(a), Oct. 12, 1976, 90 Stat. 2336, stated purpose of former subchapter IX.

Section 3242, Pub. L. 89–136, title IX, §902, as added Pub. L. 93–423, §12, Sept. 27, 1974, 88 Stat. 1164,

defined "eligible recipient".

Section 3243, Pub. L. 89–136, title IX, §903, as added Pub. L. 93–423, §12, Sept. 27, 1974, 88 Stat. 1164; amended Pub. L. 94–487, title I, §121(b), (c), Oct. 12, 1976, 90 Stat. 2336, authorized grants to eligible recipients.

Section 3244, Pub. L. 89–136, title IX, §904, as added Pub. L. 93–423, §12, Sept. 27, 1974, 88 Stat. 1165; amended Pub. L. 96–470, title II, §201(c), Oct. 19, 1980, 94 Stat. 2241, required annual reports by recipients and Secretary.

Section 3245, Pub. L. 89–136, title IX, §905, as added Pub. L. 93–423, §12, Sept. 27, 1974, 88 Stat. 1166; amended Pub. L. 94–487, title I, §121(d), Oct. 12, 1976, 90 Stat. 2336; Pub. L. 96–506, §1(10), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97–35, title XVIII, §1821(a)(11), Aug. 13, 1981, 95 Stat. 766, authorized appropriations.

Section 3246, Pub. L. 89–136, title X, §1001, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1853, stated the purpose of former subchapter X.

Section 3246a, Pub. L. 89–136, title X, §1002, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1853; amended Pub. L. 94–487, title I, §122, Oct. 12, 1976, 90 Stat. 2337, defined "eligible area".

Section 3246b, Pub. L. 89–136, title X, §1003, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1853; amended Pub. L. 94–487, title I, §123, Oct. 12, 1976, 90 Stat. 2337, authorized a job opportunities program.

Section 3246c, Pub. L. 89–136, title X, §1004, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1854; amended Pub. L. 94–487, title I, §124, Oct. 12, 1976, 90 Stat. 2337, related to program review.

A prior section 3246d, Pub. L. 89–136, title X, §1005, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1855, related to the limitations on the use of funds appropriated pursuant to section 3246f of this title for programs and projects, prior to repeal by Pub. L. 94–487, title I, §125, Oct. 12, 1976, 90 Stat. 2338.

Prior sections 3246e to 3246h were repealed by Pub. L. 105–393, title I, §102(c), Nov. 13, 1998, 112 Stat. 3617.

Section 3246e, Pub. L. 89–136, title X, §1005, formerly §1006, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1855; renumbered §1005 and amended Pub. L. 94–487, title I, §§125, 126, Oct. 12, 1976, 90 Stat. 2338, authorized the prescription of rules, regulations, and procedures.

Section 3246f, Pub. L. 89–136, title X, §1006, formerly §1007, as added Pub. L. 93–567, title III, §301, Dec. 31, 1974, 88 Stat. 1855; renumbered §1006 and amended Pub. L. 94–487, title I, §§125, 127, Oct. 12, 1976, 90 Stat. 2338, authorized appropriations.

Section 3246g, Pub. L. 89–136, title X, §1007, formerly §1008, as added Pub. L. 93–567, title III, §301, Dec. 31, 1976, 88 Stat. 1855; renumbered §1007 and amended Pub. L. 94–487, title I, §§125, 128, Oct. 12, 1976, 90 Stat. 2338; Pub. L. 96–506, §1(11), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97–35, title XVIII, §1821(a)(12), Aug. 13, 1981, 95 Stat. 766, provided that no further obligation of funds appropriated under former subchapter X could be made by the Secretary of Commerce after Sept. 30, 1981.

Section 3246h, Pub. L. 89–136, title X, §1008, as added Pub. L. 94–487, title I, §129, Oct. 12, 1976, 90 Stat. 2339, provided that a program or project was not ineligible for financial assistance solely because of increased construction costs.

CHAPTER 39—SOLID WASTE DISPOSAL

§§3251 to 3254f. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 3251 to 3254f were omitted in the general amendment of the Solid Waste Disposal Act by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795.

Section 3251, Pub. L. 89–272, title II, §202, Oct. 20, 1965, 79 Stat. 997; Pub. L. 91–512, title I, §101, Oct. 26, 1970, 84 Stat. 1227, set out Congressional findings and declaration of purpose. See sections 6901 and 6902 of this title.

Section 3252, Pub. L. 89–272, title II, §203, Oct. 20, 1965, 79 Stat. 998; Pub. L. 91–512, title I, §102, Oct. 26, 1970, 84 Stat. 1228, defined terms. See section 6903 of this title.

Section 3253, Pub. L. 89–272, title II, §204, Oct. 20, 1965, 79 Stat. 998; Pub. L. 91–512, title I, §103, Oct. 26, 1970, 84 Stat. 1228, made provisions for research, demonstrations, training, and other activities relating to solid waste disposal. See section 6981 of this title.

Section 3253a, Pub. L. 89–272, title II, §205, as added Pub. L. 91–512, title I, §104(a), Oct. 26, 1970, 84 Stat. 1228, directed Secretary to study methods of recovering useful energy and materials. See section 6985 of this title.

Section 3254, Pub. L. 89–272, title II, §206, formerly §205, Oct. 20, 1965, 79 Stat. 999; renumbered §206, Pub. L. 91–512, title I, §104(a), Oct. 26, 1970, 84 Stat. 1228, directed Secretary to encourage interstate and interlocal cooperation. See section 6941 of this title.

Section 3254a, Pub. L. 89–272, title II, §207, as added Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1229, authorized Secretary to make grants for State, interstate, and local planning.

Section 3254b, Pub. L. 89–272, title II, §208, as added Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1230, authorized Secretary to make grants for resource recovery systems and improved solid waste disposal facilities. See section 6986 of this title.

Section 3254c, Pub. L. 89–272, title II, §209, as added Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1232, provided for recommendation of guidelines by the Secretary. See section 6907 of this title.

Section 3254d, Pub. L. 89–272, title II, §210, as added Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1232, authorized the Secretary to enter into contracts with and to make grants to eligible organizations. See section 6977 of this title.

Section 3254e, Pub. L. 89–272, title II, §211, as added Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1233, provided for applicability of solid waste disposal guidelines to Executive agencies. See section 6964 of this title.

Section 3254f, Pub. L. 89–272, title II, §212, as added Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1233, provided for a national disposal sites study for storage and disposal of hazardous wastes. See section 6921 et seq. of this title.

§3255. Repealed. Pub. L. 91–512, title I, §104(a), Oct. 26, 1970, 84 Stat. 1228

Section, Pub. L. 89–272, title II, §206, Oct. 20, 1965, 79 Stat. 999, authorized grants to State and interstate agencies for surveys of solid-waste disposal practices and problems, and for development of solid-waste disposal plans.

§§3256 to 3259. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 3256 to 3259 were omitted in the general amendment of the Solid Waste Disposal Act by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795.

Section 3256, Pub. L. 89–272, title II, §213, formerly §207, Oct. 20, 1965, 79 Stat. 1000, renumbered Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1229, set the labor standards for construction projects funded by grants under this chapter. See section 6979 of this title.

Section 3257, Pub. L. 89–272, title II, §214, formerly §208, Oct. 20, 1965, 79 Stat. 1000, renumbered Pub. L. 91–512, title I, §104(b), Oct. 26, 1970, 84 Stat. 1229, prohibited a construction of this chapter which might supersede or limit the authorities and responsibilities of Federal officers under other provisions of law. See section 6905 of this title.

Section 3258, Pub. L. 89–272, title II, §215, formerly §209, Oct. 20, 1965, 79 Stat. 1001, renumbered and amended Pub. L. 91–512, title I, §104(b), (c), Oct. 26, 1970, 84 Stat. 1229, 1233, 1234, provided for mode of payments and prohibited making of grants to profitmaking organizations. See section 6978 of this title.

Section 3259, Pub. L. 89–272, title II, §216, formerly §210, Oct. 20, 1965, 79 Stat. 1001, amended Pub. L. 90–574, title V, §506, Oct. 15, 1968, 82 Stat. 1013, and renumbered and amended Pub. L. 91–512, title I, §§104(b), 105, Oct. 26, 1970, 84 Stat. 1229, 1234; Pub. L. 93–14, §1, Apr. 9, 1973, 87 Stat. 11; Pub. L. 93–611, Jan. 2, 1975, 88 Stat. 1974, authorized appropriations. See section 6987 of this title.